



7505 South Holden Street
Midvale, UT 84047
(801) 567-7200
www.midvalecity.org

**MIDVALE CITY COUNCIL REGULAR MEETING
AGENDA
JANUARY 17, 2023**

****Amended****

PUBLIC NOTICE IS HEREBY GIVEN that the **Midvale City Council** will hold a regular meeting on the **17th day of January 2023** at Midvale City Hall, 7505 South Holden Street, Midvale, Utah as follows:

Electronic & In-Person City Council Meeting

This meeting will be held electronically and in-person. Public comments may be submitted electronically to the City Council at www.Midvalecity.org/government/contact-us by 5:00pm on January 16th and will be included in the record.

The meeting will be broadcast on the following: You Tube: www.MidvaleCity.org/YouTube

- Discuss Options for Potential Recreation Center *[Matt Dahl, City Manager]*

6:00 PM – WORKSHOP

7:00 PM - REGULAR MEETING

I. GENERAL BUSINESS

- WELCOME AND PLEDGE OF ALLEGIANCE
- ROLL CALL
- Unified Police Department Report
- Unified Police Department Team Citation
- **Proclamation Declaring January 16, 2023 as Dr. Martin Luther King, Jr. Day**

II. PUBLIC COMMENTS

Any person wishing to comment on any item not otherwise scheduled for a public hearing on the agenda may address the City Council at this point by stepping to the microphone and giving his or her name for the record. Comments should be limited to not more than three (3) minutes unless additional time is authorized by the Governing Body. Citizen groups will be asked to appoint a spokesperson. This is the time and place for any person who wishes to comment on non-hearing, non-Agenda items. Items brought forward to the attention of the City Council will be turned over to staff to provide a response outside of the City Council meeting.

III. MAYOR REPORT

- Mayor Marcus Stevenson

IV. COUNCIL REPORTS

- Councilmember Quinn Sperry
- Councilmember Dustin Gettel
- Councilmember Bryant Brown
- Councilmember Heidi Robinson
- Councilmember Paul Glover

V. CITY MANAGER REPORT

VI. CONSENT

- A. Consider Minutes of December 1, 2022 and January 3, 2023 [**Rori Andreason, H.R. Director/City Recorder**]
- B. Set Date and Time [February 7, 2023 at 7:00 p.m.] for a Public Hearing to Consider Proposed Budget Amendments to FY2023 General Fund and other funds as necessary [**Mariah Hill, Administrative Services Director**]

VII. ACTION ITEMS

- A. Consider **Ordinance No. 2023-O-01** Amending Chapter 5.08 of the Midvale Municipal Code regarding Business Licenses [**Aubrey Ruiz, Community Development Executive Assistant**]
- B. Consider **Resolution No. 2023-R-06** Authorizing the City to enter into a Month-to-Month Lease Agreement for the Property Located at 7683 South Holden Street between Midvale City and UGIA [**Nate Rockwood, Assistant City Manager**]

VIII. DISCUSSION ITEMS

- A. Discuss General Plan Moderate-Income Housing Element Amendment and State Code Compliance [**Meggie Troili, RDA Project Manager**]
- B. Discuss Amending Chapter 3.02 of the Midvale Municipal Code regarding Procurement [**Mariah Hill, Administrative Services Director**]
- C. Discuss Amending Midvale Code Section 8.10.030 & 8.10.060 - Jordan Bluffs Institutional Controls Ordinance [**Nate Rockwood, Assistant City Manager**]

IX. POSSIBLE CLOSED SESSION

The City Council may, by motion, enter into a Closed Session for:

- A. To discuss the Character, Professional Competence or Physical or Mental Health of an Individual;
- B. Strategy sessions to discuss pending or reasonably imminent litigation;
- C. Strategy sessions to discuss the purchase, exchange, or lease of real property;
- D. Discussion regarding deployment of security personnel, devices, or systems; and
- E. Investigative proceedings regarding allegations of criminal misconduct.

X. ADJOURN

In accordance with the Americans with Disabilities Act, Midvale City will make reasonable accommodations for participation in the meeting. Request assistance by contacting the City Recorder at 801-567-7207, providing at least three working days advance notice of the meeting. TTY 711

A copy of the foregoing agenda was provided to the news media by email and/or fax; the agenda was posted in the City Hall Lobby, the 2nd Floor City Hall Lobby, on the City's website at www.midvalecity.org and the State Public Notice Website at <http://pmn.utah.gov>. Council Members may participate in the meeting via electronic communications. Council Members' participation via electronic communication will be broadcast and amplified so other Council Members and all other persons present in the Council Chambers will be able to hear or see the communication.

DATE POSTED: JANUARY 13, 2023

**RORI L. ANDREASON, MMC
H.R. DIRECTOR/CITY RECORDER**

RECOGNIZING DR. MARTIN LUTHER KING, JR. DAY

Whereas, Dr. Martin Luther King Jr.'s dream of equality and achieving social change through nonviolence has helped shape our nation; and

Whereas, on Monday, January 16, 2023, Midvale City celebrated Dr. King's birthday and honored his legacy as an American hero and tireless social activist, who called upon our nation to ensure equal justice under the law; upholding our founding principles which recognize individual rights to life, liberty, and the pursuit of happiness; and

Whereas, individuals and institutions have a mutual responsibility to seek economical, and ethical choices that enable the world, as well as our individual communities, to establish and maintain sustainable societies; and

Whereas, Dr. King encouraged Americans to come together, regardless of age, race, or creed, to strengthen their communities, alleviate poverty, and value the dignity and respect inherent in all people. Through this example, he taught the values of courage, truth, justice, compassion, dignity, humility, service, and brotherhood; and,

Whereas, in neighborhoods across Midvale City, our residents joined the nationwide effort to honor and celebrate Dr. King's life and teachings, recognizing the needs and serving their communities.

Now, Therefore, let it be resolved that I, Mayor Marcus Stevenson, and City Council of Midvale City, do hereby proclaim January 16, 2023 as Dr. Martin Luther King, Jr. Day in Midvale City.

ADOPTED on this 17th day of January 2023.

Marcus Stevenson, Mayor

Heidi Robinson, Council Member

Dustin Gettel, Council Member

Bryant Brown, Council Member

Paul Glover, Council Member

Quinn Sperry, Council Member

Attest:

*Rori L. Andreason, MM C
City Recorder*



CITY COUNCIL LEGISLATIVE BREAKFAST

Minutes

Thursday, December 1, 2022
Bohemian Brewery
94 South Fort Union Boulevard
Midvale, Utah 84047

MAYOR: Mayor Marcus Stevenson

COUNCIL MEMBERS: Council Member Quinn Sperry
Council Member Paul Glover
Council Member Heidi Robinson
Council Member Bryant Brown
Council Member Dustin Gettel - Excused

STAFF: Matt Dahl, City Manager; Nate Rockwood, Assistant City Manager; Rori Andreason, H.R. Director/City Recorder; Garrett Wilcox, City Attorney; Glen Kennedy, Public Works Director; Jerimie Thorne, Deputy Public Works Director; Mariah Hill, Administrative Services Director; Christopher Butte, Economic Development Director; Laura Magness, Communications Director; Chief Randy Thomas, UPD; Lt. Ken Malone, UPD; and Chief Brad Larson, UFA.

LEGISLATORS: Senator Kathleen Riebe
Representative Ken Ivory
Representative Gay Lynn Bennion
Representative Steve Eliason
Representative Andrew Stoddard

OTHERS: Dave Spatafore, Lobbyist
Ashley Spatafore Mirabelli, Lobbyist
Cameron Diehl, ULCT Executive Director

Mayor Stevenson called the meeting to order at 8:00 a.m.

I. Legislative Overview

Matt Dahl and others discussed the following legislative issues and the impact to Midvale City:

- **UPD and Law Enforcement**
- **Homeless Resource Center and 7200 South Corridor**
- **Land Use**
- **Infrastructure**
- **Transportation**
- **Justice Courts**

Proceedings of City Council Legislative Breakfast
December 1, 2022

- **Utah League of Cities and Towns**
- **Legislation Discussion**

II. Legislator's Comments

Each Representative discussed the issues they would be addressing during the 2023 legislative session.

III. ADJOURN

The meeting adjourned at 9:00 a.m.

Rori L. Andreason, MMC
H.R. DIRECTOR/CITY RECORDER

Approved this 17th day of January 2023.



COUNCIL MEETING
Minutes

Tuesday January 3, 2023
Council Chambers
7505 South Holden Street
Midvale, Utah 84047

MAYOR: Mayor Marcus Stevenson

COUNCIL MEMBERS: Council Member Quinn Sperry
Council Member Dustin Gettel
Council Member Bryant Brown
Council Member Heidi Robinson
Council Member Paul Glover

STAFF: Matt Dahl, City Manager; Nate Rockwood, Assistant City Manager; Rori Andreason, HR Director/City Recorder; Garrett Wilcox, City Attorney; Glen Kennedy, Public Works Director; Mariah Hill, Administrative Services Director; Laura Magness, Communications Director; Aubrey Ruiz, CD Executive Assistant; Chief Randy Thomas, UPD; Chief Brad Larson, UFA; and Matt Pierce, IT Director.

7:00 PM – REGULAR MEETING

Mayor Marcus Stevenson called the business meeting to order at 7:00 p.m.

I. GENERAL BUSINESS

A. WELCOME AND PLEDGE OF ALLEGIANCE

B. ROLL CALL - Council Members Heidi Robinson, Dustin Gettel, Bryant Brown, and Paul Glover were present at roll call. Council Member Quinn Sperry arrived at 7:15 p.m.

C. UNIFIED FIRE AUTHORITY REPORT

Chief Brad Larson reported on UFA's new inspection software and their upcoming budget process. He said they are starting their recruitment camp 56 with 36 new recruits. Graduation is May 24th in Riverton. He said their holiday safety message is to remind residents of home fire tips, which will be posted on the city's website. He reported that Chief Stephen Higgs is retiring after 45 years; this too will be posted on the city's website.

II. PUBLIC COMMENTS

Michael Tidwell said they have a private road leading to their homes. He wanted to know who to contact when they have issues with the roadway.

Matt Dahl asked staff to meet with Mr. Tidwell.

Council Member Dustin Gettel read an email he received from a resident:

Dear City Council and fellow residents,
I'd like to address the issue of overnight city street parking for RV's and trailers. With the recent snowstorm that has made a huge task for the city snow removal folks who have been working tirelessly to get roads clear (thank you, by the way, for your hard work), this issue among others has come up. I totally understand and respect the need for safe effective snow removal on our city roads, but the current system becomes an issue for those of us who live in the crowded apartment complexes with inadequate parking. It's not just RV's, but regular vehicles also do not have enough space in the complexes and often must park on the street. And those of us with RV's must park them on side streets. We diligently move our RV every 48 hours to be in compliance, but the overnight and snow rules leave us with no options, other than overpriced storage that we cannot afford, and cannot access conveniently as we work toward our dream of home ownership. Indeed, city rules should exist to help make folks lives less complicated, not as a means to punish. So what can be done so that streets are able to be plowed, but folks can reasonably park and access their vehicles when needed?

Given other issues around this I've seen raised by other local residents, I suggest we keep the 48 hour rule for street parking but do away with overnight RV parking restrictions as well as snow restrictions, and instead adopt the alternating street side system used in so many other places. During x morning hours or afternoon hours the other side of the street and sidewalks would be plowed. This gives people ample time to move before plowing, helps keep streets clear for plows, lets folks know when to expect their street plowed, and ensures folks can keep their vehicles handy and close by. This also ensures those of us who have RV's, busses, trucks for work etc. are not penalized but still maintain our vehicles by observing the sensible 48 hour rule.

Thank you for your consideration of this sensible approach to snow removal and large and regular vehicle parking, and thanks for your hard work, much appreciated.
Ashley Thomas

III. MAYOR REPORT

Mayor Stevenson said as of tomorrow it's been one year since he's been in office and wanted to thank staff and council for a very challenging and rewarding year. He said he took some time off for the holidays and spent time with family. He thanked Public Works for all of the long hours they worked over the holiday doing snow removal.

Glen Kennedy reported on the snow removal over the holiday. He said day shift worked on the main and priority streets. The night shift was tasked with neighborhood snow removal. On day two, the day crew worked all through the day and into the evening removing snow.

Council Member Bryant Brown asked about clearing the snow in the cul-de-sacs. There needs to be a to remove the snow in cul-de-sacs in a massive snowstorm.

Glen Kennedy said the recent snow was extremely wet and heavy. The trucks really had to slow down because of this so it took more time. The city has reached it's limit with equipment for snow removal.

Council Member Dustin Gettel asked about the area by Winco that have both public and private streets. The snow was removed on both. Was this a mistake?

Glen Kennedy said yes, a new staff member wasn't aware of the private streets.

Council Member Paul Glover asked the citizens to be patient.

IV. COUNCIL REPORTS

A. Council Member Quinn Sperry expressed his appreciation to Public Works for their efforts with the snow removal. He wanted to echo Council Member Glover in asking the residents to be patient and stated that council members do not get preferential treatment. He thanked Glen for looking for ways to improve the process and for helping people out when they needed it.

B. Council Member Dustin Gettel – said Happy New Year to everyone. He thanked the Unified Police Department and Public Works for their good work. He too asked for patience from the residents. He said he thought the City could do more to crack down on overnight parking of large vehicles particularly on Center Street, Bingham Junction, and 7800 South. He suggested looking into banning overnight parking by a certain weight class of vehicles.

Council Member Quinn Sperry said the Council just changed winter parking ordinance to be more lenient.

Council Member Dustin Gettel said the ordinance is confusing about the parking on streets and winter storms. He said the ordinance needs to be clearer.

Mayor Stevenson said the Unified Police Department commented on how clear the roads were, which was beneficial to the officers.

C. Council Member Bryant Brown - said his neighborhood would not want to have the overnight bans for parking but would like the ordinance to be stricter. He said he would like to send Christmas cards next year to neighboring entities. He said he felt for the residents whose roads don't get plowed like the newer streets in the city. He asked if the city needs another snowplow. He thanked Unified Police for going over to Millennial Way and the Townhome Apartments. It is a safety hazard for parking, and there is nowhere for the cars to go.

D. Council Member Heidi Robinson – thanked the Unified Fire Authority for showing their amazing new fire house. She expressed gratitude to the Unified Police Department and Public Works. She encouraged residents to do their best to get off the road so plows can do their work.

Glen Kennedy asked if the city and council members can help get the word out regarding snowbanks. Kids are playing in them and jumping off the snowbanks into the roads and is becoming very dangerous.

E. Council Member Paul Glover – thanked the snow for the water and his snow blower sales. He thanked Unified Fire for the open house; it' a nice new station. He said he hoped everyone has a great new year.

V. CITY MANAGER REPORT

Matt Dahl said Happy New Year. He said he has a lot of big things to address in the new year. Budget begins in earnest now. He said he is looking forward to working on new projects.

Mariah Hill said historically the budget amendments that were brought to the council as discussion then the council wanted a full presentation at the public hearing. She asked how the council would feel having the full presentation at the public hearing and then have an action item at the next meeting to adopt the budget amendments?

The Council agreed.

VI. CONSENT AGENDA

A. CONSIDER MINUTES OF DECEMBER 6, 2022

B. CONSIDER RESOLUTION NO. 2023-R-01 APPROVING NINTH AMENDMENT TO THE COOPERATIVE AGREEMENT BY PUBLIC AGENCIES TO CREATE A NEW ENTITY, TO CONSOLIDATE LAW ENFORCEMENT SERVICES, AND PROVIDE RULES OF GOVERNANCE

MOTION: Council Member Paul Glover **MOVED** to Approve the Consent Agenda. The motion was **SECONDED** by Council Member Heidi Robinson. Mayor Stevenson called for discussion on the motion. There being none, he called for a roll call vote. The voting was as follows:

Council Member Quinn Sperry	Aye
Council Member Paul Glover	Aye
Council Member Heidi Robinson	Aye
Council Member Bryant Brown	Aye
Council Member Dustin Gettel	Aye

The motion passed unanimously.

VII. ACTION ITEMS

**A. DISCUSS AND CONSIDER RESOLUTION NO. 2023-R-02
ACKNOWLEDGING COMPLETION AND RECEIPT OF FISCAL YEAR
2022 ANNUAL AUDIT**

Mariah Hill thanked her finance team for their support. She said an annual financial audit is required of all municipalities who have revenues or expenditures of \$1,000,000 or more. The audit must be submitted to the State Auditor's Office by December 31 of the year. The independent auditor is responsible for reporting whether or not the governing body's financial statements are prepared in conformity with generally accepted accounting principles. This report will be presented by Jon Haderlie of Larson & Company, PC. The report has been submitted to the State Auditor's Office in order to meet state mandated deadlines and will be available to the public. An electronic version of the Annual Comprehensive Financial Report will be sent to the Council prior to the meeting. A paper copy may be provided to the Mayor and City Council if requested. An electronic version of the Annual Comprehensive Financial Report will be posted on the City's website shortly after acceptance by the Council. As required in Utah Code section 10-6-152, notice will be given to the public that the audit has been completed and available for inspection.

**FY2022 Annual Comprehensive Financial Report Review
Sections of Report**

1. Introductory
2. Financial
3. Basic Financial Statements
4. Required Supplementary Information
5. Supplementary Information
6. Statistical Section

Introductory Section (Pages 1-7)

- Transmittal Letter
 - Audit Requirements, Auditors, Profile of Midvale, Factors Affecting Financial Condition, Long-Term Financial Planning
- Certificate of Achievement for previous FY
- Organizational Chart
- Elected and Appointed Officials
- Independent Auditor's Report (10-11)
- Management's Discussion and Analysis (MD&A) (12-26)
 - Objective, easily readable analysis of a government's financial activities.
 - Summaries, significant events and changes, financial highlights
 - Only information specifically outlined by the GFOA can be included.

Basic Financial Statements

- Government-Wide Financial Statements (28-30)
- Governmental Fund Financial Statements (32-39)
- Proprietary Fund Financial Statements (41-45)
- Notes to the Financial Statements (47-83)

Notes to the Financial Statements

- An in-depth explanation to financial statements.
- Significant accounting policies
- Reconciliation of government-wide statements to fund statements.
- Deposits and investments (57-62)
- Capital asset information (63-68)
- Debt (69-74)
- Pension plan (75-83)

Required Supplementary Information (85-87)

- Pension disclosures
 - Midvale's proportion of net pension liability (Page 86)
 - Midvale's pension contributions (Page 87)

Supplementary Information

- Nonmajor proprietary fund financial statements
 - Street lighting, sanitation, telecommunications.
 - Internal service funds (fleet and information technology).
 - Statement of net position (balance sheet).
 - Statement of revenues, expenses, and changes in net position (income statement).
 - Cash flow statement.

Statistical Section

- Operational, economic, and historical data (10 years).
 - Financial trends.
 - Revenue capacity.
 - Debt capacity.
 - Demographic and economic information.
 - Operating information.

Internal Control and Compliance (126-128)

- Report on Internal Control over Financial Reporting

Financial Results – General Fund

- Revenues exceeded expenditures by \$841,832
 - Revenues (taxes) \$1.5 million over budget
 - Expenditures \$1.3 million under budget (All Departments)
 - \$3.2M in Transfers (ARPA, Internal Services, Capital Projects)

Fund Balance Available					
	FY2019	FY2020	FY2021	FY2022	FY2023 (Budget)
Beginning Balance	4,107,243	3,797,469	4,422,975	7,319,587	8,161,419
Addition (Use of)	(309,774)	625,506	2,896,612	841,832	(1,637,066)
Ending Balance	\$ 3,797,469	\$ 4,422,975	\$ 7,319,587	\$ 8,161,419	\$ 6,524,353
% of revenues	15%	20%	31%	35%	27%
Amount above/(Below) Policy					
Recommended Amount (15%)	\$ -	\$ 1,072,171	\$ 3,752,510	\$ 4,698,038	\$ 2,949,266
Amount Above/(Below) 3% Year/					
Increase Recommendation	\$ -	\$ 402,010	\$ 2,325,679	\$ 2,620,009	\$ 89,196
(State Maximum Amount Allowed - 35%)					

Financial Results – RDA Funds

- Expenditures exceeded revenues by \$2,320,394 – Total Fund Balance
 - Property tax - \$8.8 million (2% increase).
 - Redevelopment expenditures - \$2,840,234.

Financial Results – Capital Projects

- Expenditures exceeded revenues by \$2,503,496

Fund Balance Available					
	FY2019	FY2020	FY2021	FY2022	FY2023 (Budget)
Beginning Balance	9,018,590	6,395,448	2,298,652	1,860,248	4,363,744
Addition (Use of)	(2,623,142)	(4,096,796)	(438,404)	2,503,496	(2,592,600)
Ending Balance	\$ 6,395,448	\$ 2,298,652	\$ 1,860,248	\$ 4,363,744	\$ 1,771,144
Subsequent Year Appropriation	6,394,800	2,084,553	1,608,908	2,592,600	-
Amount Available for Appropriation	\$ 648	\$ 214,099	\$ 251,340	\$ 1,771,144	\$ 1,771,144

Financial Results – Water Fund

- Decrease in days of working capital - \$567k (38%)
 - Significant increase in operating costs

Water Fund Balance Available (Current Assets Less Current Liabilities)					
	FY2019	FY2020	FY2021	FY2022	FY2023 (Budget)*
Beginning Balance	4,442,479	3,200,886	1,535,411	1,494,162	2,946,442
Addition (Use of)	(1,241,593)	(1,665,475)	(41,249)	1,452,280	2,670,258
Ending Balance	3,200,886	1,535,411	1,494,162	2,946,442	5,616,700
Less: ARPA Funds				(2,019,298)	(2,019,299)
Ending Balance	\$ 3,200,886	\$ 1,535,411	\$ 1,494,162	\$ 927,144	\$ 3,597,401
Number of Days-Working Capital	339	119	116	65	302
Financial Policy Goal	180	180	180	180	180
Excess (Deficiency) Days	159	(61)	(64)	(115)	122
Fund Balance in Excess (Deficient) of Policy Goal	\$ 1,501,709	\$ (784,942)	\$ (652,674)	\$ (754,799)	\$ 1,453,520

Financial Results – Sewer Fund

- Slight decrease of available working capital - \$60k increase, 16-day decrease
 - Significant increase in operating costs

Sewer Fund Balance Available (Current Assets Less Current Liabilities)					
	FY2019	FY2020	FY2021	FY2022	FY2023 (Budget)
Beginning Balance	3,196,874	3,216,598	1,841,833	1,087,302	1,147,489
Addition (Use of)	19,724	(1,374,765)	(754,531)	60,187	1,288,462
Ending Balance	\$ 3,216,598	\$ 1,841,833	\$ 1,087,302	\$ 1,147,489	\$ 2,435,951
Number of Days-Working Capital	553	297	176	160	355
Financial Policy Goal	180	180	180	180	180
Excess (Deficiency) Days	373	117	(4)	(20)	175
Fund Balance in Excess (Deficient) of Policy Goal	\$ 2,168,031	\$ 724,453	\$ (24,759)	\$ (131,892)	\$ 1,201,135

Financial Results – Storm Water Fund

- Increase of available working capital - \$126k (11%)

Storm Water Fund Balance Available (Current Assets Less Current Liabilities)					
	FY2019	FY2020	FY2021	FY2022	FY2023 (Budget)
Beginning Balance	735,556	703,891	709,128	979,770	1,106,148
Addition (Use of)	(31,665)	5,237	270,642	126,378	-
Ending Balance	\$ 703,891	\$ 709,128	\$ 979,770	\$ 1,106,148	\$ 1,106,148
Number of Days-Working Capital	162	155	214	233	247
Financial Policy Goal	180	180	180	180	181
Excess (Deficiency) Days	(18)	(25)	34	53	66
Fund Balance in Excess (Deficient) of Policy Goal	\$ (78,272)	\$ (114,703)	\$ 155,601	\$ 228,566	\$ 296,081

Financial Results – Street Lighting Fund, Sanitation Fund Street Lighting Fund

- Increase of available working capital - \$86k (88%)

Street Lighting Fund Balance Available					
	FY2019	FY2020	FY2021	FY2022	FY2023 (Budget)
Beginning Balance	53,867	46,488	72,509	97,810	183,873
Addition (Use of)	(7,379)	26,021	25,301	86,063	-
Ending Balance	\$ 46,488	\$ 72,509	\$ 97,810	\$ 183,873	\$ 183,873
Number of Days-Working Capital	43	73	90	209	160
Financial Policy Goal	60	60	60	60	61
Excess (Deficiency) Days	(17)	13	30	149	99
Fund Balance in Excess (Deficient) of Policy Goal	\$ (18,290)	\$ 12,992	\$ 32,737	\$ 167,407	\$ 114,071

Sanitation Fund

- Increase of available working capital - \$99k (72%)

Sanitation Fund Balance Available					
	FY2019	FY2020	FY2021	FY2022	FY2023 (Budget)
Beginning Balance	1,424,392	1,444,569	1,525,126	1,796,603	2,078,068
Addition (Use of)	20,177	80,556	271,477	281,465	(44,375)
Ending Balance	\$ 1,444,569	\$ 1,525,126	\$ 1,796,603	\$ 2,078,068	\$ 2,033,693
Less: Investment in Trans-Jordan	\$ (1,380,488)	\$ (1,497,433)	\$ (1,658,666)	\$ (1,840,452)	\$ (1,840,452)
Ending Balance	\$ 64,081	\$ 27,693	\$ 137,937	\$ 237,616	\$ 193,241
Number of Days-Working Capital	20	9	43	72	50
Financial Policy Goal	60	60	60	60	60
Excess (Deficiency) Days	(40)	(51)	(17)	12	(10)
Fund Balance in Excess (Deficient) of Policy Goal	\$ (126,583)	\$ (50,971)	\$ (54,641)	\$ 43,793	\$ (38,388)

Financial Results – Fleet and Information Technology Funds (Internal Service) Fleet Internal Service Fund

- Departments assessed a “user charge” for operating and capital costs.
- Contributions include capital replacement charge.

Fund Balance Available (Current Assets Less Current Liabilities)					
	FY2019	FY2020	FY2021	FY2022	FY2023
Beginning Balance	1,306,992	1,045,759	1,441,257	2,128,863	3,052,103
Addition (Use of)	(261,233)	395,498	687,606	923,240	227,536
Ending Balance	\$ 1,045,759	\$ 1,441,257	\$ 2,128,863	\$ 3,052,103	\$ 3,279,639

Information Technology Internal Service Fund

- Departments assessed a “user charge” for operating and capital costs.
- Contributions include capital replacement charge.

Fund Balance Available (Current Assets Less Current Liabilities)					
	FY2019	FY2020	FY2021	FY2022	FY2023
Beginning Balance	36,328	62,090	134,735	246,195	335,197
Addition (Use of)	25,762	72,645	111,460	89,002	(6,649)
Ending Balance	\$ 62,090	\$ 134,735	\$ 246,195	\$ 335,197	\$ 328,548

John Haderlie, Larson and Company, said they have completed and finalized the audit for Midvale City FY2022. He reviewed in detail their official opinions of the City in which they had no findings. There are certain audit and government standards that are required to be followed and it's the financial responsibility of the city to know accounting principles. He was very complimentary of the city staff and their knowledge and expertise.

Council Member Paul Glover thanked Mariah Hill and Christian Larson for everything they do.

MOTION: Council Member Dustin Gettel MOVED to Approve Resolution No. 2023-R-02 acknowledging completion of the Fiscal Year 2022 audit and direct that notice be published pursuant to Section 10-6-152 of the Utah Code. The motion was SECONDED by Council Member Paul Glover. Mayor Stevenson called for discussion on the motion. There being none, he called for a roll call vote. The voting was as follows:

Council Member Quinn Sperry	Aye
Council Member Paul Glover	Aye
Council Member Heidi Robinson	Aye
Council Member Bryant Brown	Aye
Council Member Dustin Gettel	Aye

The motion passed unanimously.

B. CONSIDER RESOLUTION NO. 2023-R-03 APPROVING FRANCHISE TELECOMMUNICATIONS AGREEMENT WITH COMMUNICATIONS AMERICA, LLC

Nate Rockwood said Midvale Municipal Code Chapters 5.52 require companies providing telecommunications within Midvale to acquire a franchise agreement with the City prior to providing services. The franchise agreements require compliance with the City's ordinances and further specify a number of requirements including those for insurance and bonds.

Communications America, LLC has submitted complete applications for telecommunications franchise. Communications America, LLC is an infrastructure provider. It has indicated that it wishes to install and provide telecommunications services within the City primarily through fiber-optic lines.

The negotiated franchise agreements with Communications America, LLC, are materially the same as the franchises executed with SQF, Crown Castle and ExteNet. They were reviewed and approved by the City Council in 2020 and 2018 respectively. Communications America, LLC did not request any changes to the City's current agreement language. The applicant has been waiting for an agreement before beginning any work in the City, staff recommend suspending the rules to approve the agreement.

FISCAL IMPACT:

The City will receive revenue under its franchise agreement for access to the City's right-of-way as well as access to City owned poles within the right-of-way.

MOTION: Council Member Quinn Sperry MOVED to amend and approve Resolution No. 2023-R-03 Authorizing the Mayor to execute an agreement with Teleport Communications LLC and not Communications America, LLC.

Garrett Wilcox, City Attorney, recommended amendments to the motion.

AMENDED

MOTION: Council Member Quinn Sperry **MOVED** to amend his motion to suspend the rules and approve Resolution No. 2023-R-03 as amended and Authorize the Mayor to execute a Services Franchise Agreement with Teleport Communications America, LLC. The motion was **SECONDED** by Council Member Dustin Gettel. Mayor Stevenson called for discussion on the motion. There being none, he called for a roll call vote. The voting was as follows:

Council Member Quinn Sperry	Aye
Council Member Paul Glover	Aye
Council Member Heidi Robinson	Aye
Council Member Bryant Brown	Aye
Council Member Dustin Gettel	Aye

The motion passed unanimously.

C. CONSIDER RESOLUTION NO. 2023-R-04 AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH WASASTCH FRONT REIGONAL COUNCIL (WFRC) FOR THE MIDVALE CENTER AND MIDVALE FT. UNION STATION AREA PLANS

Nate Rockwood stated House Bill 462 was passed during the 2022 legislative session. The bill requires municipalities with fixed rail guideways (commuter and light rail) to complete Station Area Plans (SAP's) covering a half mile radius of each fixed rail station. SAP's may be unique to their jurisdiction and setting; however, key aspects will include strategies to increase the availability of affordable housing, promotion of sustainable environmental conditions, enhancement of access to employment opportunities and increase of transportation choices and connections.

Midvale has three stations within its boundaries: (1) Bingham Junction, (2) Midvale Fort Union, and (3) Midvale Center. Staff applied for and received Technical Assistance grant funding for all three stations and their requisite SAP's. As such, Midvale is among the first cities to undertake the station area planning as required by HB 462.

The resolution for consideration involves the Midvale Center and Midvale Ft. Union SAP. While the City has no financial obligation in the study, staff time will be involved. The SAP will ultimately be approved by the City Council prior to certification by the State.

Council Member Bryant Brown stated that he was not excited about the station area plan. The Council have already projected and discussed this, and it is something they have wanted for this area already. Why can't it be repurposed from something the city has already gotten input on. The Council voted on what would work for this area. As a resident, and seeing plans for Trax stations, he said he could see the outcome will upset existing residents and the developers are just making money on the project.

Nate Rockwood said first, the state is requiring cities to do this, and second of all, it is the council's plan, thirdly, the city is making sure the consultants are aware of the past planning on the area plans. He said there are also requirements for transportation at a

higher level. He made suggestions to the council to prescribe what they want in the station area plans.

Council Member Dustin Gettel said he was concerned with what the council has already done getting community feedback for the area. He said he is not a fan of paying a consultant for something that has already been done for an implementation plan. He said he did not feel it's a good use of funds, even if the funds come from a grant.

Matt Dahl said it is a requirement of the state. There are penalties if the City does not abide by the requirements.

MOTION: Council Member Paul Glover MOVED to approve Resolution No. 2023-R-04 Authorizing the Mayor to execute an agreement with Wasatch Front Regional Council (WFRC) for the Midvale Center and Midvale Ft. Union Station Area Plan. The motion was SECONDED by Council Member Quinn Sperry. Mayor Stevenson called for discussion on the motion. There being none, he called for a roll call vote. The voting was as follows:

Council Member Quinn Sperry	Aye
Council Member Paul Glover	Aye
Council Member Heidi Robinson	Aye
Council Member Bryant Brown	Aye
Council Member Dustin Gettel	No

The motion passed unanimously.

D. CONSIDER RESOLUTION NO. 2023-R-05 AUTHORIZING THE MAYOR TO SIGN AMENDMENT #2 TO GRADE SEPERATED CROSSING AGREEMENT BETWEEN MIDVALE CITY AND UTAH TRANSIT AUTHORITY

Nate Rockwood said in July 2014 the City entered into an agreement with The Utah Transit Authority (UTA) which allowed the City to make improvements to certain designated grade separated crossings. On Feb 3, 2015, this agreement was amended to allow sidewalk improvements on the west side of Holden Street passing under the UTA tracks line.

The second amendment (#2), similarly allows the City to make improvements to the east side of Holden Street passing under the UTA tracks line. These improvements have been reviewed and approved by the City Engineer and have been approved by the Director of UTA.

The City anticipated bidding the improvements this winter with the designs for the City Hall Plaza. Construction of the sidewalk and City Hall Plaza are expected to commence in the Spring of 2023 with completion in Summer 2023. The sidewalk improvement, landscaping and plaza will connect as one continues improvement and will provide greater pedestrian access to Holden and Main Street.

FISCAL IMPACT:

UTA has waved all fees associated with the improvements with the exception of the Special Inspection cost of \$421.32.

MOTION: Council Member Dustin Gettel **MOVED** to approve Resolution No. 2023-R-05 Authorizing the Mayor to Sign Amendment #2 to Grade Separated Crossing Agreement between Midvale City and Utah Transit Authority. The motion was **SECONDED** by Council Member Heidi Robinson. Mayor Stevenson called for discussion on the motion. There being none, he called for a roll call vote. The voting was as follows:

Council Member Quinn Sperry	Aye
Council Member Paul Glover	Aye
Council Member Heidi Robinson	Aye
Council Member Bryant Brown	Aye
Council Member Dustin Gettel	Aye

The motion passed unanimously.

VIII. DISCUSSION ITEMS

A. DISCUSS PROPOSED AMENDMENTS TO SECTION 5.08 OF THE MIDVALE CITY CODE

Aubrey Ruiz stated Midvale City staff proposes amendments to the Midvale City Municipal Code Section 5.08 that will:

- (1) clarify the language in the text,
- (2) provide the most current business licensing fee schedule, and
- (3) update the most current business licensing bonding schedule.

The business licensing section of the code requires updates to reflect the most up-to-date information from the department. The business licensing fee schedule explanation does not currently define the purpose intended for the fees being charged. It would be beneficial to the City to specify the usage of the funds for current and future business owners.

The Midvale City Municipal Code currently reflects an incorrect fee schedule from years ago. The past fees do not match the most recent fee schedule currently being used within the department. A new fee schedule is to be adopted each year and the new language in the code will refer to that.

Midvale City staff have prioritized amending the ordinance to ensure compliance with state code and to provide transparency for residents and business owners. Staff will present the proposed changes to the City Council during the meeting.

The Council directed staff to bring this item back as a consent item at the next meeting.

B. DISCUSS PROPOSED AMENDMENTS TO THE PROCUREMENT CODE

Mariah Hill discussed proposed procurement code amendments as follows:

Threshold Changes

- Minor Purchase: Made with as much competition is practicable under the circumstance
- Small Purchase: Requires informal bidding procedures (quotes)
- Large Purchase: Requires formal bidding procedures (RFP, IFB, etc.)

Current

Minor Purchase: \$3,000
Small Purchase: \$3,000 to \$25,000
Large Purchase: \$25,000+

Proposed

Minor Purchase: \$7,500
Small Purchase: \$7,500 to \$50,000
Large Purchase: \$50,000+

Exception Changes

Exempt Expenditures: Expenditures that can be made without formal or informal bidding procedures with the approval of the procurement officer regardless of amount.

Changes:

- Update professional services exceptions and add examples
- Add state or federal funds exception
- Add gift or bequest exception

Add a compatibility of parts or training exception

Other Changes

- Remove all part of the code specifically related to CARES Act expenditures
- Replacing requirements to post formal bids in the newspaper to posting to the City's procurement platform
- Remove public opening of bids
- Changing the evaluation of bids to include the procurement officer as a facilitator, not an evaluator
- Clerical clarifications and changes

Council Member Dustin Gettel commented that in 2020 the procurement code was updated, and the thresholds were doubled. He said he has concerns about doubling the threshold amounts again. He said he would need a presentation to see what the need is to double the amounts of the thresholds.

Glen Kennedy said prices are higher than they were a couple years ago. The process to purchase some common items is very time consuming to go through this process.

Council Member Quinn Sperry agreed with Council Member Gettel regarding having a presentation explaining why the threshold amounts need to be amended.

Council Member Paul Glover said he has concerns with the large purchase amounts. He suggested considering raising the minor and small purchase amounts and leaving the large purchase amount as is.

IX. CLOSED SESSION TO DISCUSS THE CHARACTER, PROFESSIONAL COMPETENCE OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL

MAYOR: Mayor Marcus Stevenson

COUNCIL MEMBERS: Council Member Quinn Sperry
Council Member Dustin Gettel
Council Member Bryant Brown
Council Member Heidi Robinson
Council Member Paul Glover

STAFF: Matt Dahl, City Manager; Nate Rockwood, Assistant City Manager; and Garrett Wilcox, City Attorney.

MOTION: Council Member Quinn Sperry **MOVED** to go into a closed Session to discuss the character, professional competence or physical or mental health of an individual. The motion was **SECONDED** by Council Member Dustin Gettel. Mayor Stevenson called for discussion on the motion. There being none, he called for a roll call vote. The voting was as follows:

Council Member Quinn Sperry	Aye
Council Member Paul Glover	Aye
Council Member Heidi Robinson	Aye
Council Member Bryant Brown	Aye
Council Member Dustin Gettel	No

The motion passed unanimously.

The Council went into closed session at 9:18 p.m.

MOTION: Council Member Dustin Gettel **MOVED** to reconvene into open session. The motion was **SECONDED** by Council Member Bryant Brown. Mayor Stevenson called for discussion on the motion. There being none, he called for a vote. The motion passed unanimously.

The Council reconvened into open session at 10:10 p.m.

X. ADJOURN

MOTION: Council Member Paul Glover **MOVED** to adjourn the meeting. The motion was **SECONDED** by Council Member Dustin Gettel. Mayor Stevenson called for discussion on the motion. There being none, he called for a vote. The motion passed unanimously.

Proceedings of City Council Meeting
January 3, 2023

The meeting adjourned at 10:10 p.m.

Rori L. Andreason, MMC
H.R. DIRECTOR/CITY RECORDER

Approved this 17th day of January, 2023

PENDING



MIDVALE CITY COUNCIL SUMMARY REPORT

January 17, 2023

ACTION ITEM: Consider Ordinance No. 2023-O-01 Amending Title 5.08 of the Midvale Municipal Code regarding Business Licenses

Submitted By: Aubrey Ruiz, Community Development Executive Assistant

SUMMARY:

The proposed amendments to the Midvale Municipal Code Section 5.08, as outlined below, were discussed with the city council on January 3, 2023. The amendments include:

- (1) clarifying the language in the text,
- (2) providing the most current business licensing fee schedule, and
- (3) updating the most current business licensing bonding schedule.

The business licensing section of the code requires updates to reflect the most up-to-date information from the department. The business licensing fee schedule explanation does not currently define the purpose intended for the fees being charged. It would be beneficial to the City to specify the usage of the funds for current and future business owners.

The Midvale City Municipal Code currently reflects an incorrect fee schedule from years ago. The past fees do not match the most recent fee schedule currently being used within the department. A new fee schedule is adopted each year and the new language in the code will refer to that.

Midvale City staff have prioritized amending the ordinance to ensure compliance with state code and to provide transparency for residents and business owners. Staff will present the proposed changes to the City Council during the meeting.

RECOMMENDED MOTION:

I MOVE to adopt Ordinance No. 2023-O-01 Amending Title 5.08 of the Midvale Municipal Code regarding Business Licenses

ATTACHMENTS:

- * Proposed Ordinance
- * Exhibit A: Amendment Explanation Document

**MIDVALE CITY, UTAH
ORDINANCE NO. 2023-O-01**

**AN ORDINANCE AMENDING MIDVALE MUNICIPAL CODE CHAPTER 5.08
BUSINESS LICENSE FEES AND BONDING SCHEDULES**

WHEREAS, pursuant to Utah Code Annotated Section 10-1-203, Midvale City has authority to issue business licenses and collect fees to recover the City’s cost of regulation; and

WHEREAS, the costs of business regulation vary due to inflation, software costs, employee compensation, and building overhead and maintenance; and

WHEREAS, the City desires to be more responsive to these costs by permitting the City Council to amend the business license fee and bonding schedules by resolution; and

WHEREAS, the City Council of Midvale City, Utah, held a public meeting regarding the amendment of Chapter 5.08 of the Midvale Municipal Code on January 17, 2023; and

WHEREAS, the City Council found the proposed amendments appropriate in furthering the goals and policies of Midvale City.

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

Section 1. Chapter 5.08 of the Midvale Municipal Code is amended as provided in the following attachment:

Attachment A: Chapter 5.08 Business License Fees and Bonding Schedules

Section 2. If any part of this ordinance or its application to any person or circumstances is, for any reason, determined by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remainder of this ordinance or its application to other persons and circumstances. Such determination is limited to the language identified by the court as being unconstitutional or invalid and the persons and circumstances directly involved in the controversy in which such judgment is rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such unconstitutional or invalid language had not been included.

Section 3. This ordinance is effective upon publication in accordance with Section 10-3-711 of the Utah Code.

PASSED AND APPROVED this 17th day of January, 2023.

Marcus Stevenson, Mayor

[SEAL]

VOTING:

Bryant Brown	Yea	___	Nay	___
Dustin Gettel	Yea	___	Nay	___
Paul Glover	Yea	___	Nay	___
Heidi Robinson	Yea	___	Nay	___
Quinn Sperry	Yea	___	Nay	___

ATTEST:

Rori L. Andreason, MMC
City Recorder

Published this ___ day of January, 2023, on the Utah Public Notice Website.

Chapter 5.08

BUSINESS LICENSE FEES AND BONDING SCHEDULES

Sections:

5.08.010 Business license fee schedule established.

5.08.020 Business license fee schedule.

5.08.030 Bonding schedule.

5.08.010 Business license fee schedule established.

In accordance with Section 10-1-203 of the Utah Code Annotated, Midvale City levies ~~the following~~ fees on businesses operating within the city of Midvale to recover the City's costs of regulating said businesses.

~~For purposes of levying fees, businesses found to have a disproportionate impact on one or more municipal services due to police response, fire department response or oversight and increased impact on basic municipal services such as roads are charged an additional fee according to the adopted schedule. Municipal services include public utilities, police, fire, storm water runoff, traffic control, parking, transportation, beautification, and snow removal.~~ (Ord. 7/6/2010O-4 (Exh. A (part)); Ord. 10/28/2003O-12 (part))

5.08.020 Business license fee schedule.

~~The Midvale City business license fee schedule is as follows:~~ The business license fee schedule is set by the Midvale City Council by resolution. An applicant must pay all applicable fees set forth in the business license fee schedule in effect at the time the applicant submits a complete application.

Base Business Fees			
	Number	Fee	Total
Rentals (Apartments 3+, Duplexes, Single Family)		\$80.00	= _____
Commercial Business Base Fee (New Application)		\$114.00	= _____
New Business One Time Additional Application Fee		\$15.00	= _____
Solicitor (New Application and Renewal)		\$90.00	= _____
New Owner Fee		\$25.00	= _____
Home Occupation Base Fee		\$40.00	= _____
SOB/Escort, Each Principal	_____ x	\$750.00	= _____
SOB/Escort, Each Escort, Driver or Bodyguard	_____ x	\$150.00	= _____
Employees—11 and Over, Each	_____ x	\$5.00	= _____
Other _____	_____ x	\$ _____	= _____
Temporary License (No Base)	_____ x	\$40.00	= _____
Home Business		\$40.00	= _____
*SUBTOTAL (from other side) _____			
TOTAL _____			

New businesses will be charged a one time \$15.00 application fee in addition to the fees listed below.

Disproportionate Impact Fees			
	Number	Fee	Total
Beauty Salon Booth Rental—Each (No Base Fee)	_____ x	\$40.00	= _____
Auctions	_____ x	\$50.00	= _____
Spray Booth—Each	_____ x	\$60.00	= _____
Nursing and Convalescent—Per Room	_____ x	\$40.00	= _____
Taxi—Per Vehicle	_____ x	\$35.00	= _____
Pawn Shop	_____ x	\$250.00	= _____

Private Investigator—Each	_____x	\$50.00	= _____
Hotel/Motel—Based on Gross Sales Collected Quarterly	0.01 x	sales	= _____
Amusement Devices—Per Device	_____x	\$35.00	= _____
Pool/Billiard Tables—Per Table	_____x	\$35.00	= _____
Gas Pumps—Per Pump	_____x	\$5.00	= _____
Storage Warehouses—Per Unit	_____x	\$1.00	= _____
Rental Units—Per Unit (Good Landlord Reduction)	_____x	\$7.00	= _____
Nonparticipating			
Apartments 3+—Per Unit	_____x	\$134.00	= _____
Duplex—Per Unit	_____x	\$95.00	= _____
Single Family—Per Unit	_____x	\$81.00	= _____
Theaters			
1—500 Seats	_____x	\$115.00	= _____
501—949 Seats	_____x	\$230.00	= _____
950—Up Seats	_____x	\$345.00	= _____
Contractor's Storage Yard	_____x	\$300.00	= _____
Fireworks Sales—Each Outlet Plus a Cleanup Bond	_____x	\$325.00	= _____
Christmas Tree Sales—Plus Bond	_____x	\$100.00	= _____
Dance or Cabaret—Permanent	_____x	\$125.00	= _____
Dance or Cabaret—Temporary (Per Day)	_____x	\$10.00	= _____
Alcohol Establishment	_____x	\$400.00	= _____
Single Event Beer License per day up to 3 days	_____x	\$25.00	= _____
Alcohol Server Bar Cards—Each	_____x	\$15.00	= _____
Entertainer I.D. Cards—Each	_____x	\$15.00	= _____
*SUBTOTAL (This figure to be placed on other side)	_____		= _____

(Ord. 7/6/2010O-4 (Exh. A (part)); Ord. 10/28/2003O-12 (part); Ord. 7/30/2002; Ord. 6-5-2001; Ord. 8-24-99B; Ord. 5-4-99A; Ord. 12-09-97D (part))

5.08.030 Bonding schedule.

Midvale City requires ~~the following certain~~ businesses to submit a cash bond for the purposes of guaranteeing the performance of the applicant in fulfilling the requirements of this chapter. ~~The Midvale City bonding schedule is as follows:~~The bonding schedule is set by the Midvale City Council by resolution. An applicant must submit a cash bond in the amount set forth in the bonding schedule in effect at the time at the time the applicant submits a complete application.

Bonding Schedule

Christmas tree sales	\$200.00
Auctions and auctioneers	\$1,000.00
Pawn shops, secondhand dealers	\$1,000.00
Public recreation	\$1,000,000.00 bodily injury (per person and per occasion)
	\$1,000,000.00 property damage
Fireworks	\$1,000.00

~~Sexually-oriented~~ ~~\$2,000.00 (replenishable)~~
~~businesses~~

(Ord. 7/6/2010O-4 (Exh. A (part)); Ord. 10/28/2003O-12 (part); Ord. 12-09-97D (part))
A.



MIDVALE CITY COUNCIL SUMMARY REPORT

Meeting Date: January 17, 2023

SUBJECT: A Resolution Authorizing the City to enter into a Month-to-Month Lease Agreement for the Property Located at 7683 S. Holden Street between Midvale City and UGIA.

SUBMITTED BY: Nate Rockwood, Assistant City Manager

SUMMARY:

On December 6, 2022, City Manager Matt Dahl presented a discussion item to City Council regarding the temporary use of the former Unified Fire Station 125 at 7683 S. Holden Street by UPD and Utah Gang Investigators Association (UGIA), to host Choose Gang Free Advocates programming. At that time, the Council indicated they were in favor of city staff putting together a month-to-month lease with UGIA to move forward with the programming. The lease allows full use of the property specifically for Choose Gang Free Advocates programming. The programming will all be administered by UGIA staff with specific requirements for participation in the programming. All funding will come from UGIA or private donors. The facilities will be operated and maintained by UGIA throughout the lease at no cost to the City. The lease requires all insurance coverage and liability be covered by UGIA and amounts specified by Midvale City. Staff recommend entering into the attached lease with UGIA for the terms and conditions included in the lease.

FISCAL IMPACT: It is anticipated that the property will be redeveloped as part of the Main Street CDA project area in 2023/2024. This lease is a month-to-month lease which will allow the property to be available once redevelopment conditions are most advantageous. In the interim, the building will be used and maintained by UGIA, which will relieve the City from the added cost of maintaining the property.

STAFF'S RECOMMENDATION AND MOTION:

I move that we approve Resolution No. 2023-R-6 authorizing the Mayor to sign a month-to-month lease agreement for the property located at 7683 S. Holden Street between Midvale City and UGIA.

Attachments:

Lease Agreement

**MIDVALE CITY, UTAH
RESOLUTION NO. 2023-R-06**

**A RESOLUTION AUTHORIZING THE MAYOR TO SIGN A MONTH-TO-MONTH
LEASE FOR THE FORMER UNIFIED FIRE AUTHORITY STATION 125, BETWEEN
MIDVALE CITY AND UTAH GANG INVESTIGATORS ASSOCIATION (UGIA)**

WHEREAS, Midvale desires to improve the general well-being of Midvale residents;
and

WHEREAS, UGIA is a non-profit organization whose primary goal is to provide law enforcement training and investigative assistance across Utah specific to gang related crime and issues; and

WHEREAS, Midvale is the owner of the building and real property located at 7683 S. Holden Street in Midvale, Utah (the “Property”); and

WHEREAS, UGIA desires to use the Property to host Choose Gang Free Advocates programing; and

WHEREAS, Midvale desires to lease the Property to UGIA for the purpose of hosting programs in conformance with the Permitted Use Restrictions; and

WHEREAS, Midvale determines the value of the services provided by UGIA for Midvale residents is adequate compensation for leasing the Property.

NOW THEREFORE BE IT RESOLVED, based on the foregoing, the Midvale City Council does hereby approve a lease agreement for the property located at 7683 S. Holden Street between Midvale City and UGIA and authorizes the Mayor to sign the same between Midvale City and UGIA.

APPROVED AND ADOPTED this 17th day of January 2023.

Marcus Stevenson, Mayor

ATTEST:

Voting by the City Council	“Aye”	“Nay”
Quinn Sperry	_____	_____
Paul Glover	_____	_____
Heidi Robinson	_____	_____
Bryant Brown	_____	_____
Dustin Gettel	_____	_____

Rori L. Andreason, MMC
City Recorder

Midvale City and Utah Gang Investigators Association Lease Agreement

This Agreement to lease the former Unified Fire Authority Station 125 is entered into on _____, 2023, by and between Midvale City (“Midvale”), a Utah Municipal Corporation, and Utah Gang Investigators Association (“UGIA”), a Utah non-profit organization.

Recitals

Midvale desires to improve the general well-being of Midvale residents; and

UGIA is a non-profit organization whose primary goal is to provide law enforcement training and investigative assistance across Utah specific to gang related crime and issues; and

Midvale is the owner of the building and real property located at 7683 S. Holden Street in Midvale, Utah (the “Property”); and

UGIA desires to use the Property to host Choose Gang Free Advocates programing; and

Midvale desires to lease the Property to UGIA for the purpose of hosting programs in conformance with the Permitted Use Restrictions; and

Midvale determines the value of the services provided by UGIA for Midvale residents is adequate compensation for leasing the Property.

Therefore, in consideration of the mutual promises contained in this Agreement, it is agreed:

Agreement

1. Property

Midvale leases the Property, known as the Unified Fire Authority Station 125, with related facilities, located at 7683 S. Holden Street, Midvale, to UGIA. The property boundaries generally as shown in the attached Exhibit “A”. The property is currently scheduled for redevelopment. It is anticipated that the demolition and redevelopment will not begin in less than 6 months and possibly not within one year.

2. Term

- A. **Initial Term.** The initial term of this Lease Agreement begins on January 18, 2023 and is a month-to-month lease with a final termination date of December 31, 2023.
- B. **Renewal.** The parties may agree to renew this Lease Agreement on a continued month-to-month basis. The renewal of the lease beyond December 31, 2023, will require a new lease agreement.
- C. **Termination.** Midvale may terminate this lease at any time with 30 days written notice.

3. Payment

- A. **Amount.** UGIA shall pay to Midvale the amount of \$1.00 as monthly rent for the Property. This payment may be made monthly or in a 6-month payment.
- B. **Schedule.** If the UGIA fails to pay rent or other charges that are due under the terms of the Lease Agreement within fifteen days after Midvale's written demand, the UGIA shall pay Midvale a late charge that is equal to 10% of such delinquent installment. Any interest and late charges that are payable under this section shall be deemed to be additional rent due under this lease.

4. **Alterations, Improvements and Fixtures**

- A. **Permission.** UGIA may make alterations and improvements to any part of the Property during the term of the Lease Agreement after receiving Midvale's consent, which will not be unreasonably withheld, conditioned, or delayed.
- B. **Expense.** Any alteration or improvement made to the Property is done at the UGIA sole expense.
- C. **Quality.** Any alteration or improvement made to the Property must utilize good quality materials and be done in a workmanlike manner.
- D. **Equipment.** The UGIA may install or remove personal property, trade fixtures, equipment, and other temporary installations in the Property during the term of the Lease Agreement.
- E. **Equipment Ownership.** All personal property, trade fixtures, equipment, and other temporary installations acquired by the UGIA or its agents will remain the UGIA's or its agents' property, free and clear of any claim by Midvale.
- F. **Repairs.** In the event that the UGIA damages the Property while installing or removing personal property, trade fixtures, equipment, and other temporary installations, the UGIA is responsible for repairing the Property at its sole expense and in a timely manner. Midvale may waive this requirement at the request of UGIA.
- G. **Permits.** The UGIA is responsible for getting any necessary permits and inspections prior to making any alterations and improvements. Midvale, at its own discretion, may waive any associated building and inspection fees.

5. **Taxes, Assessments and Utilities**

- A. **General Statement of Responsibility.** All costs and expenses relating to the Property shall be paid by the UGIA, and Midvale shall be indemnified by the UGIA from and against the same. Nothing contained in this Lease Agreement shall be deemed to require the UGIA to pay or discharge any liens or encumbrances of any character whatsoever which may presently exist or hereafter be placed on the Property by the act or neglect of Midvale.
- B. **Taxes and Assessments.** The Property is exempt from real estate taxes levied against the Property as well as the UGIA's own personal property taxes, use taxes, license fees, and all other taxes, fees and charges incurred by the UGIA pursuant to its use of the Property.

- C. **Utilities.** UGIA shall pay all charges and expenses for utility services relating to the Property. Midvale shall not be liable for any failure or interruption of any such utility services, and no such failure or interruption shall entitle tenant to be relieved of its obligations under this Lease Agreement. If the UGIA fails to pay any of the utility expenses, Midvale shall have the right to pay the past due amounts. Any amount paid by Midvale for utilities, shall be reimbursed by the UGIA within 15 days after Midvale's written demand.

6. **Liability and Casualty Insurance**

- A. **Obligation to Maintain Insurance.** The UGIA agrees to keep and maintain in full force and effect for the mutual benefit of Midvale, the UGIA, and any additional individuals as may be designated in writing by the Parties, a broad form comprehensive liability insurance policy or policies ("Liability Policy") against claims for damage or injury to persons or property arising out of the use or occupancy of the Property. The Liability Policy must name Midvale as an additional insured and shall be maintained on minimum basis of \$1,000,000 for damage to property, \$1,000,000 for bodily injury or death of any one person in any one accident, and an aggregate of \$3,000,000 for bodily injury to or death of more than one person in one accident. If Midvale determines that the insurance limit provided in this section is for any reason insufficient, then the UGIA shall increase the limits of the Liability Policy to reasonably higher levels to be specified by Midvale in a written notice to the UGIA.
- B. **Failure to Maintain Liability Insurance.** If UGIA fails to maintain the Liability Policy, Midvale shall have the right, without being obligated to do so, to obtain insurance coverage and pay the premiums. All such premiums paid by Midvale, together with interest thereon at the rate of 18% per annum, shall be repaid to Midvale on demand as additional rent. Both UGIA's failure to provide insurance coverage or to repay Midvale's discretionary expenditures to obtain such coverage shall constitute defaults under this Lease Agreement.
- C. **Release from Liability.** Subject to the provisions of this Lease Agreement, the UGIA covenants and agrees that Midvale is not be liable or responsible for damages for any personal injury or injuries, death(s), damages or losses of any person or property that may be suffered or sustained by the UGIA or its subtenant, if any, or any of their respective agents, servants, employees, patrons, customers, invitees, visitors, licensees and concessionaires or by any other person or persons in or about the Property, or any part thereof, arising from the UGIA's failure to keep or cause to be kept the Property in good condition and repair or arising from the use of occupancy of the Property by the UGIA or any of their respective agents, servants, employees, patrons, customers, invitees, visitors, licensees or concessionaires.
- D. **Indemnification.** The UGIA shall indemnify, defend, and hold Midvale harmless against any and all claims, actions, liabilities, costs and expenses (including attorney's fees) for damages, losses, injuries or death to persons or damages or losses to property which may be asserted against Midvale as to any of the provisions and conditions set forth in this Lease
- E. **Casualty Insurance.** Midvale shall maintain a policy or policies (hereinafter collectively referred to as the "Casualty Policy") of extended coverage casualty insurance with a reputable insurance company covering the Property. The

Casualty Policy shall be in an amount of not less than the then replacement cost of the building and all other improvements on the Property and shall insure against at least the perils of fire, vandalism, malicious mischief and such other hazards as are currently embraced in the standard extended coverage endorsement in Utah. The Casualty Policy shall name Midvale and the UGIA as insureds and shall name Midvale as the loss payee.

- F. **Survival.** Subsections 6(C) and (D) will survive the termination of this Agreement.

7. **Maintenance and Use**

- A. **Maintenance and Repair Obligations.** The UGIA shall, at all times throughout the Lease Term at its own cost and expense (a) repair, replace, and maintain the Property in a good, safe, clean and attractive condition; (b) clean and paint the interior and exterior, if needed, of the building on the Property as necessary in order to maintain the Property in a clean, attractive and sanitary condition; (c) use all reasonable precautions to prevent damage or injury to the Property; (d) pay for any and all labor, materials, and other costs relating to repair, maintenance, or necessary replacement of the roof, foundation, footings, walls, structural components, glass, light fixtures, electrical wiring, plumbing, air condition and heating systems, and other items that require a licenses contractor to maintain repair.
- B. **Failure to Make Repairs.** If the UGIA fails to make any required repairs or maintenance within thirty (30) days after written notice from Midvale, Midvale may, at its option, enter upon the Building or Property, perform such repairs or maintenance, and charge the UGIA the actual costs plus 20% for overhead and supervision. The UGIA shall pay the above-described amount to Midvale within 15 days of written request.
- C. **Use.** UGIA shall use the Property solely to host Choose Gang Free Advocates programing, as permitted by applicable laws. UGIA may not subject the Property to any other type of use without Midvale's prior written consent, which Midvale may withhold in its sole, subjective discretion.
- D. **Parking and Storage.** Vehicle parking must be occur within designated spaces and in an orderly fashion. Parking use is limited to uses consistent with operation and patronage of the Choose Gang Free Advocates programing. There shall be no overnight parking. UGIA shall keep the property clear of all hazardous materials, junk, junk cars, or debris.
- E. **Waste and Nuisance.** Midvale UGIA will not commit any waste upon the Property and shall not conduct any activity on the Property that is or becomes unlawful, prohibited, or a nuisance, or that may cause damage to Midvale, to occupants of the vicinity, or to other third parties.
- F. **Compliance with Laws.** The UGIA will comply with and abide by all laws, ordinances, rules and regulations of all municipal, county, state, and federal authorities that are now in force or that may hereafter become effective with respect to the use and occupancy of the Property.

G. Right to Enter. Midvale, its agents, and its other representatives have the right without abatement of rent to enter upon the Property or any part thereof at all reasonable hours upon reasonable notice to the UGIA for the purpose of inspecting the same and making such repairs and alterations to the Property as may be necessary.

8. Assignment or Sublease

The UGIA may not assign this Lease Agreement or sublet the whole or any portion of the Property without Midvale's prior written consent, which Midvale may withhold in its sole, subjective discretion

9. Damage or Destruction

A. Extensive Destruction. Either party has the right to terminate this Lease Agreement in the event of destruction of or damage to the Property that is so extensive as to make impractical the UGIA's use and occupancy for a period reasonably expected to be in excess of 90 days. Such termination must be accomplished through written notice given to the other party within 30 days after the date of the destruction or damage. In the event of such termination, there shall be a proration of the rental payments contemplated by Section 3, and Midvale shall refund any excess rental payment paid by the UGIA. Termination shall be effective, and rent shall be prorated, as of the date on which the destruction or damage occurred.

B. Abatement of Rent. If the Property is destroyed or damaged and Midvale elects to repair or restore the Property, the UGIA shall continue to occupy the Property to the extent reasonably practicable from the standpoint of prudent management. The rent, payable for the period during which such damage, repair or restoration continues, (or during the period when the UGIA cannot occupy the Property, whichever is longer) shall be abated in proportion to the degree to which the Property is rendered untenable. Otherwise, there shall be no abatement of any item of rent, additional rent or other monetary charge payable hereunder. The UGIA has no claim against Midvale for any damages suffered by the UGIA by reason of any such damage, destruction, repair or restoration of the Property.

10. Default by UGIA

A. Definition. The following actions by the UGIA may be considered a default:

- i. **Payments to Midvale.** The UGIA failure to pay any payment required to be paid to Midvale when it is due, and such failure continues 15 days after written notice by Midvale.
- ii. **Bankruptcy.** The voluntary or involuntary declaration by the UGIA or against the UGIA of bankruptcy.
- iii. **Failure to Repair or to Maintain.** UGIA's failure to make any required repairs or maintenance to the Property within 30 days after notice from Midvale. If, due to the nature of the work involved, the UGIA cannot complete the work enough to cure the default, Midvale may allow additional time to the UGIA.

- B. Remedies.** The following actions may be taken by Midvale if the UGIA has defaulted on the Agreement:
- i. **Termination.** For any default under this Lease Agreement by UGIA, Midvale may terminate the Lease Agreement if the UGIA has not cured the default within 30 days of receiving written notice of the default,
 - ii. **Reenter.** If possession of the Property is not surrendered, Midvale may reenter the Property,
 - iii. **Other Rights or Remedies.** Midvale may pursue other right or remedy available to Midvale on account of UGIA's default, either in law or equity.
 - iv. **Mitigation.** Midvale must use reasonable efforts to mitigate its damages.
 - v. **Nonexclusive.** The remedies available to Midvale are nonexclusive. Midvale may use any combination of remedies available to it.

11. Default by Midvale

- A. Definition.** It is considered a default if Midvale fails to fulfill its covenants, warranties, or representations made under this Agreement and the failure continues 30 days after Midvale has received written notice specifying the failure from UGIA.
- B. Remedies.** The following actions may be taken by the UGIA if Midvale has defaulted on the Agreement:
- i. **Cure.** UGIA may cure Midvale's default and deduct the cost from the next occurring installment of rent until UGIA is fully reimbursed for the cost to cure. If the Agreement terminates before UGIA receives full reimbursement, Midvale will pay the unreimbursed balance to UGIA on demand,
 - ii. **Other Rights or Remedies.** UGIA may pursue any other right or remedy available in the Agreement on account of Midvale default,
 - iii. **Nonexclusive.** The remedies available to UGIA are nonexclusive. The UGIA may use any combination of remedies available to it.

12. Hazardous Substances/Wastes

- A. No Hazardous Materials.** UGIA represents and certifies that there will be no disposal, release, or threatened release of hazardous substances or hazardous wastes on the Property. For purposes of this Lease Agreement, the terms "disposal," "release," "threatened release," and "hazardous wastes" includes any hazardous, toxic or dangerous waste, substance or material as defined by the Federal Comprehensive Environmental Response, Compensation and Liability Act, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree, relating to any hazardous, toxic or dangerous wastes, substances or materials, as now or at any time hereafter in effect (the "Environmental Laws").

B. Environmental Inquiries. The UGIA shall immediately notify Midvale of the occurrence of any inquiries, on-site inspections, or the like by any federal or state governmental agency or entity relating to UGIA's or the Property's compliance with the applicable Environmental Laws. If any inspection or inquiry results in a notice of violation of one or more the Environmental Laws, UGIA shall promptly notify Midvale of the alleged violations. and UGIA will immediately undertake all action necessary to remedy and cure any such violations attributable to a breach of UGIA's obligations under the Lease Agreement.

C. Indemnification. UGIA shall indemnify Midvale against.

- i. **Liability.** Any and all claims, damages and liability arising in any way in connection with the presence, use, storage, disposal, or transfer of any hazardous materials on the Property,
- ii. **Costs of Repairs.** Any and all costs of any required or necessary repair, cleanup, or detoxification, whether such action is required or necessary prior to or following the termination or earlier expiration of this Agreement. UGIA's obligations pursuant to the foregoing indemnification shall survive the expiration or termination of this Agreement.

D. Current Compliance. Midvale represents to UGIA that, to the best of Midvale's current actual knowledge, but without any due diligence, as of the date of this Agreement, the Property complies with all Environmental Laws.

13. Notices

Any notice required or permitted under the Lease Agreement will be deemed sufficiently given or served if sent by United States Certified Mail, return receipt requested, addressed as follows:

If to Midvale to:
Midvale City Corp.
Attn: City Recorder
7505 S. Holden Street
Midvale, Utah 84047

If to UGIA to:
Utah Gang Investigators Association
Attn: President
Need Address

Midvale and UGIA each have the right, from time to time, to change the place notice is to be given under this paragraph by written notice to the other party.

14. Quiet Possession

As long as UGIA is performing its obligations under the Lease Agreement, Midvale covenants and warrants that Midvale will keep and maintain UGIA in exclusive, quiet, peaceable, and undisturbed and uninterrupted possession of the Property during the term of the Lease Agreement.

15. Waiver

Failure by either party to insist upon the strict performance of any condition of this Lease Agreement or to exercise any right or remedy found under the Lease Agreement does not

constitute a waiver. Any party may waive any of its rights or any conditions by written notice to the other party. No waiver may affect or alter the remainder of this Lease Agreement. Every other condition in the Lease Agreement will remain in full force with respect to any other existing or subsequently occurring breach.

16. Entire Agreement

This Lease Agreement constitutes the entire agreement and supersedes all prior understandings or agreements relating to the lease of the Property.

17. Headings

The headings used in this Lease Agreement are for the convenience of the parties only and are not to be considered in interpreting the meaning of any provision of this Lease Agreement.

18. Severability

In the event that any provision of the Lease Agreement is held to be void, the voided provision will be considered severable from the remainder of the Lease Agreement and will not affect any other provision in the Lease Agreement. If the provision is invalid due to its scope or breadth, the provision will be considered valid to the extent of the scope or breadth permitted by law.

19. Force Majeure

Either Party to this Lease Agreement shall be excused for the period of any delay in the performance of any obligations that are required, other than an obligation to pay rent or other monies, when the delay is caused by causes beyond its control, including labor disputes, civil commotions, war, governmental regulations or controls, fire or other casualty, weather, inability to obtain any material services or acts of God.

20. Governing Law

The Lease Agreement is governed, construed, and interpreted by, through, and under the laws of the State of Utah.

21. Exhibits and Addenda

All attached exhibits and addenda shall be considered to be fully integrated into and made a part of this Lease Agreement as if such exhibits and addenda were fully and completely set forth herein.

22. Memorandum of Lease

The Parties contemplate that this Lease Agreement should not and is not to be filed for record, but in the place of it, at the request of either party, Midvale and UGIA will execute a Memorandum of Lease to be recorded for the purpose of giving record notice of the appropriate provisions of this Lease Agreement.

23. Authority

The Parties each warrant that they have all of the necessary authority to execute this Lease Agreement. Specifically, on behalf of Midvale, the signature of the Mayor of the City is affixed to this Lease Agreement, lawfully binding Midvale pursuant to Resolution No. _____ adopted by the City Council on _____, 2023.

24. Condemnation

UGIA will not exercise power of eminent domain, right of condemnation, or other similar proceeding with respect to the Property.

25. Successors

The provisions of this Lease Agreement will extend to and be binding on Midvale and UGIA and their respective legal representatives, successors, and assigns.

26. Consent

Unless otherwise specified, Midvale may not unreasonably withhold or delay its consent with respect to any matter for which Midvale's consent is required or desirable under this Lease Agreement.

27. Compliance with Law

UGIA and Midvale must comply with all laws, orders, ordinances, and other public requirements now or later passed affecting the Property.

28. Modification

Any modification to the Lease Agreement is prohibited without prior written consent by both Parties.

Signature Page to Follow

Midvale and the UGIA have read and understand the terms of the Lease Agreement. Both parties have demonstrated their willingness to enter into the Lease Agreement as of the date above by having their authorized representatives sign below.

Midvale City

Marcus Stevenson, Mayor

Attest:

Rori Andreason, City Recorder

Utah Gang Investigators Association

_____, _____

Exhibit "A"



Lease of the building and property as outlined



CITY COUNCIL OF MIDVALE CITY

Meeting Date: January 17, 2023

ITEM TYPE: Discussion Item

SUBJECT: Discuss General Plan Moderate-Income Housing Element Amendment and State Code Compliance

SUBMITTED BY: Meggie Troili, RDA Project Manager

SUMMARY: Midvale City requests an amendment to the General Plan Moderate-Income Housing Element to be in compliance with Utah State Code 10-9a-403 and 17-27a-403 which requires specified municipalities and counties develop a five-year plan that provides a realistic opportunity to meet the need for additional moderate income housing. Because Midvale City has a fixed guide-way public transit station the Moderate-Income Housing Element includes a strategy to develop and adopt a station area plan and must also include at least one of the following strategies: G, H, or Q, as described below, to be in compliance with Utah State Code 10-9a-403(2)(b)(iv).

G. Amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors

H. Amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities

Q. Create a housing and transit reinvestment zone pursuant to Title 63N Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act

Midvale City Recommends Strategy Q, to create a housing and transit reinvestment zone, as it best aligns with the development of city-initiated station area plans. A five-year implementation plan is also required as shown below in the amended Housing Element (Attachment 1).

FISCAL IMPACT: N/A

STAFF RECOMMENDATION: N/A

Attachments: (Attachment 1) Amended Moderate-Income Housing Element

MODERATE INCOME HOUSING ELEMENT FOR GENERAL PLAN

In accordance with Utah State Code (10-9a-403 and 17-27a-403) Midvale City is revising its Moderate-Income Housing Plan to meet the needs of households whose income falls on or below 80% of the area median income (AMI). To achieve this, Midvale City will roll out the plan in three phases.

Phase 1 (October 1st, 2022) - Select 6 of 24 moderate-income housing strategies required by state law, one of which is to develop and adopt a station area plan, and must also include one of the following three strategies G,H or Q, including a five-year implementation plan.

Phase 2 (by end of FY22) - Collect and analyze current local demographic and housing data for Midvale City to further refine and strengthen the moderate-income housing implementation plan. Include this baseline data in the General Plan under the Moderate-Income Housing Element.

Phase 3 (FY22 – FY27) - Carry out the moderate-income housing implementation plan and submit annual progress reports through the Utah Housing and Community Development department.

STRATEGIES TOWARD MODERATE-INCOME HOUSING

Six Moderate Income Housing strategies were selected from Utah State Code 10-9a-403.b.iii , each of which includes a five-year implementation plan to meet the needs of households who fall on or below 80% AMI in Midvale. Out of 24 strategies, the following six strategies were carefully considered and selected by the Midvale City Planning Department, the Redevelopment Agency of Midvale City, and City Management. This plan will continue to be updated and refined as current demographic and housing data is collected and analyzed during Phase 2. Determining a baseline of data is critical to better understand the needs of moderate- income households today and into the future. The selected six strategies include the following.

Selected Strategies

1. Preserve existing and new moderate-income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund;
2. Reduce, waive, or eliminate impact fees related to moderate income housing;
3. Implement a mortgage assistance program for employees of the county/municipality, an employer that provides contracted services for the county/to the municipality, or any other public employer that operates within the county/municipality;
4. Apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for affordable housing programs administered by an association of governments established by an interlocal

agreement under Title 11, Chapter 13, Interlocal Cooperation Act, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

5. Demonstrate utilization of a moderate-income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing; and
6. Develop and adopt a station area plan in accordance with Section 10-9a-403.1.

IMPLEMENTATION PLAN

STRATEGY 1		
Preserve existing and new moderate-income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund.		
YEAR 1		
TASK	ASSIGNED	PROGRESS
Collect and assess housing and demographic data to determine immediate and future housing needs and goals.	RDA Housing Manager	Report baseline data as part of the Moderate-Income Housing element in the General Plan. Update the implementation plan based on this baseline data.
Promote and implement the Upper Floor Housing Initiative to revitalize the Main Street CDA and to increase moderate income housing stock.	RDA Manager RDA Housing Manager	Ongoing Reach deal for moderate income housing as part of the “basketball court” development.
Promote the Good Landlord Program	RDA Planning Department	Ongoing
Approach developers and negotiate moderate income housing incentives through Tax Increment Reimbursement Agreements (TIRA)	RDA Manager RDA Housing Manager	Ongoing
YEAR 2		
TASK	ASSIGNED	PROGRESS
Promote and implement the Upper Floor Housing Initiative to revitalize the Main Street CDA area and increase moderate income housing.	RDA Manager RDA Housing Manager	Ongoing Reach deal for moderate income housing as part of the “Holden Street” development.
Promote the Good Landlord Program	RDA	Ongoing

	Planning Department	
Approach developers and negotiate moderate income housing incentives through Tax Increment Reimbursement Agreements (TIRA)	RDA Manager RDA Housing Manager	Ongoing Reach deal for moderate income housing as part of Midvale's RDA and CDA areas.
YEAR 3		
TASK	ASSIGNED	PROGRESS
Promote and implement the Upper Floor Housing Initiative to revitalize the Main Street CDA area and increase moderate income housing.	RDA Manager RDA Housing Manager	Ongoing Reach deal for moderate income housing as part of the "Depot Street" development.
Promote the Good Landlord Program	RDA Planning Department	Ongoing
Approach developers and negotiate moderate income housing incentives through Tax Increment Reimbursement Agreements (TIRA)	RDA Manager RDA Housing Manager	Ongoing Reach deal for moderate income housing as part of Midvale's RDA and CDA areas.
Review housing incentive programs, assess number of Moderate-Income Housing Units and make improvements to the application processes.	RDA	Ongoing Housing incentive program assessment/report. Improved application process.
YEAR 4		
TASK	ASSIGNED	PROGRESS
Promote and implement the Upper Floor Housing Initiative to revitalize the Main Street CDA area and increase moderate income housing.	RDA Manager RDA Housing Manager	Ongoing Reach deal for moderate income housing as part of Midvale's Main Street CDA.
Promote the Good Landlord Program	RDA Planning Department	Ongoing
Approach developers and negotiate moderate income housing incentives through Tax Increment Reimbursement Agreements (TIRA)	RDA Manager RDA Housing Manager	Ongoing Reach deal for moderate income housing as part of Midvale's RDA and CDA areas.
YEAR 5		
TASK	ASSIGNED	PROGRESS
Promote and implement the Upper Floor Housing Initiative to revitalize the Main Street CDA area and increase moderate income housing.	RDA Manager RDA Housing Manager	Ongoing Reach deal for moderate income housing as part of Midvale's Main Street CDA.

Promote the Good Landlord Program	RDA Planning Department	Ongoing
Approach developers and negotiate moderate income housing incentives through Tax Increment Reimbursement Agreements (TIRA)	RDA Manager RDA Housing Manager	Ongoing Reach deal for moderate income housing as part of Midvale's RDA and CDA areas.

STRATEGY 2 Reduce, waive, or eliminate impact fees related to moderate income housing.		
YEAR 1		
TASK	ASSIGNED	PROGRESS
Conduct an impact fee study	City Management	One-time (year 1 & 2)
YEAR 2		
TASK	ASSIGNED	PROGRESS
Conduct an impact fee study	City Management	One-time (year 1 & 2)
YEAR 3		
TASK	ASSIGNED	PROGRESS
Create impact fee policy to increase moderate income housing and incorporate the policy into city code as adopted by City Council.	City Management, RDA, & Planning	Onetime Adopt impact fee policy
YEAR 4		
TASK	ASSIGNED	PROGRESS
Increase developers' awareness of this benefit. Implement and monitor impact fee policy	RDA, Planning, and City Management	Ongoing
YEAR 5		
TASK	ASSIGNED	PROGRESS
Increase developers' awareness of this benefit. Implement and monitor impact fee policy	RDA, Planning, and City Management	Ongoing

STRATEGY 3

Implement a mortgage assistance program for employees of the county/municipality, an employer that provides contracted services for the county/to the municipality, or any other public employer that operates within the county/municipality.

YEAR 1

TASK	ASSIGNED	PROGRESS
<p>Release an RFP to contract a community partner to administer housing programs and services including a Down Payment Assistance Program (DPA) and a Home Repair Loan/Grant Program.</p> <p>The DPA program will include additional financial incentives for public employees and include homeownership education incentives/requirements</p> <p>Work with the community partner and Midvale’s marketing team to develop a marketing and promotion plan including outreach.</p>	RDA Housing Manager	<p>One-time</p> <p>Enter into a 10-year agreement with a community partner/agency to administer moderate income housing programs.</p> <p>Work with the community partner and Midvale’s marketing team to develop a marketing and promotion plan including outreach.</p> <p>Marketing, promotion, and outreach plan. Launch the program.</p>

YEAR 2

TASK	ASSIGNED	PROGRESS
Plan and budget the RDA affordable housing funds to support for the DPA program.	RDA Manager & RDA Housing Manager	<p>One-time</p> <p>Annual budget submission and approval.</p>
Apply for CDBG funds to support the program/'s.	RDA Housing Manager	<p>Ongoing</p> <p>Submit CDBG application</p>
Monitor program and contractors' performance.	RDA Housing Manager	<p>Support 10 households with DPA and homeownership education</p> <p>Support up to 10 households with Home Repair loan or grant</p> <p>Require quarterly reports from program administrator.</p>
Market and promote the programs: mailers, brochures, website information.	RDA Housing Manager, Director of Marketing, Contracted Agency	ongoing

YEAR 3

TASK	ASSIGNED	PROGRESS
Monitor contractor and program performance	RDA Housing Manager	<p>Ongoing</p> <p>Support 10 households with DPA and homeownership education</p>

		Support up to 10 households with Home Repair loan or grant Require quarterly reports from program administrator.
Market and promote the programs: mailers, brochures, website information.	RDA Housing Manager, Director of Marketing, Contracted Agency	ongoing
YEAR 4		
TASK	ASSIGNED	PROGRESS
monitor contractor and program performance	RDA Housing Manager	Ongoing Support 10 households with DPA and homeownership education Support up to 10 households with Home Repair loan or grant Require quarterly reports from program administrator.
Market and promote the programs: mailers, brochures, website information.	RDA Housing Manager, Director of Marketing, Contracted Agency	ongoing
YEAR 5		
TASK	ASSIGNED	PROGRESS
monitor contractor and program performance	RDA Housing Manager	Ongoing Support 10 households with DPA and homeownership education Support up to 10 households with Home Repair loan or grant Require quarterly reports from program administrator.
market and promote the programs: mailers, brochures, website information.	RDA Housing Manager, Director of Marketing, Contracted Agency	ongoing

STRATEGY 4
Apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity. an entity that applies for affordable housing programs administered

Services, an entity that applies for affordable housing programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing.

YEAR 1		
TASK	ASSIGNED	PROGRESS
Negotiate and enter into an affordable housing loan agreement with Housing Connect for the construction of the Sunset Gardens affordable housing development.	RDA Housing Manager	Add 89 Moderate Income Housing Units to the housing stock in Midvale.
Partner with a local agency/organization to administer housing programming including a DPA program, a Home Repair Loan Program.	RDA Housing Manager	Onetime, secure partner
YEAR 2		
TASK	ASSIGNED	PROGRESS
Seek out a partner to improve the implementation of the Neighborhood Improvement Program.	RDA Housing Manager, Planning Department	Onetime
Apply for CDBG funds to support these programs.	RDA Housing Manager	Budget and apply funding to the DPA and Home Improvement grant/loan funds – ongoing/annually
YEAR 3		
TASK	ASSIGNED	PROGRESS
Purchase property from UDOT and seek out partner to develop and manage a duplex for affordable housing.	RDA Manager & RDA Housing Manger	One-time
YEAR 4		
TASK	ASSIGNED	PROGRESS
Monitor partnership that we've formed and continue to seek out partnerships to support existing and future affordable housing projects.	RDA Housing Manager	ongoing
YEAR 5		
TASK	ASSIGNED	PROGRESS
Monitor current partnerships that we've formed and continue to seek out new partnerships to support	RDA Housing Manager	ongoing

existing and future affordable housing projects.		
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STRATEGY 5		
Demonstrate utilization of a moderate-income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing.		
YEAR 1		
TASK	ASSIGNED	PROGRESS
Monitor existing tax increment reimbursement agreements involving affordable housing incentives.	RDA Manager & Housing Manager	Ongoing
Using RDA funds to support new and future affordable housing programs including: DPA, Home Improvement loan/grant program, Upper Floor Housing Initiative,	RDA Housing Manager	Ongoing Include progress in annual report.
YEAR 2		
TASKS	ASSIGNED	PROGRESS
Monitor existing tax increment reimbursement agreements involving affordable housing incentives.	RDA Manager & RDA Housing Manager	ongoing
Using RDA funds to support new and future affordable housing programs including: DPA, Home Improvement loan/grant program, Upper Floor Housing Initiative,	RDA Housing Manager	Ongoing Include progress in annual report.
Develop a Transportation Reinvestment Area or Community Reinvestment Area, which will generate additional revenues earmarked for affordable housing	RDA, Planning & Community Development	Ongoing (multi-year process)
Consider bonding against future affordable housing funds to support major affordable housing developments in all three CDA areas.	RDA & Community Development	One-time
YEAR 3		
TASK	ASSIGNED	PROGRESS
Monitor existing tax increment reimbursement agreements involving affordable housing incentives.	RDA Manager & RDA Housing Manager	ongoing

Using RDA funds to support new and future affordable housing programs including: DPA, Home Improvement loan/grant program, Upper Floor Housing Initiative,	RDA Housing Manager	Ongoing Include progress in annual report.
YEAR 4		
TASK	ASSIGNED	PROGRESS
Monitor existing tax increment reimbursement agreements involving affordable housing incentives.	RDA Manager & RDA Housing Manager	ongoing
Using RDA funds to support new and future affordable housing programs including: DPA, Home Improvement loan/grant program, Upper Floor Housing Initiative,	RDA Housing Manager	Ongoing Include progress in annual report.
YEAR 5		
TASK	ASSIGNED	PROGRESS
Using RDA funds to support new and future affordable housing programs including: DPA, Home Improvement loan/grant program, Upper Floor Housing Initiative,	RDA Housing Manager	Ongoing Include progress in annual report.
Monitor existing tax increment reimbursement agreements involving affordable housing incentives.	RDA Manager & RDA Housing Manager	ongoing

STRATEGY 6		
Develop and adopt a station area plan in accordance with Section 10-9a-403.1.		
YEAR 1		
TASK	ASSIGNED	PROGRESS
Apply for funding for all three station areas in Midvale City.	Planning Director	One-time, receive funding
YEAR 2		
TASKS	ASSIGNED	PROGRESS
If funding is awarded, develop all three station area plans.	Planning Director	One-time, complete all three station area plans
YEAR 3		
TASK	ASSIGNED	PROGRESS
Implement and monitor the station area plan.	Planning Department	ongoing
YEAR 4		
TASK	ASSIGNED	PROGRESS
Implement and monitor the station area plan.	Planning Department	ongoing

YEAR 5		
TASK	ASSIGNED	PROGRESS
Implement and monitor the station area plan.	Planning Department	ongoing

STRATEGY 7
 Create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

YEAR 1		
TASK	ASSIGNED	PROGRESS
Apply for funding for all three station areas in Midvale City.	Planning Director	One-time, receive funding

YEAR 2		
TASKS	ASSIGNED	PROGRESS
If funding is awarded, develop all three station area plans.	Planning Director	One-time, complete all three station area plans

YEAR 3		
TASK	ASSIGNED	PROGRESS
Update Zoning in preparation for HTRZ application.	Planning Department	One-time
Submit HTRZ application	Planning Department & RDA	One-time

YEAR 4		
TASK	ASSIGNED	PROGRESS
Implement and monitor the HTRZ	Planning Department & RDA	ongoing

YEAR 5		
TASK	ASSIGNED	PROGRESS
Implement and monitor the HTRZ and adjust as needed	Planning Department & RDA	ongoing



MIDVALE CITY COUNCIL SUMMARY REPORT

Meeting Date: January 17, 2023

ITEM TYPE: Discussion

SUBJECT: Consider Amendments to Chapter 3.02 of the Midvale Municipal Code regarding Procurement

SUBMITTED BY: Mariah Hill, Administrative Services Director

SUMMARY:

Attached is a redline copy of the Midvale City Procurement Code with proposed amendments. As our new procurement analyst has worked within our existing code it became evident that some updates were needed to assure the City's procurement processes are efficient, effective, and competitive in the current economy. This includes updates that more accurately reflect processes and technologies as well as update our exceptions to make our process more fluid. We are also proposing increases to our thresholds to be more in line with the cost of inflation and the State of Utah, who recently increased their thresholds. Below you will find a list of major changes – all other changes are clerical in nature.

Threshold Changes:

- Removing the threshold titles
- Increase the threshold of \$3,000 to \$7,500.
- Increase the threshold of between \$3,000 and \$25,000 to between \$7,500 and \$50,000.
- Increase the threshold of \$25,000 to \$50,000.

Exception Changes:

- Update professional services exception and add example expenditures including, but not limited to: accounting, architecture, artistic endeavors, construction design and management, engineering, financial services, information technology, law, medicine, psychiatry, and underwriting.
- Add the following exceptions:
 - Following state or federal procurement codes when using federal or state funds.
 - Purchasing things with a gift or bequest that had specific terms and conditions that would not allow following the procurement code.
 - Purchasing items which are needed without following the procurement code due to compatibility of parts or training.

Other Changes:

- Remove all part of the code specifically related to CARES Act expenditures.
- Removing requirements to post RFSQs, RFPs, etc. in the newspaper and adding posting to the City's procurement platform.
- Removing public opening of bids – this is an obsolete process due to the procurement platform we use.
- Changing the evaluating of proposals so that the procurement officer facilitates the process, but is not an evaluator.

In addition to the previously discussed changes, we will also be discussing a change to Section 3.02.090 Prequalification of potential vendors that is not yet included in the redline version of the

code. Staff would like to update this section to remove the requirement of formal bidding procedures after a prequalification of vendors and instead propose the use of quotes after the prequalification process is complete. As it is currently written, the prequalification of potential vendors process does not provide any benefit to departments and we believe this change would make it an effective and efficient procurement tool.

PLAN COMPLIANCE: N/A

FISCAL IMPACT: N/A

Attachments:

Redlined Procurement Code

Chapter 3.02
PROCUREMENT

Sections:

- 3.02.010 Procurement system.
- 3.02.020 Compliance.
- 3.02.030 Definitions.
- 3.02.040 Procurement ~~officer~~Officer.
- 3.02.050 Budget limitation.
- 3.02.060 Classification of expenditures.
- 3.02.070 Emergency expenditures.
- ~~3.02.075 CARES Act expenditures.~~
- 3.02.080 Procurement procedures.
- 3.02.090 Prequalification of potential vendors.
- 3.02.100 Informal bidding procedure.
- 3.02.110 Formal bidding procedure.
- 3.02.120 Invitation ~~for~~ bid.
- 3.02.130 Request for proposals.
- 3.02.140 Construction-related projects.
- 3.02.150 Contracts.
- 3.02.160 Delivery.
- 3.02.170 Ethics.
- 3.02.180 Records.
- 3.02.190 Appeals.

3.02.010 Procurement system.

There is hereby established a procurement system to provide procedures and guidelines for the procurement of supplies, services, and construction for the [city-City](#), and to ensure that all such purchases or encumbrances are made equitably, efficiently and economically. (Ord. 2018-12 § 1 (Exh. A) (part); Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A) (2.7.201), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.200)

3.02.020 Compliance.

All expenditures of the [city-City](#) shall conform to the provisions of this chapter and applicable provisions of state law including, but not limited to, the Uniform Fiscal Procedures Act set forth at Section 10-6-101 et seq. of the Utah Code Annotated, as amended. Any expenditure of the [city-City](#) involving federal assistance funds shall comply with applicable federal law and regulations.

Any expenditure of the [city-City](#) involving building improvements or public works projects shall comply with applicable provisions set forth at Section 11-39-101 et seq. of the Utah Code Annotated, as amended. Any expenditure of the [city-City](#) involving the construction, maintenance or improvement project of a Class B or C road or work excluded under Section 11-39-104 of the Utah Code Annotated, as amended, shall comply with applicable provisions of the State Transportation Code, including, but not limited to, Sections 72-6-108 and 72-6-109 of the Utah Code Annotated, as amended. No check or warrant to cover any claim against appropriations shall be drawn unless the claim has been processed according to the relevant provisions provided herein.

This chapter is written to conform as much as possible with federal, state and [city-City](#) statutes and ordinances. To the extent a provision of this chapter conflicts with federal, state or local statutes or ordinances, the following rules shall apply:

- A. Conflict with State or Federal Statutes or Regulations. If any provisions of this chapter are inconsistent with those of the state or federal government, the more restrictive provision shall control, to the extent permitted by law.

B. Conflict with City Regulations or Ordinances. If the provisions of this chapter are inconsistent with one another or if they conflict with provisions found in other adopted ordinances, resolutions, or regulations of the [cityCity](#), the more restrictive provision shall control. (Ord. 2018-12 § 1 (Exh. A) (part); Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.202), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.210)

3.02.030 Definitions.

As used in this chapter, the following words shall mean:

“Bid,” “proposal,” or “offer” means an offer to perform.

“Bid package” means all documents, whether attached or incorporated by reference, used for soliciting sealed bids, such as a notice, bid form, form contract, specifications and similar documents.

“Bidder” means a person who submits a bid or price quote in response to an invitation for bids, or a person who submits a proposal in response to a request for proposals.

“Bidding” means responding to the [city’s-City’s](#) invitation to bid or request for proposal with an offer to furnish supplies, services, or construction pursuant to and in accordance with the terms and conditions set forth in this chapter.

“Building improvement” means the construction, modification, or repair of a public building or structure.

“Business” means any corporation, partnership, limited liability company, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

“Change order” means a written alteration in specifications, delivery point, dates of delivery, period of performance, price, quantity, or provisions of a contract, upon a mutual agreement of the parties to the contract.

“City” means Midvale City.

“Construction” means the process of building, renovation, alteration, improvement, or repair of any public building, structure, or public work; but does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

“Construction manager/general contractor” means a contractor who enters into a contract for the management of a construction project and may be allowed to subcontract for additional labor and materials.

“Construction subcontractor” means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project; includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

“Contract” means any agreement for the procurement of supplies, services, or construction. The mayor is the only [city-City](#) official with authority to bind the [cityCity](#); contracts without his/her signature are void and do not obligate the [cityCity](#).

“Contract administration” means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between the [city-City](#) and a vendor or contractor. This includes implementing the contract, ensuring compliance with the contract terms and conditions, executing amendments, resolving contract disputes and errors, terminating a contract, measuring or evaluating completed work and performance, computing payments, and closing out a contract.

“Contractor” means a person who is awarded a contract with the [cityCity](#).

“Cooperative procurement” means a procurement conducted by or on behalf of the [city-City](#) and a cooperative purchasing organization.

“Cooperative purchasing organization” means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchaser by engaging in procurements.

“Covered individual” means an individual who, on behalf of a contractor or subcontractor, provides services directly related to design or construction contract and is in a safety sensitive position, including a design position that has responsibilities that directly affect the safety of a building improvement or public works project.

“Department ~~headHead~~” means the individual who administers a department or his/her designee, or, in the absence of a ~~department-Department headHead~~, the ~~city-City managerManager~~.

“Design-build” means the procurement of design professional services and construction by the use of a single contract.

“Design professional services” means professional services with the scope of architecture, professional engineering, master planning, and programming services.

“Drug and alcohol testing policy” means a policy under which a contractor or subcontractor tests a covered individual to establish, maintain, or enforce a prohibition of (1) the manufacture, distribution, dispensing, possession, or use of drugs or alcohol, except the medically prescribed possession and use of a drug, or (2) the impairment of judgment or physical abilities due to the use of drugs or alcohol.

“Emergency purchases” means purchases of supplies, material, equipment or services to mitigate a threat, to avoid a lapse in critical government service, protect the legal interest of the ~~cityCity~~, or mitigate a circumstance that is likely to have a negative impact on public health, welfare, safety, or property.

“Exempt purchases” means purchases which may be made without formal or informal bidding procedures in accordance with Section 3.02.060(E).

“Expenditure” means the purchase of goods, supplies, services, or construction by the ~~cityCity~~.

“Grant” means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

“Immaterial error” means an irregularity or abnormality that is a matter of form that does not affect substance or an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; includes missing signature, missing acknowledgment of an addendum, or a missing copy of a professional license, bond, or insurance certification; a typographical error; an error resulting from an inaccuracy or omission in the solicitation, and any other error that the ~~procurement-Procurement officer-Officer~~ considers to be immaterial.

“Interlocal agreement” means an agreement approved by resolution of the ~~city-City council-Council~~ between the ~~city-City~~ and another city or government entity.

“Invitation ~~for~~ bid” or “~~IFB~~” means a formal bidding document utilized for seeking competition for purchases of supplies and/or services that are defined by the ~~cityCity~~.

“Joinder agreement” means an agreement authorizing the ~~city-City~~ to join or use contracts of local governments within or outside the state with the authorization of the contracting vendor. This includes national cooperative agreements with local governments. The originating contracting agency is not liable for the obligations of the ~~city-City~~ when using or joining a contract.

“~~Large purchase~~” or “~~large expenditure~~” means a purchase in excess of ~~twenty-fivefifty thousand dollars~~\$50,000.00.

“Local bidder” means a bidder who regularly maintains a place of business and transacts business in, or maintains an inventory of merchandise for sale in, or is licensed by or pays business taxes to, Midvale City, or the state of Utah if no bids are received from a Midvale City business.

~~“Minor purchase” or “minor expenditure” means a purchase that is equal to or less than three thousand dollars seven thousand five hundred dollars (\$7,500.00).~~

“Multiple award contracts” means the award of a contract for an indefinite quantity of a procurement item to more than one person.

“Multiyear contract” means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

“Performance bond” means a contract of guaranty executed subsequent to award by a successful bidder to protect the ~~city~~ City from loss due to the inability of the bidder to complete the contract as agreed.

“Person” means any business, individual, union, committee, club, other organization, or group of individuals.

“Procurement” means buying, purchasing, renting, leasing, leasing with option to purchase, or otherwise acquiring any supplies, services or construction, and all functions that pertain to obtaining any supplies, services or construction, including the solicitation of sources, selection, award, and all phases of contract administration.

“Procurement ~~officer~~ Officer” means the ~~city~~ City manager-Manager or his/her designee authorized to perform the duties set forth in Section 3.02.040.

“Professional services” means those services that are provided by a person skilled in the practice of a learned and/or technical discipline. Providers of professional services often require prolonged and specialized intellectual training, and profess attainments in special knowledge as distinguished from mere skills. Disciplines may include, without limitation to, accounting, auditing, architecture, ~~artistic endeavors~~, construction design and management, engineering, ~~financial services~~, information technology, law, materials testing, medicine, city planning, surveying, underwriting, and others.

“Proposal” means an offer to provide services.

“Proposer” means a person who submits a proposal in response to a request for proposals.

“Public entity” means any government entity of the United States, a state or political subdivision of state, including a procurement unit, a municipality or county, or any other government entity located in the United States.

“Public facility” means a building, structure, infrastructure, improvement, or other facility of a public entity.

“Public property” means any item of real or personal property owned, leased, or maintained by the ~~city~~ City.

“Public works project” includes but is not limited to the construction of a park or recreational facility; or a pipeline, culvert, dam, canal, or other system for water, sewage, stormwater, or flood control; but does not include the replacement or repair of existing infrastructure on private property.

“Purchase order” means a binding agreement used in committing ~~city~~ City funds toward the purchase of supplies, services, or construction.

“Random testing” means that a covered individual is subject to periodic testing for drugs and alcohol in accordance with the drug and alcohol testing policy and on the basis of random selection process.

“Request for information” means a nonbinding process through which a ~~city~~ City representative requests information relating to a procurement item.

“Request for proposals” or “RFP” means an alternative method to sealed bids that seeks competition for the purchase of goods or services when the needs of the requirement are not always clearly expressed or described within a written specification and cost is just one of the factors utilized in determining the responsive responsible bidder; typically used for obtaining services.

“Request for quote” means a document used to solicit procurement items and/or services through the informal process. Includes the ~~city’s~~ City’s general terms and conditions, a description of the requirement, a quantity (if applicable), shipping details (if applicable), and contact information of the ~~department~~ Department head ~~Head~~ and/or ~~procurement~~ Procurement officer ~~Officer~~ requesting the quote.

“Requisition” means a written request by any ~~city~~ City employee to purchase supplies, services or construction.

“Responsible bid” means a bid to furnish supplies, services or construction for the ~~city~~ City pursuant to and in accordance with the terms and conditions set forth in this chapter, which conforms in all material respects to the invitation for bids.

“Responsive responsible bidder” means a person who furnishes, when requested, a conforming solicitation and demonstrates the ability to fully perform all aspects of the contract requirements with the experience, integrity, reliability, and capacity which will ensure good faith performance; and who has not violated or attempted to violate any provisions in this chapter.

“Sealed” means manually or electronically secured to prevent disclosure.

“Services” means the furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports, which is merely incidental to the required performance; but does not include employment agreements or collective bargaining agreements.

~~“Small purchase” or “small expenditure” means a purchase greater than three thousand dollars but less than twenty-five thousand dollars \$7,500.00 but less than or equal to seven thousand five hundred dollars but less than fifty thousand dollars \$50,000.00.~~

“Sole source” means a procurement without competition pursuant to a determination that there is only one source for the procurement item.

“Solicitation” means the process of notifying prospective bidders of the ~~city’s~~ City’s interest in obtaining quotes, bids, or proposals for supplies and/or services.

“Specification” means any description of the physical or functional characteristics or of the nature of a supply, service or construction item. It may include a description of any requirement for inspecting, testing or preparing a supply, service, or construction item for delivery.

“Subcontractor” means any person or entity who may be awarded a contract with a contractor or another subcontractor to provide services or labor. Subcontractor includes a trade contractor or specialty contractor but does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor.

“Supplies” means all property, including but not limited to equipment, materials, and printing, but does not include real property or any interest therein.

“Veteran” means an individual who has served on active duty in the armed forces for more than ~~one hundred~~ eighty ~~eighty~~ 180 consecutive days, or was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized and who has been separated or retired under honorable conditions, or any individual incurring an actual service-related injury or disability in the line of duty, whether or not that person completed ~~one hundred eighty~~ 180 consecutive days of active duty.

“Vendor” means a person who is seeking to enter into a contract with the ~~city~~ City to provide a procurement item and includes a bidder, an offeror, and/or a proposer.

“Written approval” by ~~city~~ City officials includes electronic approval of requisitions, purchase orders, or invoices via the municipal software system. (Ord. 2018-12 § 1 (Exh. A) (part); Ord. 8/10/2010O-6 § 1 (Exh. A) (part), 2010: Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.203), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.220)

3.02.040 Procurement officer/Officer.

The ~~procurement~~ **Procurement officer/Officer** shall be subject to the direction and supervision of the Mayor and City Council and shall have the powers and duties as established in this chapter, including but not limited to:

- A. Administer and maintain the procurement system provided herein, in accordance with any rules and regulations established by the ~~city~~ **City**;
- B. Supervise the procurement of all supplies, services, and construction needed by the ~~city~~ **City**, including preparation of specifications and negotiation of contracts connected therewith;
- C. Exercise general supervision and control over all inventories or supplies of the City and the accounting for all such inventories or supplies;
- D. Prepare and maintain forms and reports as are reasonably necessary to the operation of this chapter and other rules and regulations of the ~~city~~ **City**;
- E. Keep informed of current developments in the field of procurement;
- F. Recommend to the ~~city-City council~~ **Council** from time to time such new or revised procurement rules and regulations as are required to conform to statutory requirements;
- G. With respect to public improvements, work with the engineer, attorney and other professional persons retained by the ~~city~~ **City** to assist in the preparation of plans and specifications, and to discharge other related duties. The professional persons may direct bid openings, conduct investigations of responsive responsible bidders, supervise construction work and perform such other tasks as are provided for by their prospective contracts;
- H. Seek to obtain full and open competition on all purchases as reasonably possible; ~~and~~
- I. Establish and maintain programs for the inspection, testing, and acceptance of all supplies, services and construction to assure conformance with specification;
- J. Maintain a bidders list, vendors' catalog file and other records needed for the efficient operation of the procurement system. (Ord. 2018-12 § 1 (Exh. A) (part); Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.204), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.230)

3.02.050 Budget limitation.

No expenditure or encumbrance shall be made for any supplies, services or construction for the ~~city~~ **City** in excess of total appropriations in the budget, as adopted or subsequently amended by the ~~city~~ **City**, without prior written approval from the ~~city-City manager~~ **Manager** or the ~~city-City council~~ **Council**. (Ord. 2018-12 § 1 (Exh. A) (part): Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.205), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.240)

3.02.060 Classification of expenditures.

- A. ~~Small Expenditures.~~ Except as otherwise provided herein, any expenditure by the ~~city~~ **City** for supplies, services or construction for more than ~~three seven thousand five hundred \$7,500.00~~ **dollars** and less than ~~or equal to twenty-five fifty thousand dollars \$50,000.00~~ shall be referred to as a "small expenditure" and shall be made pursuant to the informal bidding procedures set forth in Section 3.02.100. Purchases may also be allowed using ~~"Exempt Expenditures" procedures as outline in section 3.02.0360(E) the state of Utah or other cooperative agreements.~~
- B. ~~Large Expenditures.~~ Except as otherwise provided herein, any expenditure by the ~~city~~ **City** for supplies, services or construction for more than ~~twenty-five fifty thousand dollars \$50,000.00~~ shall be referred to as a "large expenditure" and shall be made pursuant to the formal bidding procedures set forth in Section 3.02.110. No ~~large-expenditure greater than \$50,000.00~~ shall be made without the written approval from the ~~city-City manager~~ **Manager** or his/her designee. Any expenditure of ~~one hundred thousand dollars \$100,000.00~~ or more must be approved by the ~~city-City council~~ **Council**.

C. Construction and Public Works Projects. As determined by the ~~city-City council-Council~~ and/or the ~~city-City manager-Manager~~, projects relating to construction projects shall be directed by the ~~department-Department head-Head and/or City Engineer~~ and follow the procedures as set forth in this chapter.

D. Expenditures to Resolve Claims and Lawsuits. Expenditures to resolve claims or lawsuits against or by the ~~city-City~~ may be made without obtaining quotes or bids, but should be made with as much due diligence as practicable under the circumstances.

E. Exempt Expenditures. The following expenditures of the ~~city-City~~ shall be referred to as "exempt expenditures" and may be made without formal or informal bidding procedures, but should be made with as much competition as practicable under the circumstances. Except where noted, the ~~procurement-Procurement officer-Officer~~ shall determine that an expenditure falls within one of these exemptions. All exempt expenditures shall be reviewed by the ~~city-City council-Council~~ on at least a monthly basis.

1. ~~Minor.~~ Any expenditure amounting to less than or equal to three seven thousand five hundred dollars \$7,500.00.
2. Sole Source. An expenditure where a service, product, or requirement is only available from a single vendor. Examples include a supply or service of a unique or specialized nature, and only one known vendor is available to meet the need, and specific parts, accessories, equipment, materials, services, proprietary commodities, or other commodities needed to meet the City's needs. Any expenditure for supplies or services which are clearly by their nature not reasonably adapted to award by competitive bidding. These expenditures include, but are not limited to, supplies or services which can only be purchased from a sole source, contracts for additions to and/or repair and maintenance of equipment already owned by the city which may be more efficiently added to, repaired or maintained by a certain person or firm, and equipment which, by reason of the training of the personnel or an inventory of replacement parts, is compatible with the existing equipment owned by the city. Sole source procurements must be approved in writing by the ~~department-Department head-Head~~, the ~~procurement-Procurement officer-Officer~~, and either another ~~department-Department head-Head~~ or a representative from ~~the Finance Department~~ or ~~legal-City Attorney's office~~.
3. Emergency. See Section 3.02.070 for procedures to follow.
4. State Bidding. Any expenditure for which competitive bidding or price negotiation has already occurred on the state level. In the event state contract vendors are unable to fulfill the contract in a reasonable timeframe, the City may purchase from another potential vendor willing to honor all aspects of the state contract.
5. Interlocal Cooperation. Any expenditure made in conjunction with an agreement approved by the ~~city-City council-Council~~ between the ~~city-City~~ and another city or governmental entity.
6. Joinder. Any expenditure made by joining or using a contract originated by another government entity or national cooperative organization with the approval of the ~~city-City council-Council~~.
7. Professional Services. Any expenditure for professional services which by their nature are not reasonably adapted to award by competitive bidding and require elevated degree of specialized knowledge and discretion, including labor, effort, or work. Examples of expenditures qualifying for a Professional Services exemption include:
 - a. Accounting;
 - b. Architecture;
 - c. Artistic endeavors;
 - d. Auditing;
 - e. City planning;
 - f. Construction design and management;
 - g. Engineering;
 - h. Financial Services;
 - i. Information Technology;
 - j. Law;

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- k. Materials testing;
- l. Medicine;
- m. Psychiatry;
- n. Surveying; and
- o. Underwriting.

Contracts for such expenditures shall be awarded at the discretion of the ~~city~~ City manager ~~Manager~~ based on the recommendation of the ~~department~~ Department head ~~Head~~ and/or ~~procurement~~ Procurement officer ~~Officer~~. If the ~~city~~ City manager ~~Manager~~ determines that competitive bidding for certain professional services would benefit the ~~city~~ City, the procedures set forth in Section 3.02.130 must be followed.

8. Special Sale. Any expenditure made in conjunction with any public auction, closeout sale, bankruptcy sale or other similar sale when the ~~procurement~~ Procurement officer ~~Officer~~ determines in writing that such purchase may be made at a cost below the market cost for the same or similar goods and such determination is reviewed and approved by the ~~city~~ City council ~~Council~~.

9. Exchanges. Any exchange of supplies, materials, property, or equipment between the ~~city~~ City and any other public or private party made by mutual agreement of the respective parties.

10. Federal or State Funds. In cases where federal or state funds are being used and where federal or state purchasing laws or procedures govern the types of goods or services being procured, the City shall follow the applicable federal or state purchasing law or procedures in lieu of the procedures set forth in this policy.

11. Gift or Bequest. In complying with the terms and conditions of any bequest to the City, if such action is approved by the City Manager in writing and is otherwise consistent with law, the department buyer may procure without competitive bids.

12. Compatibility Parts and Training. A ~~d~~Department ~~h~~Head or designee may procure without competitive bids equipment and supplies which, by reason of the training of City personnel who service such equipment, or which is an addition to or for the repair or maintenance of equipment owned by the City which may be more efficiently added to, repaired or maintained by a certain brand, person or firm. In such cases the ~~d~~Department ~~h~~Head shall submit written documentation to the ~~p~~Procurement ~~e~~Officer.

13.49. Utah Correctional Industries. Supplies, services, or construction produced by Utah Correctional Industries may be purchased without seeking competitive quotes or bids. (Ord. 2018-12 § 1 (Exh. A) (part); Ord. 2014-07 § 1 (Exh. A) (part); Ord. 8/10/2010O-6 § 1 (Exh. A) (part), 2010: Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.207), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.260)

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3.02.070 Emergency expenditures.

A. Emergency Procurements. When the mayor makes a determination of "local emergency" under the provisions of Section 53-2a-208 of the Utah Code Annotated, as amended, the provisions of this chapter are suspended for a period not to exceed ~~30~~ thirty days. Emergency purchases shall be made in accordance with Section 63G-6a-803 of the Utah Code Annotated.

B. Notwithstanding any other provision of this chapter, the ~~procurement~~ Procurement officer ~~Officer~~ may make or authorize others to make emergency purchases if the purchases are necessary to avoid a lapse in a critical government service, protect the legal interest of the ~~city~~ City, or mitigate a circumstance that is likely to have a negative impact on public health, safety, welfare, or property. Such emergency purchases shall be made with as much competition as practicable under the circumstances. A written determination of the basis for the emergency purchase and for the selection of the particular contractor or vendor shall be included in the contract or purchase order file and a copy sent to the City Manager. (Ord. 2018-12 § 1 (Exh. A) (part); Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.208), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.270)

3.02.075 — CARES Act expenditures.

A. — Qualification. If an expenditure is funded by the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, (“CARES Act”), the expenditure may be made by the following expedited procedure notwithstanding the expenditure’s classification under Section 3.02.060 and its associated purchasing procedures under Sections 3.02.100 through 3.02.140.

B. — Procedure. Unless otherwise exempted under Section 3.02.060(E), an expenditure funded by the CARES Act must be awarded to the responsive responsible bidder according to the following procedure:

1. — The department head will submit the expenditure to the administrative services director. The administrative services director will provide a written determination whether the expense may be funded by CARES Act funds and whether there are sufficient CARES Act funds to pay for the expenditure based on the department head’s estimated cost for the expenditure.
2. — Upon receiving written approval from the administrative services director, the department head will submit a purchase requisition for the expenditure to the procurement officer along with the administrative services director’s written determination described in subsection (B)(1) of this section.
3. — Upon approval of the purchase requisition, the procurement officer or the department head, in coordination with the procurement officer, will create a request for quote solicitation for the procurement item or service or construction. The request for quote must include:
 - a. — The terms and conditions of the city;
 - b. — Specifications of the procurement item, service, or construction;
 - c. — Shipping terms (if applicable);
 - d. — Any additional information needed to procure the procurement item, service, or construction; and
 - e. — The requirement that the procurement item, service, or construction must be provided or completed before the expiration of CARES Act funds.
4. — Best efforts must be made to solicit the request for quote to at least three potential vendors of the supplies, services, or construction required. Solicitations must be in writing including the potential vendor’s company name and contact information.
5. — Responses to request for quote must be in writing and be delivered by the vendor in person or by email, fax, or mail. If a vendor is unable or fails to provide a quote within five business days from the date of the request for quote was made, a “no bid” response is acceptable. Any “no bid” response must be documented. If only one quote is received, the vendor may be required to furnish a detailed cost proposal for review and the bid award may be subject to subsequent negotiation.
6. — The procurement officer, in consultation with the department head, must select the responsive responsible bidder without bias or favoritism.
7. — Once a vendor has been selected, the procurement officer will issue a purchase order.
8. — All information relating to the quotes obtained and selection of the responsive responsible bidder must be retained by the city in accordance with the applicable government records laws. (Ord. 2020-18 § 1 (Exh. A))

3.02.080 Procurement procedures.

A. General Purchasing Procedures. Except as otherwise stated within this chapter, a purchase order is required for the purchase of any supply, service, or construction project that is greater than ~~threeseven thousand five hundred dollar~~\$7,500.00s. Such purchases shall be reviewed by the ~~procurement Procurement officer Officer~~ to determine whether the expenditure requested is for a ~~city City~~ purpose, properly budgeted, and in compliance with ~~city City~~ ordinances and policies and state law.

B. Due Diligence. The ~~department-Department head-Head~~ and ~~procurement-Procurement officer-Officer~~ shall act in good faith and demonstrate due diligence when selecting the bidding procedure when foregoing the formal or informal competitive bidding process such as the usage of an interlocal or joinder agreement. In such instances, a best effort shall be made to obtain bids or proposals from at least three potential vendors.

C. Splitting Procurements. ~~No City employee may~~~~Department head and/or procurement officer shall not~~ split or separate procurements into smaller orders for the purpose of evading the competitive bidding or request for proposal provisions set forth in this chapter.

D. Adversarial Proceedings. The ~~city-City~~ reserves the right to avoid entering into a contract with a person who is in adversarial position toward the ~~city-City~~.

E. Approvals. All expenditures over ~~twenty-five thousand dollars~~~~\$50,000.00~~ must be approved by the ~~city-City manager~~~~Manager~~. All approvals over ~~one hundred thousand dollars~~~~\$100,000.00~~ must be approved by the ~~city-City council~~~~Council~~. (Ord. 2018-12 § 1 (Exh. A) (part))

3.02.090 Prequalification of potential vendors.

A. Prequalification Procedures. The ~~procurement-Procurement officer-Officer~~ may prequalify potential vendors ~~for a one-time bid or a request for proposal~~ to provide a procurement item or service specified by the department. To prequalify potential vendors, the ~~procurement-Procurement officer-Officer~~ shall issue a request for statement of qualifications. The following procedures are required:

1. The request for statement of qualifications shall be ~~published in a newspaper of general circulation within the city limits, and/or~~ posted on the ~~city-City~~ website ~~and/or the eCity's procurement platform~~, at least ~~10~~~~ten~~ days prior to the deadline for submission.

2. Stated in the request for statement of qualifications shall be the following:

- a. The specific procurement item or service to which the request for statement of qualifications relates;
- b. The scope of work to be performed;
- c. The instructions and deadline for submitting a statement of qualifications;
- d. The criteria by which the department will evaluate statements of qualifications;
- e. Any prequalification requirements unique to the procurement; ~~and~~
- f. May include performance rating criteria; ~~and-~~
- g. The time period for which the qualification will be valid.

3. The process of prequalifying potential vendors must comply with the following conditions:

- a. The request for statement of qualifications may not be so restrictive that the criteria limits competition;
- b. The ~~procurement-Procurement officer-Officer~~ may request potential vendors to provide additional information to clarify responses pertinent to the request for statement of qualification;
- c. ~~The small Purchases less than or equal to \$50,000.00; invitation for bids or request for proposals more than \$7,500.00~~ shall be limited to the potential vendors that are prequalified to provide the specified procurement item or service;
- d. If a request for statement of qualifications results in only one potential vendor being placed on the list of prequalified potential vendors, the request for statement of qualifications will be cancelled and the list shall not be used;

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e. Before making the list of prequalified potential vendors available to the public, the ~~procurement-Procurement officer-Officer~~ shall provide each potential vendor who provided information in response to the request, but who did not meet the minimum qualifications for placement on the list, a written justification statement describing why the potential vendor did not meet the criteria for inclusion on the list; and

f. The list of prequalified potential vendors shall be made available to the public within ~~thirty-30~~ days after completing the evaluation process.

B. Potential Vendor Requirements. In response to the request for statement of qualifications, the potential vendors shall provide a timely, responsive response and shall provide the following to be considered:

1. Basic information about the vendor;
2. The vendor's experience and work history;
3. Information about the vendor's management and staff;
4. Information about the vendor's licenses, certifications, and other qualifications;
5. Any applicable performance ratings;
6. Financial statements reporting the vendor's financial condition; and
7. Other pertinent information. (Ord. 2018-12 § 1 (Exh. A) (part); Ord. 2014-07 § 1 (Exh. A) (part). Formerly 2.28.272)

3.02.100 Informal bidding procedure.

A. Except as otherwise stated in this chapter, ~~any City small purchases in the range of between \$7,500.001 and less than or equal to \$50,000.00 of the city~~ shall be awarded to the responsive responsible bidder according to the following procedure.

B. Upon approval of a purchase requisition, the ~~department representative procurement officer~~ shall create a request for quote solicitation for the procurement item or service needed or desired. The request for quote shall include:

1. The terms and conditions of the ~~city~~City;
2. Specifications of the requirement;
3. Shipping terms (if applicable); and
4. Any additional information needed to procure the requirement.

C. Best effort shall be made to solicit the request for quote to at least three potential providers of the supplies, services, or construction required. Solicitations must be in writing including the potential providers company name and contact information. A prequalified potential vendor list as described in Section 3.02.090 may be used.

D. Responses to request for quote shall be made in writing; either email, fax, or mail. If potential vendor is unable to provide a quote, a "no bid" response is acceptable. Documentation shall be made of nonresponses.

E. A public bid opening is not required.

F. The ~~procurement-Procurement officer-Officer~~ shall select the responsive responsible bidder without bias or favoritism. If only one quote is received, the bidder may be required to furnish a detailed cost proposal for review and the bid award may be subject to subsequent negotiation. All information relating to the quotes obtained and selection of the responsive responsible bidder shall be retained by the ~~city-City~~ in accordance with the ~~city-government records~~applicable records law.

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G. Once the vendor has been selected, the ~~procurement~~ Procurement officer-Officer shall issue a purchase order. (Ord. 2018-12 § 1 (Exh. A) (part): Ord. 2014-07 § 1 (Exh. A) (part): Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.210), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.290)

3.02.110 Formal bidding procedure.

Except as stated otherwise within this chapter, all ~~large~~-expenditures greater than \$50,000.00 shall be made by written contract and the responsive responsible bidder shall be selected through the formal bidding process. As determined by Section 3.02.060, either an invitation ~~to-for~~ bid or a request for proposal shall be used to select the potential vendor when the use of a state of Utah or other cooperative agreement is not in the best interest of the ~~city~~City. The ~~city~~City may utilize a prequalified potential vendor list as described in Section 3.02.090. (Ord. 2018-12 § 1 (Exh. A) (part): Ord. 2014-07 § 1 (Exh. A) (part): Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.209), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.280)

3.02.120 Invitation ~~for~~to bid.

A. If it is determined that the appropriate formal bidding process is an invitation to bid, the procedures shall be followed under the supervision of the ~~procurement~~ Procurement officer-Officer.

B. Specifications. Specifications for the requirement shall be prepared by or under direction of the ~~procurement~~ Procurement officer-Officer and attached to the bid package.

C. Solicitation. Prior to soliciting bids, the ~~procurement~~ Procurement officer-Officer shall ensure that an invitation ~~to-for~~ bid:

1. Sets forth all contract terms, conditions and bond requirements applicable to the purchase or work;
2. Sets forth the criteria that will be used to evaluate the bid;
3. States where plans, specifications and other information may be obtained;
4. States the time and place of the bid opening; and
5. Sets forth the ~~city's~~City's terms and conditions.

D. Notice. All invitation for bids shall be advertised at least ~~10~~ten days prior to the bid due date ~~in a newspaper of general circulation within the city limits and/or posted on the city City website and the eCity's procurement platform.~~

E. Amending Invitation. The invitation ~~to-for~~ bid may be amended, supplemented, or canceled at any time prior to the opening of bids when the ~~procurement~~ Procurement officer-Officer determines that such action is in the best interest of the ~~city~~City. The reasons for the amendment or cancellation of the solicitation shall be in writing and shall be made a part of the ~~city's~~City's records.

F. Sealed Bids. All bid ~~submissions shall be through the eCity's procurement platform and shall be sealed until the close date set in each solicitation. All bids shall be opened by the Procurement Officer after the close date in the eCity's procurement platform,s shall be received by the city in sealed envelopes labeled "Bid for (item)" which shall not be opened prior to the time set for opening of the bids.~~

G. Correction of Bids. The ~~procurement~~ Procurement officer-Officer shall permit correction or withdrawal of inadvertently erroneous bids in appropriate circumstances; provided, that no changes in bid prices or other provisions of bids which are prejudicial to the interest of the ~~city~~City or fair competition shall be permitted. Any decision to permit the correction or withdrawal of bids shall be supported by a written determination prepared by the ~~procurement~~ Procurement officer-Officer.

H. Pre-Bid Conferences. The ~~city~~City may hold a meeting prior to the time of opening bids to allow interested persons to discuss a solicitation. The ~~city~~City must notify all persons who obtained solicitation materials of the meeting and hold it at least ~~forty-eight~~48 hours prior to the time bid package submissions are due. Verbal or other

statements will not change an invitation to bid except when the city-City modifies the document in question in writing by addendum to include such statement.

~~I. Opening Bids. The bids shall be opened publicly at the time and place designated in the invitation for bids by at least two of the following: the city recorder, the department head, and/or the procurement officer. Altering or writing on the bid documents before or after opening is prohibited.~~

~~J. Recording Bids. The amount of each bid and the name of the bidder shall be recorded and The amount of each bid and the name of the bidder shall be read aloud as the bids are opened, and such information shall be recorded and open to public inspection during regular business hours for a period of not less than 30thirty days after the bid opening.~~

JK. Evaluating Bids. The bids shall be evaluated within a reasonable time by the department-Department headHead, procurement-Procurement officerOfficer, and a third Midvale City employee, ~~such as another department head, or a representative of finance or legal~~, to determine the responsive responsible bidder based upon one or more of the following objectively measurable criteria as set forth in the invitation for bids:

1. Price. The total price of the bid.
2. Quality. The overall quality of the goods or work to be provided and/or the ability, capacity and skill of the bidder to provide any services or work required.
3. Conditions. The number and scope of any conditions or qualifications set forth in the bid.
4. Time. The time limit within which the bidder shall provide the goods, services, or work.
5. Reputation. The character, integrity, reputation, judgment, experience, and efficiency of the bidder and the quality of previous goods, services, or work obtained from the bidder.
6. Compliance. The previous and existing compliance by the bidder with laws and ordinances relating to the goods, services or work.
7. Financial Resources. The sufficiency of the financial resources and ability of the bidder to provide the goods, services, or work.
8. Future Service. The ability of the bidder to provide future maintenance and service and the local availability of parts, materials, etc.
9. Local Bidder. When possible, preference shall be given to local bidders.

KE. Cancellation and Rejection of Bids. The city-City reserves the right to cancel an invitation for bids or to reject any or all bids for any reason. Such cancellation or rejection shall be in writing and shall be made part of the city's-City's records. In the event all bids are rejected, and the city-City determines to make the improvement or purchase, it shall advertise anew as provided herein. If, after twice advertising, no satisfactory bid is received, the city-City council-Council may proceed to negotiate or make the improvement or acquisition or enter such other agreements as it deems necessary or desirable.

LM. Inspections and Tests. The city-City may perform inspections, tests, and other evaluations in any manner conducive to the city's-City's interests, including the use of third parties. All prospective and actual recipients of a bid or agreement shall provide all reasonable assistance and information required by the city-City to perform an inspection, test, or evaluation.

MN. Tie Bids. ~~If~~ two or more bids or quotes received are for the same total amount or unit prices, quality and service being equal, and if the public interest will not permit the delay of resoliciting bids, the procurement-Procurement officer-Officer shall resolve a tie bid by:

1. Favoring the bidder closest to the point of delivery;

2. Favoring the bidder who received the previous similar award;
3. Favoring the bidder who will provide the earliest delivery date;
4. Drawing lots; or
5. Any other reasonable method.
6. The city-City reserves the right to negotiate with the tie bidders after the time of bid opening until the responsive responsible bidder is obtained.

NQ. Single Bids. In the event that only one bid is received, the procurement-Procurement officer-Officer shall determine whether it is in the best interest of the city-City to resolicit for additional bids or proceed with the award utilizing the single bid received. The Department head-Head and/or procurement-Procurement officer-Officer shall conduct due diligence to ensure specifications are correct or need modifying to receive multiple bids in case of re-solicitation.

OP. No Bid(s) or Proposal(s). In the event that no bids or proposals are received, the procurement-Procurement officer-Officer shall determine whether the delay of re-solicitation bids or proposals will be detrimental to the public interest. If a delay in resoliciting bids or proposals would be detrimental to the public interest, the procurement-Procurement officer-Officer may purchase the supplies or services without obtaining quotes or proposals, but with as much competition as practicable under the circumstances.

PQ. Records. All information relating to the selection of the responsive responsible bidder shall be retained by the city-City in accordance with the city-government records access and management ordinance applicable records law.

QR. Bonds. Bid performance and/or payment bonds may be required in conjunction with any bid or contract entered hereunder in such form and amounts as required by law and by the city-City council-Council as reasonably necessary to protect the best interest of the city-City.

RS. Responsibility of Bidder. The procurement-Procurement officer-Officer may request additional information with respect to the responsibility of a bidder. The failure of a bidder to promptly supply information in connection with a request of the procurement-Procurement officer-Officer regarding responsibility shall be grounds for a determination of non-responsibility and/or non-responsiveness of the bidder. (Ord. 2018-12 § 1 (Exh. A) (part))

3.02.130 Request for proposals.

A. ~~If it is determined that the appropriate formal bidding process is a request for proposal, the procedures shall be followed under the supervision of the pProcurement oOfficer. whoThe Procurement Officer shall The city manager may determine that it is either not practicable or not advantageous to the city to procure professional services through a competitive process. When such a determination is not made, a request for proposal package shall be prepared a request for proposal package by or under the direction of the procurement officer. The city may use a prequalified potential vendor list as described in Section 3.02.090.~~

B. Specifications. Specifications for the requirement shall be prepared by or under direction of the procurement-Procurement officer-Officer and attached to the bid-request for proposal package.

C. Solicitation. Prior to soliciting bidsproposals, the procurement-Procurement officer-Officer shall ensure that the request for proposal:

1. Sets forth all contract terms, conditions and bond requirements applicable to the purchase or work;
2. Sets forth the criteria that will be used to evaluate the proposal;
3. States where additional information may be obtained;
4. Sets forth the city's-City's terms and conditions; and

Commented [GW1]: Redundant: See MMC 3.02.110.

5. Sets forth the ~~bid-proposal~~ opening date.

D. Notice. For ~~large~~ expenditures ~~greater than \$50,000.00~~, the request for proposals shall be advertised at least ~~10~~ days prior to the ~~bid-proposal~~ due date ~~in a newspaper of general circulation within the city limits and/or posted on the city-City website and the eCity's procurement platform.~~

E. Amending Request for Proposal. The request for proposals may be amended, supplemented, or canceled at any time prior to the specified due date when the ~~procurement-Procurement officer-Officer~~ determines that such action is in the best interest of the ~~city-City~~. The reasons for the amendment or cancellation of the request for proposal shall be in writing and shall be made a part of the ~~city's-City's~~ records.

F. Pre-submission Conferences. The ~~city-City~~ may hold a meeting prior to the time of opening proposals to allow interested persons to discuss a solicitation. The ~~city-City~~ must notify all persons who obtained solicitation materials of the meeting and hold it at least ~~48~~ hours prior to the time proposal submissions are due. Verbal or other statements will not change a request for proposal except when the ~~city-City~~ modifies the document in question in writing by addendum to include such statement.

G. Opening Proposals. The proposals shall be opened by the ~~procurement-Procurement officer-Officer~~ as soon as possible after the specified due date. A public opening is not required. Altering received proposals after opening is prohibited.

H. Recording Proposals. The amount of each proposal and the name of the bidder shall be recorded and open to public inspection during regular business hours for a period of not less than ~~30~~ days after the proposals are opened.

I. Evaluating Proposals. ~~The proposals shall be evaluated within a reasonable time by the department head, procurement officer, and, in the case of large expenditures, a third Midvale City employee, such as another department head or representative from finance or legal, to determine the responsive responsible bidder based upon the following objectively measurable criteria as set forth in the request for proposals:~~

~~Proposals shall be evaluated within a reasonable amount of time by an evaluation committee, comprised of a minimum of three members to include the department Head and two or more qualified Midvale City employees, to determine the responsive responsible bidder. The procurement officer will facilitate the evaluation of the proposals based on one or more of the objective measurable criteria as set forth in the request for proposals as follows:~~

1. Price. The total price of the proposal.
2. Quality. The overall quality of the goods or work to be provided and/or the ability, capacity and skill of the bidder to provide any services or work required.
3. Conditions. The number and scope of any conditions or qualifications set forth in the bid.
4. Time. The time limit within which the bidder shall provide the goods, services, or work.
5. Reputation. The character, integrity, reputation, judgment, experience, and efficiency of the bidder and the quality of previous goods, services, or work obtained from the bidder.
6. Compliance. The previous and existing compliance by the bidder with laws and ordinances relating to the goods, services or work.
7. Financial Resources. The sufficiency of the financial resources and ability of the bidder to provide the goods, services, or work.
8. Future Service. The ability of the bidder to provide future maintenance and service and the local availability of parts, materials, etc.
9. Local Bidder. When possible, preference shall be given to local bidders.

Commented [SR52]: Remove Procurement Officer from the evaluation committee. The person receiving all the evaluations and compiling the scoring needs to remain neutral with no say in the evaluation or score of proposals.

J. Cancellation and Rejection of Proposals. The ~~city-City~~ reserves the right to cancel a request for proposals or to reject any or all proposals for any reason. Such cancellation or rejection shall be in writing and shall be made part of the ~~city's-City's~~ records. In the event all proposals are rejected, and the ~~city-City~~ determines to procure the goods or service, it shall advertise anew as provided herein. If, after twice advertising, no satisfactory proposal is received, the ~~city-City council-Council~~ may proceed to negotiate or procure the goods or service or enter such other agreements as it deems necessary or desirable.

K. Determination. The ~~procurement-Procurement officer-Officer~~ shall ~~award the contract to determine~~ the responsive responsible ~~bidder-and-award the contract to such~~ bidder. If only one quote is received, the bidder may be required to furnish a detailed cost proposal for review and the bid award may be subject to subsequent negotiation. All information relating to the proposals obtained and the selection of the lowest responsive responsible bidder shall be retained by the ~~city-City~~ in accordance with the ~~city-government records access and management ordinance-applicable records law~~. All ~~large~~ expenditures ~~greater than \$50,000.00~~ must be approved in writing by the ~~city-City manager-Manager~~. Contracts of ~~one hundred thousand dollars-\$100,000.00~~ or more must be approved by the ~~city-City council-Council~~.

L. Inspections and Tests. The ~~city-City~~ may perform inspections, tests, and other evaluations in any manner conducive to the ~~city's-City's~~ interests, including the use of third parties. All prospective and actual recipients of a bid or agreement shall provide all reasonable assistance and information required by the ~~city-City~~ to perform an inspection, test, or evaluation. (Ord. 2018-12 § 1 (Exh. A) (part); Ord. 2014-07 § 1 (Exh. A) (part); Ord. 8/10/2010O-6 § 1 (Exh. A) (part), 2010; Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010; Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009; Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.212), 2007; Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.310)

3.02.140 Construction-related projects.

A. Bidding. All construction-related projects including building improvements, public works, road improvements, and special street requirements shall follow the formal bidding procedures unless stated otherwise in this chapter. Any expenditure of the ~~city-City~~ involving building improvements or public works projects shall comply with applicable provisions set forth at Section 11-39-101 et seq. of the Utah Code Annotated, as amended. Any expenditure of the ~~city-City~~ involving the construction, maintenance or improvement project of a Class B or C road or work excluded under Section 11-39-104 of the Utah Code Annotated, as amended, shall comply with applicable provisions of the State Transportation Code, including, but not limited to, Sections 72-6-108 and 72-6-109 of the Utah Code Annotated, as amended. No check or warrant to cover any claim against appropriations shall be drawn unless the claim has been processed according to the relevant provisions provided herein.

1. Construction and maintenance must be made pursuant to plans, specifications, and estimates that shall be created under the supervision of the ~~procurement-Procurement officer-Officer~~ and/or contracted consultant.
2. Bid Security. Contracts for construction-related projects may provide for a bid security in the amount equal to at least five percent of the amount of the bid.
3. Bonds. Construction contractors must deliver performance and payment bonds for the full contract price. The ~~procurement-Procurement officer-Officer~~ may waive this requirement after consultation with the ~~city-City attorney's-Attorney's~~ office if bonds are unnecessary for the protection of the ~~city-City~~.
4. Rejection. The ~~city-City~~ may reject any or all bids submitted. If, after twice advertising, no satisfactory bid is received, the ~~city-City council-Council~~ may proceed to negotiate or make the improvement or acquisition or enter such other agreements as it deems necessary or desirable.
5. Exempt Expenditures. The formal bidding procedures do not apply to exempt expenditures or ~~small~~ expenditures ~~greater than-between \$7,500.001 and less than-or-equal-to \$50,000.00~~ for construction-related projects.
6. Withheld or Retained Payments. The ~~city-City~~ may withhold payments for poor performance or other work-related reasons. Special requirements apply to retainage, where sums are withheld as security under the contract. To implement retainage, first consult with the ~~city-City attorney's-Attorney's~~ office.

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B. Contractor Licensing and Requirements. When evaluating any construction-related bid, the following shall apply:

1. To receive a contract award, a contractor must be licensed in the state of Utah at the time of submitting a bid with an appropriate license to perform the work.
2. In accordance with Section 72-6-110 of the Utah Code Annotated, the work must be prepared and performed under the direct supervision of a registered professional engineer, who must certify to the [city-City](#) that the project conforms to the design and construction standards currently adopted by the American Association of State Highway and Transportation Officials.
3. The [city-City](#) may impose other licensing requirements, and, when appropriate, may regard a lack of subcontractor licensing at the time of the general contractor's bid as a matter relating to the responsibility of the general contractor.
4. The contractor and subcontractor, if any, must demonstrate to the [city's-City's](#) satisfaction that the contractor has and will maintain a drug and alcohol testing policy during the period of the contract that applies to all covered individuals employed or hired by the contractor or subcontractor and subjects the covered individuals to random testing under the drug and alcohol testing policy.
5. The contractor and subcontractor, if any, must demonstrate to the [city's-City's](#) satisfaction that the contractor and subcontractor have and will maintain a program to actively recruit and/or employ veterans.
6. The contractor and subcontractors, if any, must demonstrate to the [city's-City's](#) satisfaction that the contractor and subcontractor have and will maintain a job training program, such as, by way of example and not limitation, a federal, state and/or [city-City](#) recognized job training program.
7. The contractor and subcontractors, if any, must demonstrate to the [city's-City's](#) satisfaction that the contractor and subcontractor have, and will maintain, a safety program.

C. Construction Management and Selection. The ~~procurement-Procurement officer-Officer~~ shall select the type of construction management that will protect and be in the best interest of the [city-City](#). Factors to be considered are:

1. The type of contract that is appropriate;
2. The need for and availability of outside consultants;
3. The experience, qualifications and availability of [city-City](#) personnel assigned to the project;
4. Requirements related to project financing;
5. The needs of the project; and
6. The administrative burden imposed by the method selected.

D. Types of Construction Management. The ~~procurement-Procurement officer-Officer~~ may select any combination of the following construction management methods, or other methods, as appropriate:

1. Single Prime Contractor. A single general contractor is responsible to complete an entire project in accordance with the contract and may subcontract portions of the work.
2. Multiple Prime Contractors. A number of specialty contractors complete portions of the project pursuant to contracts with the [city-City](#). The [city-City](#) or one of the contractors may have primary responsibility for completion or coordination of the entire project.
3. Design-Build or Turnkey. A single contractor or team is responsible to both design and construct the project to meet performance criteria specified by the [city-City](#).

4. Construction Manager. A qualified person is responsible to coordinate the design and construction of the project and may oversee a variety of functions such as time, cost, quality and administration of change orders. The person may have some construction responsibilities as well.
5. Sequential Design and Construction. The project's design is substantially completed before construction begins.
6. Phased Design and Construction or Fast Track Construction. The project's construction begins after portions of the design are substantially complete, but design continues during the construction. (Ord. 2018-12 § 1 (Exh. A) (part))

3.02.150 Contracts.

- A. The ~~procurement~~ Procurement officer-Officer shall select the type of contract or contract modification that is appropriate for the purchasing requirement and in the best interest of the cityCity.
- B. Selecting Contract Type. Without limitation, the following factors may be considered in selecting a contract type:
 1. Meeting the city's-City's needs including quality of performance, costs, time for performance, and completion date.
 2. The type and complexity of the supply or service requirement and the stability of markets and prices.
 3. The difficulty of estimating performance costs, such as when the city-City is unable to develop definitive specifications, identify the contractor's risks inherent in performing the work, or otherwise clearly establish contract requirements.
 4. The amount of risk imposed by a contract type on both parties. The degree of risk should not jeopardize any material interests of the cityCity, or the satisfactory performance of the contract.
 5. The administrative impacts to both parties, such as administration costs, the degree to which the city-City must provide technical coordination during the performance of the contract, and the ability to meet any federal requirements.
 6. The effect of the choice of contract type on the amount of competition expected.
- C. Contracting Methods for Establishing Price. The ~~procurement~~ Procurement officer-Officer may structure a contract in any manner, but shall not issue a cost-plus-a-percentage-of-cost contract.
- D. Other Contracting Methods. Without limitation, the following describes other contracting methods available to the cityCity:
 1. Progressive Awards. The ~~procurement~~ Procurement officer-Officer may award portions of a definite quantity requirement to more than one contractor as appropriate, such as when the city's-City's quantity needs exceed what one contractor can supply at the needed times.
 2. Multiple Awards. The ~~procurement~~ Procurement officer-Officer may award an indefinite quantity contract for one or more similar supplies or services to more than one bidder or offeror. Multiple awards should not be made solely for the purpose of dividing business or accommodating a user's preference, but may be made when determined to provide a benefit to the city-City with respect to needs for quantity, delivery, style, price, quality, or other features.
 3. Exclusive/Nonexclusive Basis. Awards may be made on an exclusive or nonexclusive basis. Where nonexclusive, the city-City is not required to fill all similar needs from one contractor, but may solicit as it determines. Where a contract does not specifically state it is exclusive, it shall be deemed nonexclusive.
 4. Appropriation of Funds. Contracts extending beyond the current fiscal period shall be subject to termination for nonappropriation of funds for departments or divisions which rely on the general fund.

5. Options to Extend Term. Contracts may include provisions to extend a contract term for specified periods at the ~~city's~~ City's option.

E. Modifying Contracts. Contracts relating to procurement may be modified as follows:

1. Generally. All modifications to contracts must be in writing and signed by all parties. Modifications shall modify only the specific terms set forth, and all other contract provisions shall remain as originally entered.

2. Modifications Not Affecting Scope, Price or Term. Any contract provisions not affecting the scope, price or term of the contract may be modified as determined appropriate by the ~~department~~ Department head/Head and/or ~~procurement~~ Procurement officer/Officer, and they shall consult with the ~~city~~ City attorney's/Attorney's office as necessary.

3. Modifications Affecting Price. The ~~procurement~~ Procurement officer/Officer shall review any proposed modification that significantly increases price to determine whether there has been a material change in the scope of the work originally solicited, or whether the modified price may be unreasonable.

4. Modifications Affecting Scope of Work. The ~~city~~ City may decrease any scope of work when in the ~~city's~~ City's interest. The ~~procurement~~ Procurement officer/Officer may increase any scope of work as determined appropriate when in the ~~city's~~ City's interest, when the modifications are reasonably related to the work originally solicited, and when the price for the increase appears reasonable.

5. Modifications Affecting Term. Contracts may be renewed or extended by the ~~procurement~~ Procurement officer/Officer. Extensions cannot be used solely for the purpose of avoiding a solicitation process.

6. Modifications to Open Contracts. In an open contract, the contractor generally agrees to provide specified supplies or services as needs arise during a fixed term, and the contract may include a total not-to-exceed price during the term. When the contract does not include a not-to-exceed price, the contract's term can only be extended when approved in writing by the ~~procurement~~ Procurement officer/Officer. When the contract includes a not-to-exceed price, the ~~procurement~~ Procurement officer/Officer may approve an increase in price if the term is not exceeded, and the term may be extended when the not-to-exceed price is not exceeded. The ~~procurement~~ Procurement officer/Officer must approve in writing an increase in both term and price. When practicable, these contracts should be resolicited rather than modified to extend a term.

7. Modifications to ~~Small~~ Purchase Contracts ~~greater than~~ Between \$7,500.001 and less than or equal to \$50,000.00. Contracts solicited under the ~~informal bidding procedure, small expenditures procedures,~~ as set forth in this chapter, may not be modified in excess of the maximum dollar amounts permissible for such purchases, and may not be renewed on a successive basis, unless approved by the ~~department~~ Department head/Head and/or ~~procurement designee~~ Procurement Officer.

F. Terminating Contracts. No contract procured in connection with this chapter shall be terminated without the authorization of the ~~city~~ City official who signed the contract or that person's successor (the ~~mayor~~ Mayor is the only ~~city~~ City official who can legally bind the ~~city~~ City); or the ~~procurement~~ Procurement officer/Officer. (Ord. 2018-12 § 1 (Exh. A) (part))

3.02.160 Delivery.

When supplies ordered are delivered, the ~~department~~ Department head/Head shall inspect the supplies received to assure that the correct quantity and quality have been delivered. If in the sole discretion of the ~~department~~ Department head/Head the supplies delivered are satisfactory, the supplies shall be accepted, and a copy of the packing slip, invoice, or other delivery document shall be stapled to the request for payment and forwarded to the appropriate employee for review, payment and filing. (Ord. 2018-12 § 1 (Exh. A) (part); Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.213), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.320)

3.02.170 Ethics.

A. Conflicts of Interest. Any officer or employee of the ~~city~~ City with a direct or indirect pecuniary interest in any contract entered into by the ~~city~~ City must disclose such conflict of interest to the ~~city~~ City manager/Manager.

All officers and employees are required to comply with applicable provisions of state law regarding ethics including, but not limited to, the Utah Municipal Officers' and Employees' Ethics Act set forth at Section 10-3-1301 et seq. of the Utah Code Annotated, as amended and adopted by the [cityCity](#).

B. Collusion. Any agreement or collusion among bidders or prospective bidders to bid a fixed price or to otherwise restrain competition shall render the bids [or proposals](#) of such bidders void.

C. Personal Use. Any purchase of supplies or equipment by the [cityCity](#) for the personal use of any officer or employee of the [cityCity](#) is prohibited.

D. Advance Disclosures. Any disclosure in advance of the opening of bids [or proposals](#), whether in response to advertising or any informal request for bids, made or permitted by a member of the [cityCity council Council](#) or [cityCity](#) employee shall render void the advertisement or request for bids.

E. No employee, officer, elected officials or board members shall knowingly receive, accept, take, seek or solicit, directly or indirectly, any gift or loan for himself/herself or for another person, except under the following circumstances:

1. An occasional nonpecuniary gift having a value of less than ~~fifty dollars~~[\\$50.00](#);
2. An award publicly presented;
3. Any bona fide loan made in the ordinary course of business; or
4. Political campaign contributions actually used in a political campaign.

F. Any person acting as a ~~procurement Procurement officer Officer~~ for the [cityCity](#), or who in any official capacity participates in the procurement of supplies, services, construction or real property, is guilty of a felony offense if the person asks, receives or offers to receive any emolument, gratuity, contribution, loan or reward, or any promise thereof, from any person interested in the sale of such supplies, services, construction or real property, either for the person's own use or the use or benefit of any other person or organization.

G. A person who is interested in any way in the sale of any supplies, services, construction or real property is guilty of a felony if the person gives or offers to give any emolument, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a ~~procurement Procurement officer Officer~~, or who in any official capacity participates in the procurement of such supplies, services, construction, or real property, whether it is given for his/her own use or for the use or benefit of any other person or organization.

H. Violation. Any violation of this chapter by an officer or employee of the [cityCity](#) shall be cause for disciplinary action, up to and including termination, in accordance with the disciplinary procedures of the [cityCity](#), and/or criminal charges. (Ord. 2018-12 § 1 (Exh. A) (part); Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.216), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.350)

3.02.180 Records.

A. All procurement records of the [cityCity](#) shall be retained and disposed of in accordance with the Utah Municipal General Records Retention Schedule.

B. The [cityCity](#) may, at reasonable times, audit the books, accounting and any applicable records of any contractor or subcontractor if applicable. (Ord. 2018-12 § 1 (Exh. A) (part); Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.217), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.360)

3.02.190 Appeals.

A. Appeal. Any person aggrieved of a determination of the [cityCity](#) or in connection with the provisions of this chapter may appeal the determination or action within ~~10~~[ten](#) working days after the aggrieved person knows or should have known of the facts giving rise thereto by filing a written protest and the reasons ~~therefor~~ with the ~~cityCity manager Manager~~. A protest with respect to an invitation for bids shall be submitted in writing prior to the

opening of bids unless the aggrieved person did not know or could not have reasonably known of the facts giving rise to the protest prior to bid opening. Any protest shall list the pertinent facts giving rise to the protest.

B. Action by City. In the event of a timely protest, the ~~city-City~~ shall not proceed further with the solicitation or with the award of the contract or purchase order until the protest is sustained or rejected by the ~~city-City~~ ~~manager~~Manager. Untimely protests will not be considered.

C. Decision. The ~~city-City~~ ~~manager~~Manager shall within ~~15~~fifteen days of receipt of the written protest issue a written decision regarding any protest stating the reasons for the decision and informing the protestor of any right to judicial review as provided by law. A copy of the decision shall be provided to all parties.

D. Settlement. The ~~city-City~~ ~~council~~Council shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve the protest. (Ord. 2018-12 § 1 (Exh. A) (part); Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.218), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.370)



MIDVALE CITY COUNCIL SUMMARY REPORT

Meeting Date: January 17, 2023

SUBJECT: Discuss Amending Midvale Code Section 8.10.030 & 8.10.060 - Jordan Bluffs Institutional Controls Ordinance

SUBMITTED BY: Nate Rockwood, Assistant City Manager

SUMMARY:

Midvale code chapter 8.10 is the Institutional Controls Ordinance for Bingham Junction and Jordan Bluffs. The ordinance sets forth the requirements and procedures for the public institutional controls (“ICs”) for the redevelopment and reuse of the Bingham Junction and Jordan Bluffs properties. The purpose of the ICs is to prevent unacceptable human exposure to contaminants that remain on site by ensuring the protection, maintenance, and improvement of physical barriers that have been placed on the various properties.

With the continued development of Jordan Bluffs, the Gardner Company has requested amending the ordinance to clarify and further detail the responsibility for compliance with the institutional controls by property owners. The redline changes have been proposed by the Midvale City Attorney and have been accepted by the owner and developer. The section will require all property to fall under the oversight of a single “Project Association” which will be responsible for the continued compliance with the requirements of the IC. Individual property owners will be primarily responsible for compliance within Property Owners Association (POA) which will be required to be sub-associations of the Project Association.

Therefore, these amendments will require each property owner to be responsible for compliance with the IC associated with its property through the creation of a POA. The Project Association will have oversight and enforcement responsibility over all POAs as well as the sloped areas along the Jordan River and 7800 South and the wetland areas. The City remains the ultimate authority over the protection and proper maintenance of the Jordan Bluffs site and has the authority to make any repairs and recover any associated costs it determines necessary.

These changes in no way reduce the overall objective or effectiveness of the ICs, which is to prevent human exposure to contaminants. The changes provide additional levels of accountability to ensure protection and maintenance of the cap and ensure overall health safety of the area.

FISCAL IMPACT: This code change will have no fiscal impact on the City.

Attachments:

Recommended Changes to Chapter 8.10.30 & 8.10.060

8.10.030 Definitions.

Z. "SMP" means the site ~~modification~~management plan relating to the Jordan Bluffs property, dated ~~February 2, 2004~~October 27, 2017.

8.10.060 Jordan Bluffs West—Covers and materials management.

A. Site plan approval as required by Section 17-7-3 and regulated by Section 17-7-10 of the Midvale City zoning ordinance and Title 16, Subdivisions, shall be obtained before initial site development, future redevelopment or change in land use. Applications shall be made available through the city community and economic development department. In conjunction with the submittal of the preliminary site plan application, the applicant shall submit documentation that shall include an attestation that the applicant is aware of the current site condition and will comply with all institutional controls. All applicants must retain, at their sole cost, a special inspector as defined in Section 8.10.030(BB). Applicant submittals and requirements under the site plan approval process are summarized in this section, which are in addition to and in conjunction with the requirements identified in Sections 17-7-3 and 17-7-10 of the Midvale City zoning ordinance.

1. The applicant shall submit a plan illustrating the proposed construction and development. Preliminary and final site plans for development shall be submitted for review and approval. Preliminary and final development plans shall specify the amount of existing and proposed soil cover over the cap as well as any proposed penetrations or alterations of the cap. Any proposal which includes penetrations or alterations of the cap must include detailed plans for repairing the cap in accordance with the SMP or alternate procedures approved by the city.

2. Grading and drainage plans are required and shall specifically assure the protection of soil covers from erosion over the cap membranes and provide adequate drainage to prevent accumulation of water on the cap.

3. Alterations to the existing operations and maintenance plan may be proposed by the applicant, the city or other party. The EPA and the UDEQ shall consider alterations to assure the proposed development site will be maintained in a manner which shall preserve the effectiveness of the cap.

4. An air quality monitoring and dust suppression plan shall be provided. The plan must ensure that National Ambient Air Quality Standards and state and local air quality requirements are met for site contaminants at the boundary between the construction area and the developed areas. The applicant may request a waiver of the air monitoring requirements by submitting relevant data demonstrating compliance with all air quality standards under similar circumstances (similar weather conditions, construction operations, site materials, etc.).

B. If any intrusive exploratory activities (such as excavations, borings, CPT soundings) or foundations (including piles or drilled shafts) are proposed for the cap area at depths that penetrate the cap, approval must first be obtained from the city. The request for approval must include a detailed description of the proposed exploration or construction activity as well as the mechanism(s) that will be used to prevent contamination of the aquifer and release of contaminated material. In addition, the plan shall be in conformance with the accepted SMP. The request must be approved by the city of Midvale prior to implementation of the work.

C. A road cut permit shall be required for any work in the public right-of-way, per Chapter 12.12 of the Midvale City Code.

D. All property within the Jordan Bluffs West property will be included within one ~~or more~~ property owners' association ~~(s)~~ ("POA"). ~~("the Project Association")~~. The ~~POA~~Project Association will be established by the owner or authorized representative prior to subdivision plat approval for the Jordan Bluffs West property. Membership in ~~any and all POAs~~the Project Association is a condition of development on the Jordan Bluffs West property. ~~The POA shall be Government-owned property is exempt from being a part of the Project Association.~~

1. Except for multi-family residential properties in which a dwelling unit is individually owned ("MFIO") and single-family residential properties, the landowner is primarily responsible for compliance with the institutional controls for its property. This includes, without limitation, maintenance and repair of the cap and soil covers beneath its property excluding any areas maintained by the Project Association. In the event that the landowner elects to create a POA that includes the landowner's property, the POA must be a sub-association of the Project

Association. Each POA, if any, is primarily responsible for compliance with the institutional controls for the property within its boundaries. This includes, without limitation, maintenance and repair of the cap (including soil covers) beneath the property within its boundaries—excluding areas required to be maintained by the Project Association pursuant to 8.10.060.D.3.

2. Single-family residential properties and MFIO properties are required to be included in one or more POAs. The POA will be established by the owner or authorized representative prior to subdivision plat approval for the Jordan Bluffs West property being developed for single-family residential or MFIO use. Membership in a POA is a condition of development of a single-family or MFIO use on the Jordan Bluffs West property. The POA is primarily responsible for compliance with the institutional controls for its property within its boundaries. This includes, without limitation, maintenance and repair of the cap (including soil covers) beneath the property within its boundaries excluding areas required to be maintained by the Project Association pursuant to 8.10.060.D.3.

3. The Project Association is responsible for compliance with the institutional controls for the sloped areas along 7800 South and the Jordan River, wetlands areas, and, unless dedicated to and accepted by the city or another governmental entity, parks, trails, and common roadways within the Jordan Bluffs West property. The Project Association, without limitation, is responsible for maintenance and repair of the cap (including soil covers) beneath the aforementioned properties. In the event that the Project Association learns that a landowner or POA is failing to comply with the institutional controls for which the landowner or POA is responsible, the Project Association may enforce compliance with the institutional controls through recording a notice of violation, assessing all costs incurred by the Project Association in enforcing or remediating such violation against the violating property and landowner or POA, or taking any other action permitted by applicable law.

4. If property within the Jordan Bluffs West property is dedicated to the city or another governmental entity, the city or such governmental entity is responsible for compliance with the institutional controls for property so dedicated upon acceptance of such dedication by the city or governmental entity. This includes, without limitation, maintenance and repair of the cap (including soil covers) beneath said property.

~~4.5.~~ The city shall make necessary repairs to covers and barriers if the landowner, POA, or POA/Project Association fails to do so in a timely or appropriate manner. In that event, the city shall have the right to recover its costs from the landowner, POA, or POA/Project Association, as applicable. The city shall also have the right, in its sole discretion, to charge the landowner, POA, or Project Association a surcharge for the costs of the city's work related to the property, in an amount established by ordinance.

E. Reasonable efforts must be used to minimize penetration of the cap. Excess soil or tailings generated from underneath the cap either during development or after development will be managed in accordance with the accepted SMP- or alternate procedures approved by the city. (Ord. 6/26/2007O-8 § 1 (Exh. A (part)))