



**NOTICE AND AGENDA
SOUTH OGDEN CITY COUNCIL
WORK SESSION**

TUESDAY, MARCH 15, 2022

WORK SESSION – 5 PM

COUNCIL MEETING - 6 PM

Notice is hereby given that the South Ogden City Council will hold their regularly scheduled work session at 5 pm Tuesday, March 15, 2022. The meeting will be located at City Hall, 3950 Adams Ave., South Ogden, Utah, 84403, in the city council chambers. The meeting is open to the public; however, the city will abide by all COVID-19 restrictions in place at the time of the meeting, including social distancing, wearing of masks, and number of people allowed to gather at one time. No action will be taken on any items discussed during pre-council work sessions. Discussion of agenda items is for clarification only. Some members of the council may be attending the meeting electronically. The meeting will also be streamed live over www.facebook.com/southogdencity.

WORK SESSION AGENDA

I. CALL TO ORDER – Mayor Russell Porter

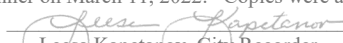
II. REVIEW OF AGENDA

III. DISCUSSION ITEMS

- A. Short-Term Rentals**
- B. Juneteenth Holiday**

IV. ADJOURN

The undersigned, duly appointed City Recorder, does hereby certify that a copy of the above notice and agenda was posted to the State of Utah Public Notice Website, on the City's website (southogdencity.gov) and emailed to the Standard Examiner on March 11, 2022. Copies were also delivered to each member of the governing body.


Leesa Kapetanov, City Recorder

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during the meeting should notify the City Recorder at 801-622-2709 at least 48 hours in advance.

STAFF REPORT



SUBJECT: Discussion on Short-Term Rentals
AUTHOR: Leesa Kapetanov
DEPARTMENT: Administration
DATE: March 15, 2022

RECOMMENDATION

There is no recommendation on short-term rentals. Staff is simply seeking direction.

BACKGROUND

Every week I receive an average of 2-3 calls asking if the City allows short-term rentals such as AirBnB. The answer is no, except in the subdistricts making up the form-based code. Staff believes that as the economy gets worse, more and more people will look for ways to subsidize their incomes. Short-term rentals are becoming increasingly popular both as a way to make money but also a less expensive way to travel.

ANALYSIS

As the popularity of short-term rentals grows, the more pressure cities will get from those wanting to have them. It would be good to have a clear idea of where the Council stands on the question of whether short-term rentals should be allowed. Staff would hate to have the Planning Commission spend time looking at whether or how they should be allowed, only to find that the Council has no intention of passing an ordinance to allow them. If that is the case, staff will not bring it up for the PCs consideration and the City will continue to not allow short-term rentals; however, if that is the wish of the council, it may be a good idea to add somewhere in the code that the use is not permitted. Currently it is not permitted because the code does not list it as a permitted use and anything that is not listed is not allowed. This is a hard concept for people to understand. They want to see in writing that it is really not allowed.

If the Council thinks they may consider allowing short-term rentals, staff will ask the Planning Commission to look at the benefits and negative impacts of short-term rentals and make a recommendation to the Council. If the PC feels short-term rentals should be allowed, they can also make a recommendation as to where they should be allowed and how they should be regulated.

STAFF REPORT



SUBJECT: Juneteenth
AUTHOR: Doug Gailey
DEPARTMENT: Administration
DATE: 3-15-2022

RECOMMENDATION

Pleasure of the council

BACKGROUND

In 2021, The federal government added June 19th to the list of federally recognized holidays. Juneteenth, as it is known by, commemorates the effective end of slavery in 1865. In 2022, Utah House Bill 238 added June 19th to the list of recognized holidays by the State of Utah.

ANALYSIS

South Ogden City has historically recognized all state holidays. With the addition of Juneteenth holiday to the state calendar, South Ogden City needs to have the discussion as to whether or not to recognize the holiday. By policy, if a holiday falls on a Saturday it is recognized on Friday and if it falls on a Sunday, it is recognized on the following Monday. If the Council chooses to recognize the holiday, a discussion should follow as to what to do about South Ogden Days. South Ogden Days is scheduled around the Summer solstice, which happens June 21. If left unchanged, there will be times when the event and the holiday happen simultaneously.

SIGNIFICANT IMPACTS

None

ATTACHMENTS



NOTICE AND AGENDA SOUTH OGDEN CITY COUNCIL MEETING

TUESDAY, MARCH 15, 2022

WORK SESSION – 5 PM

REGULAR COUNCIL MEETING - 6 PM

Notice is hereby given that the South Ogden City Council will hold their regularly scheduled council meeting at 6 pm Tuesday, March 15, 2022. The meeting will be located at City Hall, 3950 Adams Ave., South Ogden, Utah, 84403, in the city council chambers. The meeting is open to the public; however, the city will abide by all COVID-19 restrictions in place at the time of the meeting, including social distancing, wearing of masks, and number of people allowed to gather in one place. Some members of the council may be attending the meeting electronically. The meeting will also be streamed live over www.facebook.com/southogdencity.

CITY COUNCIL MEETING AGENDA

I. OPENING CEREMONY

- A. Call to Order – Mayor Russell Porter
- B. Prayer/Moment of Silence -
- C. Pledge of Allegiance – Council Member Howard

- II. PUBLIC COMMENTS – This is an opportunity to address the mayor and council with any concerns, suggestions, or praise. No action can or will be taken at this meeting on comments made.
Please limit your comments to three minutes.

III. RESPONSE TO PUBLIC COMMENT

IV. CONSENT AGENDA

- A. Approval of March 1, 2022 Council Minutes

V. DISCUSSION / ACTION ITEMS

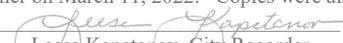
- A.** Consideration of **Resolution 22-04** – Amending the South Ogden City Employee Policy Manual
- B.** Consideration of **Resolution 22-05** – Approving a Franchise Agreement With Connex for Utilization of the City’s ROW for Installation of Fiber Optic Lines
- C.** Consideration of **Resolution 22-06** – Approving an Agreement With WFRC for Matching Grant Funds for Creation of a General Plan
- D.** Consideration of **Resolution 22-07** – Declaring Resolution 22-03 As Null and Void and Re-Voting On An Agreement With UDOT for Use of Federal Aid Money for the 40th Street/Chimes View Drive Road Project

VI. REPORTS/DIRECTION TO CITY MANAGER

- A.** City Council Members
- B.** City Manager
- C.** Mayor

VII. ADJOURN

The undersigned, duly appointed City Recorder, does hereby certify that a copy of the above notice and agenda was posted to the State of Utah Public Notice Website, on the City’s website (southogdencity.gov) and emailed to the Standard Examiner on March 11, 2022. Copies were also delivered to each member of the governing body.


Leesa Kapetanov, City Recorder

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during the meeting should notify the City Recorder at 801-622-2709 at least 48 hours in advance.



MINUTES OF THE SOUTH OGDEN CITY COUNCIL WORK SESSION AND CITY COUNCIL MEETING

TUESDAY, MARCH 1, 2022

WORK SESSION – 5 PM IN COUNCIL ROOM

COUNCIL MEETING – 6 PM IN COUNCIL ROOM

WORK SESSION MINUTES

COUNCIL MEMBERS PRESENT

Mayor Russell Porter, Council Members Sallee Orr, Brent Strate, Susan Stewart, Mike Howard, and Jeanette Smyth

STAFF MEMBERS PRESENT

City Manager Matthew Dixon, Assistant City Manager Doug Gailey, Police Chief Darin Parke, Fire Chief Cameron West, Communications and Events Specialist Jamie Healy, and Recorder Leesa Kapetanov

MEMBERS OF THE PUBLIC PRESENT

No one else attended this meeting in person

Note: The time stamps indicated in blue correspond to the audio recording of this meeting, which can be found by clicking the link:

https://files4.1.revize.com/southogden/document_center/Sound%20Files/2022/CC220301_1659.mp3

or by requesting a copy from the office of the South Ogden City Recorder.

I. CALL TO ORDER

- Mayor Porter called the work session to order at 5:01 pm and entertained a motion to open the meeting 00:00:00

Council Member Howard so moved, followed by a second from Council Member Strate. Council Members Orr, Strate, Stewart, Howard, and Smyth all voted aye.

II. REVIEW OF AGENDA

- There were several questions about agenda items as well as the City's landscape ordinance 00:00:14

37

38 **III. DISCUSSION ITEMS**

39

A. FY2023 Strategic Plan

40

- City Manager Dixon facilitated this discussion

41

00:05:25

42

43

B. Utilization of American Rescue Plan Act (ARPA) Funds

44

- Finance Director Steve Liebersbach led this discussion

45

00:18:23

46

47

48 **IV. ADJOURN**

49

- Mayor Porter called for a motion to adjourn the work session

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01:00:39

51

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Council Member Smyth so moved, followed by a second from Council Member Stewart. All present voted aye.

53

54

55

The work session ended at 6:02 pm.

COUNCIL MEETING MINUTES

COUNCIL MEMBERS PRESENT

Mayor Russell L. Porter, Council Members Brent Strate, Susan Stewart, Mike Howard, and Jeanette Smyth

STAFF MEMBERS PRESENT

City Manager Matthew Dixon, Assistant City Manager Doug Gailey, Police Chief Darin Parke, Fire Chief Cameron West, Communications and Events Specialist Jamie Healy, and Recorder Leesa Kapetanov

MEMBERS OF THE PUBLIC PRESENT

Wesley Stewart, Bruce & Joyce Hartman

Note: The time stamps indicated in blue correspond to the audio recording of this meeting, which can be found by clicking this link:

https://files4.1.revize.com/southogden/document_center/Sound%20Files/2022/CC220301_1804.mp3

or by requesting a copy from the office of the South Ogden City Recorder.

I. OPENING CEREMONY

A. Call To Order

- At 6:07 pm, Mayor Porter called the meeting to order and entertained a motion to begin

00:00:00

Council Member Howard so moved. The motion was seconded by Council Member Stewart. In a voice vote Council Members Strate, Stewart, Howard, and Smyth all voted aye.

B. Prayer/Moment of Silence

The mayor led those present in a moment of silence.

C. Pledge Of Allegiance

- Council Member Stewart led everyone in the Pledge of Allegiance.

98 **II. PUBLIC COMMENTS**

- 99 • Wesley Stewart- 00:00:53

100

101

102

103 **III. RESPONSE TO PUBLIC COMMENT**

- 104 • The mayor informed those present that public comments would be addressed later in the meeting.
105 He also informed those present there had been no online public comments.

106 00:08:49

107

108

109 **IV. CONSENT AGENDA**

110 A. Approval of February 15, 2022 Council Minutes

- 111 • The mayor asked if there were any comments or corrections for the consent agenda; seeing
112 none, he called for a motion to approve the minutes

113 00:09:06

114

115 **Council Member Smyth so moved. Council Member Howard seconded the motion. The**
116 **voice vote was unanimous in favor of the motion.**

117

- 118 • Mayor Porter excused Council Member Orr who was attending a community event

119 00:09:24

120

121

122 **V. DISCUSSION /ACTION ITEMS**

123 A. Consideration of **Resolution 22-02** – Approving an Agreement With Hy and Mikes for
124 Disposal of Abandoned or Forfeited Property

- 125 • Staff overview 00:09:31

- 126 • Questions/Discussion

127 00:12:27

- 128 • Motion 00:18:45

129

130 **Council Member Strate moved to approve Resolution 22-02, approving an agreement**
131 **with Hy and Mikes for disposal of abandoned or forfeited property. The motion was**
132 **seconded by Council Member Howard. The mayor asked if there was any further**
133 **discussion, and seeing none, he called the vote:**

134

135 Council Member Strate- Yes

136 Council Member Stewart- No

137 Council Member Howard- Yes

138 Council Member Smyth- Yes

139 **The motion stood.**

140

141 **B. Consideration of Resolution 22-03 – Approving a Federal Aid Agreement with UDOT for**
142 **40th Street/Chimes View Road Project**

- 143 • Staff overview 00:19:17
- 144 • Questions/Discussion
- 145 00:22:21
- 146 • Council Member Stewart brought up some discrepancies in the amounts the City
- 147 would have to pay 00:22:40
- 148
- 149 • City Manager Dixon encouraged the Council to pass the resolution with the
- 150 understanding that if the City's payment exceeded the anticipated 6.77%, he would
- 151 bring the agreement back to the council for reconsideration
- 152 00:29:46
- 153 • Mayor Porter called for a motion approve Resolution 22-03, approving a federal aid
- 154 agreement with UDOT for the 40th Street/Chimes View road project, City's portion
- 155 not to exceed 6.77%
- 156

157 **Council Member Howard so moved, followed by a second from Council Member Smyth.**
158 **After determining there was no further discussion, the mayor called the vote:**
159

Council Member Smyth-	Yes
Council Member Howard-	Yes
Council Member Stewart-	Yes
Council Member Strate-	Yes

164
165 **The motion was upheld.**
166

167
168 **VI. DISCUSSION ITEMS**

169 **A. Personnel Policy Manual Update**

- 170 • Staff overview 00:30:37
- 171 • Discussion 00:31:30
- 172
- 173
- 174

175 **VII. REPORTS/DIRECTION TO CITY MANAGER**

176 **A. City Council Members**

- 177 • Council Member Stewart - nothing to report
- 178 • Council Member Smyth - nothing to report
- 179 • Council Member Howard - 00:34:23
- 180 • Council Member Strate - 00:35:24
- 181

182 **B. City Manager 00:36:08**

183 **C. Mayor Porter 00:39:26**

184 **VIII. ADJOURN**

- 185 • Mayor Porter called for a motion to adjourn the meeting

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187 **Council Member Strate so moved, followed by a second from Council Member Howard. All**
188 **present voted aye.**

- 189
190 • The meeting ended at 6:50 pm.

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216 I hereby certify that the foregoing is a true, accurate and complete record of the South Ogden City Pre-Council
217 Work Session and Council Meeting held Tuesday, March 1, 2022.

218
219 
220 Kapetanov, City Recorder

Leesa
Date Approved by the City Council

Resolution No. 22-04

RESOLUTION OF SOUTH OGDEN CITY APPROVING AMENDMENTS TO THE SOUTH OGDEN CITY EMPLOYEE POLICY MANUAL; AND, PROVIDING AN EFFECTIVE DATE.

SECTION I - RECITALS

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

WHEREAS, the City Council finds that in conformance with Utah Code ("UC") § 10-3-717 the governing body of the city may exercise all administrative powers by resolution including, but not limited to adopting and amending a citywide employee policy manual; and,

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

WHEREAS, the City Council finds that the City should amend the current citywide employee policy manual to more effectively meet employee hiring, retention, and other vital City needs; and,

THEREFORE, BE IT RESOLVED by the City of South Ogden,

SECTION II - EMPLOYEE POLICY AMENDED

The South Ogden Employee Policy Manual As Attached Hereto As **Attachment"A"**, And As Otherwise Described In The Forgoing Sections Of This Resolution Are Readopted And Ratified.

The foregoing recitals are incorporated herein.

SECTION III - PRIOR ORDINANCES AND RESOLUTIONS

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

SECTION IV - REPEALER OF CONFLICTING ENACTMENTS

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

SECTION V - SAVINGS CLAUSE

If any provision of this Resolution shall be held or deemed or shall be invalid, inoperative or unenforceable such shall render no other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Resolution being deemed the separate independent and severable act of the City Council of South Ogden City.

SECTION VI - DATE OF EFFECT

This Resolution shall be effective on the 15th day of March, 2022, and after publication or posting as required by law.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF SOUTH OGDEN CITY,
STATE OF UTAH, on this 15th day of March, 2022.**

SOUTH OGDEN CITY

Russell Porter, Mayor

ATTEST:

Leesa Kapetanov, CMC
City Recorder

ATTACHMENT "A"

RESOLUTION NO. 22-04

Resolution Of South Ogden City Approving Amendments To The South Ogden
City Employee Policy Manual; And, Providing An Effective Date.

15 Mar 22



Personnel Policy Manual

SOUTH OGDEN CITY

3/15/2022

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INTRODUCTION

It is the policy of South Ogden City to establish reasonable rules of employment conduct (i.e., guidelines for management and employees to follow) and to ensure compliance with these rules through a program consistent with the best interests of South Ogden City and its employees.

These policies are designed to acquaint all employees with the City and to provide information about working conditions and some policies affecting employment with the City. Employees should read, understand, and comply with all provisions of these policies. It is a condition of employment that all employees adhere to the City's policies, and sign the Policy Acknowledgement Form (**AT THE END OF THIS MANUAL**). It is important to be familiar with these policies. One of the City's objectives is to provide a work environment conducive to both personal and professional growth. The City encourages discussion of any portion of these policies with a supervisor. Supervisors can arrange a convenient time to review the material with you as necessary.

THIS MANUAL IS NOT, AND SHALL NOT BE CONSTRUED AS, AN EXPRESS OR IMPLIED CONTRACT, SHALL NOT MODIFY ANY EXISTING AT-WILL STATUS OF ANY SOUTH OGDEN CITY EMPLOYEE, AND SHALL NOT CREATE ANY DUE PROCESS REQUIREMENT IN EXCESS OF FEDERAL OR STATE CONSTITUTIONAL OR STATUTORY REQUIREMENTS. THE TERM AT-WILL MEANS EMPLOYEES CAN TERMINATE OR BE TERMINATED AT WILL. EXCEPTIONS ARE EMPLOYEES HAVING WRITTEN CONTRACTS SIGNED BY THE MAYOR OF SOUTH OGDEN CITY.

It is also the policy of South Ogden City to comply with Federal and State Equal Employment Opportunity guidelines. All employment decisions will be made without unlawful regard as to race, color, religion, sex, national origin, age or disability. South Ogden City will not engage in any unlawful discrimination against any employee or applicant for employment because of race, color, religion, sex, national origin, disability, age, or veteran's status, and will ensure that applicants and employees are treated without unlawful regard to these classes.

It is the policy of South Ogden City to strive for safety in all activities and operations, and to carry out the commitment of compliance with health and safety laws applicable to South Ogden City by enlisting the help of all employees to ensure public and work areas are free of hazardous conditions.

South Ogden City reserves the right to change its policies and/or procedures in the future. Therefore, any suggestions or comments concerning the content of this manual, please submit in writing, to South Ogden City's City Manager for review.

Final interpretation authority of all policies and procedures contained rests with the City Manager. Questions related to the interpretation of any policy and/or procedure shall be directed to the City Manager.

MISSION STATEMENT

South Ogden City is dedicated to preserving and enhancing quality of life and professionally meeting the expectations of residents, businesses, employees and visitors

SECTION 1: EQUAL EMPLOYMENT OPPORTUNITY

01.005 General Policy

It is the policy of South Ogden City to comply with Equal Employment Opportunity standards in all phases of personnel administration: job structuring, recruitment, examination, selection, appointment, placement, training, upward mobility, discipline, etc., without unlawful regard to race, color, religion, sex, age, physical or mental disability, national origin or veteran status.

01.010 Supervisor Responsibilities

The City Manager will ensure South Ogden City complies with all of the personnel policies and procedures in this manual, including all EEO standards. The Assistant City Manager will ensure that each employee receives a copy of this Personnel Policies Manual and that the employee signs and dates a Policy Statement and Acknowledgment Form stating receipt of the manual. The Assistant City Manager will then file the signed and dated Policy Statement and Acknowledgment Form in the employees personnel file.

01.015 Employee Responsibilities

Employees are responsible for informing themselves about the policies, practices, and benefits set forth in South Ogden City's Personnel Policy Manual by reading them and asking for clarification. All employees must sign and date a Policy Statement and Acknowledgment Form stating receipt of this manual.

01.020 Equal Employment Opportunity

To provide equal employment and advancement opportunities to all individuals, employment decisions at the City will be based on merit, qualifications, and abilities. The City does not discriminate in employment opportunities or practice on the basis of race, color, religion, gender, national origin, age, disability, or any other class protected by law.

The City will make reasonable accommodations for qualified individuals with known disabilities, unless doing so would cause an undue hardship on the City. This policy governs all aspects of employment including recruitment, selection, job assignment, compensation, discipline, termination, and access to benefits and training.

The City adheres to federal and state law regarding veterans' preference criteria when making decisions regarding initial, new hiring. It is City policy that veteran's preference does not apply to promotional opportunities. Applicants for initial employment with the City shall be required to provide reasonable documentation and records as proof of any claimed veteran's preference. Such documentation may include, but may not be limited to, a Form DD-214, or equivalent discharge or other official record from the Armed Services of the United States.

The City develops job descriptions, duty rosters and other guidelines for each employee's job. These will be used in determining whether an employee meets the qualifications and standards of performance on which decisions of initial employment or continued employment are based. Jobs site evaluations and other evaluative and analytical processes and procedures may be used besides

other written documents pertaining to job duties to assist employees, supervisors and appropriate professionals in better determining job duties and work demands, and employee performance.

Employees with questions about any type of discrimination in the workplace are encouraged to bring these issues to the attention of their immediate supervisor or City Manager. Employees can raise concerns and make reports without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including, termination of employment.

SECTION 2: RECRUITMENT AND EMPLOYEE HIRING

02.005 General Policy

It is the policy of the City to fill vacancies with qualified individuals, who are able to perform job functions properly, appropriately and adequately. This policy extends to all aspects and phases of the employment life cycle from job announcement, recruitment, hiring, performance evaluation, discipline and separation. The City will give first consideration to current employees.

02.010 Employment

Job Descriptions defining the essential functions of the vacant position shall be drafted and adopted before the vacancy is posted or otherwise advertised internally or externally.

02.015 Hiring

The City will use the following when taking action to fill a job vacancy in a merit or classified position.

- A. Former employees with [reinstatement rights Section 02.085](#) will be considered pursuant to the Reinstatement Rights policy.
- B. Vacant positions will be posted for a minimum of five (5) calendar days in appropriate newspapers, professional journals and publications, state authorized websites, or other appropriate media simultaneously. Applications will be accepted, until the closing date in the vacancy announcement.
- C. Testing procedures applicable to job position qualifications, which assess a candidate's knowledge, skill and ability to successfully complete an essential job function, may be conducted by the city, or under the City's direction and guidance.
- D. Supervisors of the City may make recommendation to a department director concerning the hiring or transfer of a job candidate. Subject to the terms and conditions of this hiring procedure and guideline, the department director will have final authority in the hiring process, subject to approval by the City Manager or designee.
- E. Anyone who believes these procedures were not followed, or who wishes to make an inquiry or raise a concern or issue about the proper and appropriate application of these

procedures, may contact the Office of the Assistant City Manager and file a written inquiry or protest. Any inquiry or protest by an applicant shall be filed within five (5) working days from the date a hiring decision has been made, or it will not be considered.

- F. After a period of not more than fourteen (14) calendar days from receipt of a written inquiry or protest, the Assistant City Manager shall make a written reply to the petitioner, and a copy of that reply will be filed with the Department Director.
- G. The City reserves the right to investigate any hiring procedure or process, evaluate and analyze data and information received, and otherwise modify, amend or set aside any hiring decision which violates any policy or the best interests of the City. Such investigations shall be performed as directed by the City Manager.
- H. Prior to placement in any position and commencement of work activity for any newly hired employee, a drug and alcohol test shall be performed and completed to determine and verify fitness for duty.
- I. Post offer may include conducting a background check and driver's license check.

02.020 Recruitment

All recruitment shall be conducted under South Ogden City's equal opportunity guidelines.

- A. Internal Promotions. It is South Ogden City's policy to give first consideration to current, qualified agency employees desiring to fill an open job position.
- B. External Advertising.
 - (1) Only the Assistant City Manager, or designee, may place advertisements and respond to inquiries from employment agencies and/or job applicants.
 - (2) Each Job Opening Announcement should contain a statement indicating South Ogden City is an equal opportunity employer.
 - (3) Job Opening Announcements may be advertised in the appropriate media as determined by the Assistant City Manager.
 - (4) All Job Opening Announcements must specify the name and the office of the person from whom Job Applications are to be obtained, to whom completed applications are to be returned, and the deadline for filing an application.
 - (5) Advertisements may state that job applicants residing in South Ogden City or the surrounding area will be given hiring preference.

02.025 Employment Applications

All interested job applicants shall complete a Job Application. All application and resumes received for the job opening will be forwarded to the Assistant City Manager.

Job applications shall be signed by the job applicant and the truth of all information contained shall be certified by the job applicant's signature. The job applicant shall provide a copy of required certified educational transcripts either with the application or upon hire.

The City relies upon the accuracy of information in the employment application, and the accuracy of other data presented throughout the hiring process and employment.

Any misrepresentations, falsifications, or material omissions in this information violate South Ogden City's policies. Violating City policy may cause the City's exclusion of the individual from further consideration for employment or, if the person has been hired, termination of employment.

- A. Job Applicant Disqualification. An application may be rejected for, but not limited to, the following reasons; When the Job Applicant:
 - (1) Does not meet minimum qualifications established for the position.
 - (2) Is physically or mentally unable to perform the essential duties and responsibilities of the position with, or without, reasonable accommodation(s) (determined only after a conditional offer of employment, pending the results of a medical examination, has been extended to a job applicant).
 - (3) Has falsified a material fact or failed to complete the application.
 - (4) Has failed to timely file the application.
 - (5) Has an unsatisfactory employment history or poor work references.
 - (6) Has failed to attain a passing score, if an examination is required.
- B. General Aptitude Test Battery (GATB). When necessary, job applicants may be required to take the GATB. If administration of the GATB is deemed necessary, it may be administered by the Department of Workforce Services.
- C. Other Tests. Job Applicants may be required to take other tests, which South Ogden City deems necessary for a specific position. Applicants for specific positions may require skills for which a known level of competence must exist such as: mathematics or timed typing tests. When South Ogden City uses these tests, the City shall, when necessary, make reasonable accommodations for disabled applicants.

02.030 Selection & Interviewing

The Assistant City Manager, with the Department Director will select applicants to interview from those who have passed the preliminary screening tests and job applications. Job related duties and qualifications will provide the basis for initial screening of job applicants. During the interview, all job applicants should be advised that all of the information provided might be verified.

Individuals conducting job interviews shall only ask questions that pertain to the job position. The Pre-Employment questions should be reviewed by the Assistant City Manager before the interview begins.

02.035 Employment Reference Checks

The applicant's signature on the employment application is considered a signed release to facilitate references checks. South Ogden City may contact the references for each job applicant and ask job-related questions, which include similar questions for each job applicant checked.

To ensure that individuals who become employees of the City are well qualified and have a strong potential to be productive and successful, the City reserves the right at its sole discretion to check the employment references of applicants and otherwise verify the accuracy and validity of information contained on applications or in other documents within the application and selection process.

The Assistant City Manager will respond to all reference inquiries regarding present or former City employees. Responses to such inquiries will confirm only dates of employment, wage rates, and position(s) held. No other employment information should be released without authorization and release signed by the individual who is the subject of the inquiry provided. However, good faith release of employment information regarding job performance, professional conduct or evaluation of a former or present employee to a prospective employer as authorized by Utah Code Section 34-42-1 is allowed.

02.040 Hiring of Relatives

The employment of relatives in the same organization or in the same area of an organization may cause serious conflicts and problems with favoritism and employee morale. In addition to claims of partiality in treatment at work, personal conflicts from outside the work environment can be carried into day-to-day working relationships. To address these potential problems, the following policies are adopted.

Regarding the employment of relatives, state law prohibits the hiring of relatives under certain circumstances (Title 52, Chapter 3, Utah Code Annotated). The City has adopted as policy, and subscribes to the intent of, existing state law, which prohibits employment of relatives within certain guidelines and subject to certain qualifications.

“Relative” for this policy means a father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

See [Utah Code 52-3-1](#)

Applicants for employment shall be required to disclose any familial relationships with other employees of the City, and it will be grounds for immediate discharge if applicants willfully withhold or give false information. Any officer or supervisor who knowingly violates this Section shall be subject to immediate termination.

Employees with questions about state law or wanting copies of the City policy may contact their Department Director or the Assistant City Manager.

02.045 Personal Conflicts

As with other management rights to set work standards and rules, where a conflict or the potential for conflict in the work force arises, even if there is no supervisory relationship involved, the parties may be separated by reassignment or terminated from employment. A conflict may exist when a Department Director determines that a relationship between two employees interferes with the ability to direct work assignments within the department, or interferes with performing work or assignments of employees.

- A. Nepotism. It is the policy of South Ogden City to comply with Utah's Anti-Nepotism Act, Utah Code 52-3-1.
- B. Employment of Minors. It is the policy of South Ogden City that no one under the age of fourteen (14) shall be hired for any position.
- C. Rehires. Job applications received from former employees will be processed using the same procedures and standards that govern all other applications. The Assistant City Manager will review the former employee's personnel records and the circumstances surrounding termination of previous employment with South Ogden City.
 - (1) Former employees terminated for cause, or who voluntarily resign while facing disciplinary action, are not eligible for rehire.
 - (2) Applicants who are rehired shall be required to serve an introductory period.

02.050 Placement

After a job applicant is approved by South Ogden City, the Assistant City Manager shall notify the successful job applicant of their conditional selection through a written Conditional Job Offer Letter. The written Conditional Job Offer Letter shall state the job description, salary conditions, and any provisional conditions of employment (i.e., successfully passing drug/alcohol tests and background checks). The written Conditional Job Offer Letter shall state that the offer is not accepted until the candidate signs the written Conditional Job Offer Letter and returns it to South Ogden City by the requested date. The original Conditional Job Offer Letter is then filed in the employee's file and a copy is given to the new employee during orientation. Written Conditional Job Offer Letters should also include the following:

- (1) A clear statement of the job description.
- (2) The employee's starting salary. Starting salary offers for exempt positions shall be figured for annual salary. Starting salary offers for non-exempt positions shall be figured at an hourly wage.

- (3) The employee's job title.
 - (4) The employee's supervisor.
 - (5) Any relocation commitments, if applicable.
 - (6) The length of the employee's introductory period.
 - (7) Notice that employment is contingent upon passing a background examination, drug tests, medical/physical examinations, etc.
- A. Medical Examinations. Once South Ogden City has extended a conditional job offer to the job applicant, a medical interview or examination may be conducted by a health professional chosen by South Ogden City to determine a job applicant's ability to fulfill essential job related requirements. Only the Assistant City Manager may authorize such interviews or physical examinations. All costs for required medical interviews or physical examinations will be borne by South Ogden City. The prospective employee must sign a written release of this information to South Ogden City.
- B. Reinstatements. Employees reinstated into South Ogden City may maintain their original anniversary date for seniority and for those benefit programs governed by the anniversary date. The policy will be as follows:
- (1) Layoffs. Employees who terminate because of reduction in work force will maintain their original anniversary date for seniority if they are re-employed by South Ogden City within one (1) year after date of termination.
 - (2) Voluntary resignations. Employees who voluntarily terminate their employment with South Ogden City will maintain their original anniversary date, subject to City Manager approval, if they are re-employed by South Ogden City within six months after date of termination. The City Manager must approve all reinstatements.
- C. Hiring New Employees.
- (1) Required for All Employees: The Assistant City Manager is responsible for having new employees fill out all pre-employment forms, benefit applications, enrollment forms and providing basic information on South Ogden City's policies concerning pay, vacation, holidays, and sick leave, benefits, parking and work hours during the employee's first day of work.
 - (2) Additional Requirement for Employment of Minors (employers may protect themselves from unintentional violation of the child labor provisions by keeping on file an employment or age certification for each minor employed to show that the minor is the minimum age for the job.):

- a. Minors shall be employed and scheduled in conformance with existing child labor laws and compulsory school attendance laws.
- b. Unless otherwise exempt, a minor employee must be paid according to the current statutory minimum wage and overtime provisions (currently one and one half {1/2} times the employee's regular wage after forty {40} hours worked in a workweek) of the Fair Labor Standards Act of 1938, as amended.
- c. Employees fourteen (14) and fifteen (15) years old may not be employed:
 1. During school hours, except as provided for in work experience and career exploration programs.
 2. Before 7 a.m. or after 7 p.m., except 9 p.m. from June 1 through Labor Day. Over three (3) hours a day on school days.
 3. Over eighteen (18) hours a week, in school weeks.
 4. Over eight (8) hours a day, on non-school days.
 5. Over forty (40) hours a week, in non-school weeks.
 6. In any occupations found and declared to be hazardous.
 7. In the operation or tending of hoisting apparatus.
 8. In the operation or tending of any power-driven machinery.
9. Outside window washing that involves working from windowsills, and all work requiring using ladders, scaffolds or their substitutes.
- D. Employees sixteen (16) and seventeen (17) years old are subject to Department of Labor Orders when working in any occupations which the Secretary of labor shall find and by order declare to be hazardous or detrimental to their health and well-being as set forth in WH Publication 1330, entitled Child Labor Requirements in Nonagricultural Occupation.
- E. Orientation. Newly hired South Ogden City employees shall complete all required paperwork and receive an orientation on or before their first (1st) day of work.
 - (1) Under the Immigration Reform and Control Act of 1986, all new employees shall provide proof of identity and employment status by completing an Employment Eligibility Verification Form. The employee must sign under penalty of perjury they are a U.S. citizen, a lawful permanent resident alien, or an alien otherwise authorized for U.S. employment and provide the documentation.

- (2) All new employees shall complete and sign a Form W-4 Federal Withholding Statement.
- (3) All new employees should be given a tour of the work place with an overview of company rules and benefits.

02.055 Introductory Period

All new employees, except “non-merit” employees, shall be subject to a six (6) month introductory period. During this period, introductory employees may be terminated with or without notice for any or no reason without any right to due process, notice, explanation, or appeal with said termination. Part time firefighters shall be subject to twelve (12) month introductory period. See Fire Policies for more information.

Introductory periods begin on the first day of employment and continue for six (6) months. Management will provide guidance to introductory employees so they understand work requirements.

An employee shall have a performance evaluation prior to the end of the introductory period. This performance evaluation may provide information to both the employee and management regarding the employee’s performance. A performance evaluation and the results of such evaluation shall not obligate management to a course of action relative to the introductory employee nor shall it create any property/due process rights for the introductory employee relative to their job/position.

Employees promoted or transferred within the City must complete a secondary introductory period of the same length with each reassignment to a new position. Any continuous absence over 10 working days will automatically extend an introductory period by the length of the absence.

In cases of promotions or transfers within the City an employee who, in the sole judgment of the Department Director, is unsuccessful in the new position can be removed from that position during the secondary introductory period. If this occurs, the employee may return to his or her former job or to a comparable job for which the employee is qualified, depending on the availability of such positions and the City’s needs. If a similar position is not immediately available, the employee will be placed on a reinstatement list.

Upon satisfactory completion of the initial introductory period, employees enter the designated employment category.

Benefits eligibility and employment status are not affected during the secondary introductory period that results from a promotion or a transfer within the City.

02.060 Volunteers

- A. The Assistant City Manager shall develop guidelines for volunteers.
- B. Prior to accepting any volunteer services, the Supervisor of the department and the volunteer shall sign a Memorandum of Understanding Agreement defining the nature and

terms of the volunteer services.

C. A volunteer shall be provided the protections as an employee of South Ogden City for:

- (1) Workers compensation benefits for compensable injuries sustained by the volunteer while acting in the scope of employment.
- (2) Operating South Ogden City owned vehicles or equipment when the volunteer is properly licensed to do so.
- (3) Liability insurance coverage offered employees.

D. Volunteer service experience will be recognized for determining minimum qualifications for an employment position with South Ogden City.

02.065 Personal Information Changes

It is the responsibility of each employee to promptly notify the City of any changes in personal data. Each employee maintains current and accurate information on file with his/her respective Department Director. Personal mailing addresses, telephone numbers, number and names of dependents, individuals to be contacted if emergency occurs, educational accomplishments, and other such status reports should be accurate and current.

If any personal data has changed, the employee must notify the Assistant City Manager, and his/her own Department Director.

02.070 Immigration Law Compliance

The City will employ only United States citizens and aliens who may to work in the United States, but does not unlawfully discriminate on the basis of citizenship or national origin. In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility. Failure to present proper or adequate documentation required within three (3) working days from hire will cause in termination of employment. Former employees who are rehired must also complete I-9 form. Employee information will be entered into the E-VERIFY website within 3 days of hire by the Assistant City Manager.

02.075 Employment Categories

The employees of the City are classified into various employee categories that relate to employment status, hiring procedures, grievance procedures, compensation, benefit eligibility and applicability of certain federal and state laws. These classifications do not guarantee employment for any specified period of time. Subject to current City personnel policies, the right to terminate the employment relationship at will is retained by both the employee and the City. Such categories or classifications are subject to change depending upon the requirements of State or federal law or the requirements of City ordinance.

Each employee is designated as either nonexempt or exempt from federal and state wage and hour laws. Nonexempt employees are entitled to overtime pay under the specific provisions of federal and state laws. Exempt employees are excluded from specific provisions of federal and state wage and hour laws. An employee's exempt or nonexempt classification may be changed only upon written notification by the City Manager, or designee.

The City also places employees in one of three (3) other job categories, which reflect certain job conditions and/or protections the employee has, or does not have. These three categories are:

Classified Service

This category includes those employees of the police and fire departments, except Department Directors, and their Chief Deputies or Assistant Chiefs, as required by State law. The classified service can comprise full-time, qualified part-time, part-time seasonal, introductory or temporary employees.

Merit Service

The merit service includes the employees of the City who are not members of the classified service and are not members of the non-merit service. The merit service comprises either full-time or qualified part-time employees.

Non-merit Service

Members of the non-merit service comprise:

- A. The Mayor and members of the City Council
- B. The City Manager, Department Directors (including the Fire and Police Chiefs), Finance Director, Assistant City Manager, Public Works Director, City Attorney, City Recorder, City Treasurer, Police Lieutenant, Deputy Fire Chief and the Assistant Public Works Director.
- C. Temporary or seasonal employees
- D. Part-time employees
- E. Introductory employees

Besides the categories of classified, merit and non-merit service, employees are also placed in categories.

Elected Officials

The Mayor and members of the City Council are elected officials. Elected officials are not considered employees, are paid on a part-time basis. City Council Members are not eligible for retirement benefits, unless otherwise required by the Utah Retirement System.

Full-time employees

Full-time employees are those employees regularly scheduled to work the City's full-time schedule and who are not categorized as qualified part-time, part-time, seasonal, introductory or temporary

employees. Full-time positions are identified and approved under the City budget, as adopted by the South Ogden City Council.

Qualified, part-time employees

Qualified part-time employees are those who are regularly scheduled to work an average of at least 30 hours, but less than 40 hours per week, and who are not categorized as seasonal, introductory, or temporary. An employee will be presumed to be “regularly scheduled” as a qualified part-time employee if the employee has worked less than 40 hours but at least 30 hours per week during the time period from November 1 of the previous year to October 31 of the current year.

Part-time employees

Part-time employees are those who are regularly scheduled to work less than an average of 30 hours per week.

Part-time Fire Fighter

Part-time firefighters are those employees of the fire department who have established a limited/part-time employment relationship with the City. This relationship is established by the fire fighters attending a specified number of weekly training sessions and responding to a specified percentage of general callback alarms. Part-time fire fighters may, if they choose, work a limited number of 12-hour part-time shifts to meet required staffing levels, as defined by the Chief. Based on the 96 (5 OT) hour, 12-day work period established for full-time fire suppression personnel, a part-time firefighter may work a maximum of 116 hours in a 28-day work period, and not over 30 hours per week. At least monthly, the Chief or designee will notify the part-time fire fighters of the availability of part-time shifts. Part-time fire fighters may fill these hours voluntarily. Part-time fire fighters must fill at least one 24 hour shift a month to maintain the status of part-time fire fighters.

Seasonal employees

Seasonal employees are those who have established an employment relationship with the City, but who are assigned to work on an intermittent and/or unpredictable basis. Employees in this category may work for indefinite periods of time; however, such employment will not exceed six (6) months in any calendar year.

Introductory employees

Introductory employees are those whose performance is being evaluated to determine whether further employment in a specific position with the City is appropriate. Employees who satisfactorily complete the introductory period will enter another applicable employment category.

Temporary employees

Temporary employees are those who are hired temporarily to supplement the work force or to assist completing a specific project, and whose employment is of limited duration. Temporary employment assignments will not exceed six (6) months. An additional six (6) month extension may be granted with the specific approval of the City Manager, or designee. (Any decision to approve such extension will consider the requirement for overtime pay and state retirement benefits which may accrue by such extension.) Unless an extension is granted, no person may be

appointed as a temporary employee if it would cause over six (6) months of service in that position within any calendar year.

Employment as a temporary employee beyond the above periods, or beyond any initially stated period, does not imply a change in employment status. Temporary employees retain that status unless notified of a change. Temporary employees may be scheduled to work differing hours each week. Schedules for temporary employees may vary and can even be up to 40 hours or more hours each week.

02.080 Employment Status

To facilitate provisions of the Fair Labor Standards Act, employees shall also be classified as either exempt or nonexempt, regarding to eligibility for overtime payment. They shall be defined as:

- A. Exempt. Positions of a managerial, administrative, or professional nature, as prescribed by Federal and State Labor Statutes shall be exempt from minimum wage and mandatory overtime payment regulations.
- B. Nonexempt. Positions of a clerical, technical, or service nature, as defined by Federal and State Labor Statutes, which are covered by provisions for minimum wage and mandatory overtime payment regulations.

02.085 Reinstatement Rights

Subject to position availability, and the terms and conditions of this policy, the City allows certain former, eligible employees to return to their same class, position or rank within two (2) years from the date of last separation and with credit for former service with the City. Reinstatement rights must be approved by the City Manager.

Eligible former employees are those who were, at the time of separation, full-time merit and full-time classified employees.

Employees reinstated to their former jobs and departments will receive full credit for prior employment with the City to determine compensation within a range, grade and class, and to determine their rate of accrual or vacation and sick leave benefits. Employees reinstated to their former jobs will have their appointment service date amended to be the same date as that of their former job to assure credit for prior employment. Employees involuntarily separated due to the City's layoff policy and subsequently who apply and are rehired by the City within two (2) years of the layoff, will qualify for reinstatement rights upon rehire, provided they shall have no preference in the hiring decision. Employees who are rehired by the City in a department, a field of work, or a position, that differs from their former employment with the City will not be entitled to any consideration or benefits under this Reinstatement policy.

02.090 Reassignment

Except when due to a demotion or a disciplinary action, an employee reassigned shall be paid at least the same salary received prior to the assignment.

02.095 Reclassification

- A. If a position is reclassified due to market adjustments, the City Manager, or designee shall adjust the incumbent's salary to at least the minimum of the updated market value and may give a salary increase, based upon increased responsibility. If an incumbent's salary exceeds the maximum of the market, the incumbent will not be eligible to receive a salary increase until the market salary increases.
- B. A reclassification increase is subject to the availability of funds.

02.100 Transfers

Transferred employees, who have moved from one department to another, retain the benefits commensurate with both their seniority and their work status in the new position. These employees will begin a new introductory period for the new position as it relates to work performance only. If a transferred employee is unsuccessful in the position, he/she may be placed back in the previous position held immediately prior to the transfer or to another position, subject to availability, and the employee's qualifications. Pay for a transferred employee will be determined by the market range established for the position, and based upon the employee's longevity and other considerations at time of transfer.

Transfers will occur with the recommendation(s) of the department director(s) involved and the approval of the City Manager.

It is the policy of the City to prohibit from consideration any application for a transfer by an employee who is the subject of any current disciplinary action. Department Directors will consider the severity of any prior disciplinary actions and of any ongoing disciplinary review in determining whether to consider transferring any City employee.

If a transfer decision and placement is set aside due to City error, the involved employee may return to his/her former job with no prejudice to the employee, or his/ her compensation or benefits, so long as the former position, or one similar to it, is available. In cases of error by the City, the City will make all reasonable effort and accommodation to place the employee back in their previous job or similar position so long as an undue hardship to the City is not created. An undue hardship exists when, in the judgment of management, significant difficulty or expense would be incurred by the City, which would interfere with the operations and/or ability to provide for the safety/services/protection owed to the public.

If an employee in the full-time merit or classified service cannot be returned to his/her former or similar position, he/she will be placed on the reinstatement list and shall be subject to all reinstatement rights and privileges as discussed elsewhere in these policies. See Reinstatement Rights above.

An employee wishing to file a complaint or request a review of a decision involving transferring an employee must file such a complaint or request directly to his/her Department Director and provide a copy to the Assistant City Manager within fourteen (14) days of the effective date of the transfer. Failure to file within fourteen (14) days will cause forfeiture of any and all rights of

grievance, appeal or review under this or any other policy provision of the City.

See Police Policies for the inter-jurisdictional lateral transfer for the police department.

02.105 Determine Full-time Employee Status under Shared Responsibility

South Ogden City is a large employer under Employer Shared Responsibility provisions of the Affordable Care Act (ACA). South Ogden City offers health benefits to full-time employees that is affordable and meets minimum value. A full-time employee is defined as one who works an average of at least 30 hours per week or 130 hours per month.

The ACA requires large employers to select a measurement method to determine:

- The full-time status of employees
- If the employer must offer coverage to an employee
- For which months the employer must offer coverage
- For which employees an employer may be subject to potential penalties for not offering coverage.

This policy specifies the Measurement Methods South Ogden City has selected the categories of employees to which the selections apply, the length of the Look-back Measurement Method periods, and the treatment of employees upon return from paid or unpaid leave.

Section 1: Categories of Employees to Whom the Monthly Measurement Method or Look-Back Measurement Method Applies

The measurement method selected for a category of employees applies to all employees *in that category*, whether they work full-time, part-time, have variable hours or are seasonal employees.

1. A. The General Rule

Starting January 1, 2015, South Ogden City will use the Look Back Measurement Method for ALL categories of employees.

1. B. The Exception to the General Rule: Newly Hired Employees Reasonably Expected to Work Full-time

For new-hires who are reasonably expected at date of hire to be full-time employees, South Ogden City will temporarily track hours using the Monthly Measurement Method (even though the Look-Back Measurement Method would otherwise apply), and will offer them health coverage no later than the first day of the month following their start date.

South Ogden City will continue to track hours of the new employee (who is reasonably expected to work full time) on a monthly basis until the new employee becomes an “ongoing” employee. On the first day of the first STANDARD Measurement period after hire, the employee’s hours will also be tracked using the Standard Look Back Measurement method. Specifically,

- On first day of work, employee's hours will be tracked using the Monthly Measurement Method.
- On first day of the first Standard Measurement Period after date of hire, an employee's hours will also be tracked using the (Standard) Look Back Measurement Method
- The employee's hours will continue to be tracked using both the Monthly Measurement Method and the Look Back Measurement Method until the last day of the first Standard Measurement Period after hire.
- On the last day of the first Standard Measurement Period after hire, the new employee becomes an "ongoing" employee.
- When the new employee becomes an "ongoing" employee, the employee's hours will be tracked using only the Look Back Measurement Method. The Monthly Measurement Method will no longer be used for this employee.

1. C. Seasonal Employees

A seasonal employee for purposes of this policy is defined as one in a position for which the customary annual employment is six months or less. "Customary" means an employee who typically works each calendar year in approximately the same part of the year, such as summer or winter.

If South Ogden City hires an employee who falls within the definition of a Seasonal employee, the employee, whether or not expected to work full time at the time of hire, will be treated differently from other newly hired employees reasonably expected to work full time. When newly hired, the seasonal employee will have his or her hours tracked using the Measurement Method South Ogden City elected under section 1 A.

1. D. Employer Discretion to Change Measurement Method and Period Elections for Future Years

For future years, South Ogden City may change the categories of employees for whom it will apply the Monthly Measurement Method or the Look Back Measurement Method, or may elect to use a Look Back Measurement Period, Administrative Period or Stability Period of a different length or with a different start date than indicated above. However, that election to change methods will be effective only as of the first day of a Standard Measurement Period, and not in the middle of a measurement cycle.

SECTION 2: Monthly Measurement Method

2. A. The measurement period for the Monthly Measurement method will be the calendar month. This method applies (temporarily) to new-hires who at the time of hire are reasonably expected to be full time. South Ogden City will track hours each calendar month under the Monthly Measurement Method by counting "hours of service" (hours actually worked and hours for which

the employees is paid even though not actively at work) from first of the month through the last day of the month.

An employee who at the time of hire is reasonably expected to be full time will be eligible for coverage effective no later than the first day of the month following start date (pursuant to Section 1B). If thereafter, an employee continues to work at least 130 hours of service within each month, the employee will remain eligible for coverage through the Monthly Measurement Method.

An employee who is enrolled in the employer's group health plan, but who works fewer than 130 hours per month for four consecutive calendar months may cease to be eligible as of the first day of the next calendar month.

Section 3: Look-Back Measurement Method

3. A. General Definitions Applicable to Look-Back Measurement Method:

- **Measurement Period** - A period of 12 months wherein employee hours are tracked in order to identify the average hours worked.
- **Administrative Period** – A period of time, usually between the Measurement Period and Stability period, to calculate employee hours tracked during the Measurement Period, identify full-time employees, communicate with eligible employees, and process enrollments/terminations. The STANDARD administrative period will be 2 months and the INITIAL administrative period will be 1 and a partial month).
- **Stability Period** – A period of 12 months during which employees who were identified as averaging at least 130 hours per month during the Measurement Period are eligible for coverage.
- **Standard Measurement/Administrative/Stability Periods** – used for ongoing employees
- **Initial Measurement/Administrative/Stability Periods** – used for newly hired employees unless the employee at the time of hire is reasonably expected to work full time, as explained in section 1 B.

3. B. i Ongoing Employees

South Ogden City has made the following elections regarding the Measurement, Administrative and Stability Periods in the STANDARD Look-Back Measurement Method for ONGOING employees:

- South Ogden City has opted to use a 12 month **Standard Measurement** Period starting on November 1, 2013 and ending on October 31, 2014. This will repeat each year.
- South Ogden City has opted to use a 2 month **Standard Administrative** Period starting on November 1, 2014 and ending on December 31, 2014. This will repeat each year.
- South Ogden City has opted to use a 12 month **Standard Stability** Period starting on January 1, 2015) and ending on December 31, 2015. This will repeat each year.

The Standard Measurement/Administrative/Stability periods will continuously repeat. For

example, when the Standard Measurement Period starting November 1, 2014 ends on October 31, 2015, a new Standard Measurement Period will start November 1, 2015.

3. C. New Hires

1) New Hires Who Are Reasonably Expected to Work Full-time:

As described in Section 1.B., until a newly hired full-time employee who is reasonably expected at date of hire to work full-time becomes an ongoing employee, the Look Back Measurement Method will not be used. South Ogden City will temporarily track these employee hours using the Monthly Measurement Method even though the Look-Back Measurement Method would otherwise apply, and will offer coverage on the first day of the month following the start date. South Ogden City will continue to track hours on a Monthly basis using the Monthly Measurement Method until the new employee becomes an “ongoing” employee as described in section 1B

2) All Other New Hires, NOT Reasonably Expected to Work Full-time:

South Ogden City has made the following elections regarding the Measurement, Administrative and Stability Periods for the INITIAL Look-Back Measurement Method for NEWLY HIRED employees who at the time of hire are not reasonably expected to work full-time including those who meet the seasonal employee definition under section 1C.

- **Initial** Measurement Period: South Ogden City has opted to use a 12 month) **Initial Measurement** Period which will begin the first day the newly hired employee starts working.
- **Initial** Administrative Period (split): South Ogden City has opted to use a 1 month (plus a partial month) **Initial Administrative** Period which will be split into two parts. Part 1 is a partial month beginning on date of hire and ending on the last day of the month, the day before the Initial Measurement Period begins (e.g. if employee starts working March 10, Part 1 of the Initial Administrative Period would be March 10 to March 31). Part 2 is the full month immediately after the last day of Initial *Measurement* Period but before the Initial *Stability* Period begins.
- **Initial** Stability Period: South Ogden City has opted to use a 12 month Initial Stability Period which will start immediately after the associated Initial Administrative Period ends. Health coverage will be offered to employees whose hours averaged 130 hours or more per month during the associated Initial Measurement Period. Coverage will be effective on the first day of the Initial Stability Period.

The combined passage of time between a newly hired employee’s start date and the date the newly hired employee is offered health coverage (if eligible) will not exceed more than 13 months, plus

an additional partial month. In other words, the Initial Measurement Period and the Initial Administrative Period combined will not exceed 13 months, plus an additional partial month.

In addition to tracking hours through the Initial Measurement Period, new hires will also have their hours tracked through the first Standard Measurement Period that starts after the date of hire, i.e. for a limited period of months, both the Initial Look Back and the Standard Look Back Measurement Methods will be used at the same time. After one full Initial Measurement/Administrative/Stability period is complete, a newly hired employee becomes an ongoing employee. South Ogden City will stop using the Initial Measurement period and continue tracking hours using only the Standard Measurement Period.

Section 4: Treatment of Employees Who Leave and then Return to Work under Both the Monthly Measurement Method and Look-Back Measurement Method

4. A. Employees Returning from Paid Leave

When using the Look Back Measurement Method and/or the Monthly Measurement Method to track employee hours, an employee's "hours of service" will include hours of paid leave (e.g. sick or vacation time) used by an employee during a Month or during a Look Back Measurement Period even though the employee did not actual work those hours

4. B. Employees Returning from Regular Unpaid Leave

This section explains how, under the Measurement Methods, South Ogden City will determine whether employees returning from unpaid leave are identified as "ongoing employees" or "newly- hired employees."

4. B.i. Determining Employee Status upon Return from Regular Unpaid Leave

- South Ogden City is using The 13 Weeks Rule to determine whether the returning employee is still an "ongoing" employee or whether the employer should be identified as a "newly hired" employee.
 - For employees whose hours are currently measured using the Look-Back Measurement Method
 - An employee who returns from unpaid leave of 13 consecutive weeks or less will be considered an ongoing employee upon return and he or she will be placed back in the Standard Measurement/Stability Period he/she was in before the break. See section 3Bi OR section 3Bii. Note: If the employee left during an Initial Measurement/Stability Period, the employee would finish that cycle.
 - An employee who returns from unpaid leave of more than 13 consecutive weeks will be considered a newly hired employee upon return to work and

will be measured under the Initial Measurement Method (and not the Standard Measurement Method) upon return.

- **EXCEPTION:** See Section 1.B. for special temporary treatment of a newly hired employee reasonably expected to work full time upon return to work.
- For newly hired full time employees whose hours are currently measured using the Monthly Measurement Method pursuant to section 1.B but will thereafter have hours tracked using the Look Back Measurement Method:
 - An employee who returns from unpaid leave of 13 consecutive weeks or less will be considered an ongoing employee upon return. However, for the period wherein hours will be tracked using the Monthly Measurement Method, no prior service hours will be credited unless an employee returns within the same month the employer left.
 - An employee who returns from unpaid leave of more than 13 consecutive weeks will be considered a newly hired employee upon return and hours for that employee will be tracked using the Monthly Measurement Method

13 Weeks Rule

Length of Unpaid Leave	Treatment Upon Return
More than 13 weeks	Treat as a new hire, count only hours of service after return from leave
Up to 13 weeks	Treat as an ongoing employee, and count hours of service before and after the leave

4. B.ii Determining Timing of Benefits upon Return from Regular Unpaid Leave

- **For Those Identified as an Ongoing Employee** – If determined under 4.B.i to be an ongoing employee upon return, hours will be measured using the appropriate Measurement Method he/she was in before the break as described above
 - If an employee returns to work and he/she is identified as a full-time employee (after calculating the average monthly hours worked during the appropriate Measurement Method), the employee will be offered coverage immediately (as soon as administratively feasible, and no later than the first day of the next month—there is no waiting period) and will be treated as a full-time employee through the end of the Standard Stability Period (if using the Look Back Measurement Method) or through the end of the month (if using the Monthly Measurement Method)

- If an employee returns to work and he/she is identified as a part-time employee (after calculating the average monthly hours worked during the appropriate Measurement Method), the employee need not be offered coverage immediately. Instead, the employer would continue to track hours and will calculate again at the end of the current measurement period to determine eligibility.
- **For Those Identified as a Newly-Hired Employee** – If determined under 4.B.i to be a newly hired employee upon return, no prior hours of service will be credited. Hours will be measured using the appropriate Measurement Method for newly hired employees as described in Section 1 beginning on the date the employee had at least one paid hour of work after returning from the break.

4. C Employees Returning from Special Unpaid Leave

- **FMLA or other “Special” Leave:** An employee returning from “special unpaid leave” due to FMLA, military duty or jury duty will be considered an ongoing employee upon return, regardless of the amount of weeks absent, and the employee will be placed back in the applicable measurement method.
- Hours of service accumulated prior to the absence will be credited, and hours of service during the absence will also be credited, as if the employee had not been absent, based on average hours actually worked prior to absence. *Note: It is only under “special unpaid leave” that an employee will be credited for hours of service for which the employee was not paid and was not at work. Employees on other types of unpaid leave will not receive credit for hours absent.*
- After calculating the average monthly hours worked during the appropriate measurement method, when an employee returns to work, if he/she is identified as a full-time employee, the employee will be offered coverage immediately (as soon as administratively feasible, and no later than the first day of the next month) and will be treated as a full-time employee through the end of the Standard Stability Period (if hours are being tracked under the Look Back Measurement Method) or through the end of the month (if hours are tracked under the Monthly Measurement Method).

SECTION 3: COMPENSATION

03.005 General Policy

The compensation philosophy of South Ogden City is to provide employees with a total compensation package that is both fair and competitive in the local government market. The City recognizes the value of its employees and will strive to offer a work environment that promotes collaboration and professional growth.

03.010 Compensation Philosophy

- I. Intent** - South Ogden City recognizes and believes in the importance of recruiting, hiring and retaining qualified, educated, service-oriented and loyal employees. The City understands it is important to competitively compensate its employees for the work they perform. The compensation package provided to South Ogden employees includes salaries, benefits, flexible work schedules, etc. This document establishes the City's compensation philosophy and methodology of how it will strive to maintain a competitive compensation plan. Benefits, work schedules and other important factors in an overall compensation package are not addressed in this section, but can be found in the Benefits section of the City's Personnel Policy Manual.
- II. Compensation Philosophy** - Regarding employee compensation, the City has established the following Strategic Directive:
 - To recruit, develop and retain quality employees by maintaining market-competitive pay rates and demonstrating a commitment to the growth and development of our staff.

In an effort to accomplish this Strategic Directive, the City considers both internal and external equity. The City's objective is to remain competitive by comparing salary data with other municipalities and service districts. When necessary, salary ranges are also adjusted annually by using Consumer Price Index (CPI) data. The City's desire to accomplish this is balanced with the City's budgetary and financial constraints.

Internal equity means that jobs of equivalent value to the City are similarly paid, regardless of the department. Additionally, internal equity means that men and women are given equal pay for equal work. The salary for each position is based on the responsibilities and duties listed in the job description. For this reason, accurate job descriptions are essential. The job description serves as the primary document when completing a job valuation survey. The job valuation survey is a tool which assigns a weighted numerical value to four different focus areas for each job. The four job valuation areas of focus are: 1) job knowledge, 2) job responsibility, 3) job difficulty and 4) work environment. The total job value is an aggregate of the value derived from each focus area. Supervisors should update job descriptions when job duties change significantly and should review them at least annually in conjunction with performance appraisals. If there is a significant difference between the job description and current duties, the supervisor and the employee should update the job description and submit it for review and approval by the Assistant City Manager. A rewritten job description does not mean that the assigned job value and corresponding salary will change, only that it will be reviewed. For each rewritten job description, a job valuation survey will be completed by the Assistant City Manager to determine whether there is a change in the job value. All salary range adjustments for positions within the City must be approved by the City Manager.

External equity means employees are compensated fairly when compared to employees in other organizations doing comparable work in the local job market. In an effort to be competitive in the job market, the City compares the starting salary of jobs within South Ogden with the average starting salary paid for corresponding jobs within the market.

- III. Methodology** - South Ogden recognizes that salary ranges must be analyzed annually and appropriate adjustments must be made to stay competitive. A good compensation plan emphasizes the City's desire to pay competitive rates and ensures an internally equitable salary structure for all employees. The process must be clearly defined so it can be uniformly applied.

In an effort to ensure that jobs remain competitive, city salaries will be adjusted annually using the Consumer Price Index (CPI), West Region, Mountain Division. The CPI index will be gathered from the United States Department of Labor (<https://www.bls.gov>). The January index number will be used as the CPI index for the upcoming fiscal year.

- i. External Market** - The external market used for comparison of salaries is Riverdale, Utah. The salaries for each position are determined using current market data as well as a regression analysis. The regression analysis is based on the job value for the City Manager position and its relationship with the job value for each position within the city.
 - ii. Market Analysis** - Every three years, external comparison data will be analyzed position by position and salary adjustments will be made as necessary to keep salaries within the market. To facilitate the comparison, the Assistant City Manager will compare external market data from Technology Net's Compensation Survey System (www.comp-survey.com) or other data source(s) determined to contain accurate and reliable compensation data.
 - iii. Salary Ranges** - Salary ranges have been established utilizing market data to show the minimum and maximum for a specific job. South Ogden salary ranges are determined by using the average market starting pay as the base pay. The maximum rate of pay for each position is 160% of the average market starting pay. The minimum and maximum rates of pay are distributed over a 15-step scale for sworn public safety positions and an 18-step scale for all other positions.

The 18-step scale, illustrated below, starts at a 3.6% increase on step 2 and each step decreases by a tenth of a percent until it ends with a 2.1% increase at step 17 and 18.

South Ogden Employee Salary Range*																	
*Does not include sworn Fire and Police																	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Min								Mid									Max
	3.6	3.5	3.4	3.3	3.2	3.1	3	2.9	2.8	2.7	2.6	2.5	2.4	2.3	2.2	2.1	2.1

The 15-step scale has a 4% increase for steps 2-8. Steps 9-14 have a 3% increase. Step 15 is a 1.8% increase from the previous step.

The chart below illustrates the 15-step pay scale. The percentage listed is the difference between that step and the previous step.

Fire and Police pay range														
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Min							Mid							Max
	4%	4%	4%	4%	4%	4%	4%	3%	3%	3%	3%	3%	3%	1.80%

- IV. Pay-for-Performance** - Pay-for-Performance or Merit pay systems are based on the philosophy that individuals should be paid according to their contributions to the organization. Pay increases are based on the employee's performance rather than seniority, equality or need. Each year, employees are eligible for an increase up to the value of a one-step increase until they reach the top of the scale for their position. It is customary that employees receive a one-step increase for positive performance each year. If, however, the Department Director determines the value of a full step is not warranted because of performance issues, the Department Director may withhold the step increase or give a partial increase for that year. If an employee does not receive an increase, that employee is not eligible for a merit increase until the following year. If the employee receives less than a one-step increase in a given year, in future years that employee is only eligible for an increase equal to the percentage difference between the current step and the next step as defined by the pay scale. When this occurs, the employee will lag in pay commensurate with the scale step until the employee is topped out or gets promoted. Employees who do not receive the full step increase are still eligible for a CPI index adjustment.
- V. Promotions** - When an employee is promoted to a new position, that employee will be moved to the pay scale associated with that position. The step the employee is placed at will vary according to the current pay of the employee being promoted. The standard increase will be a step that is 10% above the current pay of the employee.

- The percentage increase may be more or less with the approval of the City Manager. Under no circumstances will the employee be placed at a step that is below the minimum pay for the new position.
- VI. Special Considerations** - During years where budget constraints do not allow for a CPI index adjustment and a merit increase for eligible employees, the City will implement a CPI index adjustment or a portion thereof to keep the scales as competitive as possible within the market. All increases are subject to budget availability.
 - VII. Health Insurance Premium Offset** – In an effort to increase employee benefits, effective January 1, 2020, eligible South Ogden City employees will be required to pay ten (10) percent of the health insurance premium each month. To offset this cost, South Ogden City will contribute an additional \$160.00 per month in additional pay to each full-time employee. As health insurance premiums increase or decrease, the HIPO contribution shall be indexed according to the annual percentage change to the health insurance premiums. The index shall be capped at eight (8) percent. Any increase above eight (8) percent shall be paid by the employee. For example, if the health insurance premium increased by 5%, the HIPO contribution would be increased by 5%, resulting in an offset contribution of \$168.00 per month. If health insurance premiums increased by 10%, the monthly HIPO contribution would be increased 8% (the cap) to \$172.80 and the additional 2% would be the responsibility of the employee. If the health insurance premium decreased 5%, the monthly HIPO contribution would be decreased by 5% to \$152.00 and if the health insurance premium decreased 10%, the new monthly HIPO would be decreased 8% (the cap) to \$147.20.
 - VIII. Council Compensation-** Increases in Council Compensation will be linked to the Consumer Price Index (CPI), West Region, Mountain Division. The CPI will be gathered from the United States Department of Labor (<https://www.bls.gov>). The January index number will be used as the CPI for the upcoming fiscal year.
 - IX. Conclusion-** South Ogden City understands that its ability to provide the quality public services that the residents of the City want, need, and desire depends largely on the quality of the work force it is able to recruit, hire and retain. A competitive, well-managed, compensation plan plays an important part in helping the City achieve this goal. The guidelines contained in this policy exist to assist management by providing a clear and understandable approach to the city's compensation philosophy and administrative guidelines.

03.050 Acting Positions – Qualifications

Subject to the terms and conditions of this policy, the City intends to provide a framework and guideline within which eligible employees may be appointed to acting positions. This policy applies only to merit service and classified employees being appointed to acting positions. When the acting position is within the classified service, the appointment shall

follow the rules and procedures of the Civil Service Commission in filling acting positions.

The decision to place an employee in an acting position of another person or position will be made by the Department Director, except where the acting position is subject to appointment by the City Manager or the Mayor. An employee is appointed temporarily (due to a vacancy or the temporary absence of an incumbent) to an acting position of higher compensation and authority, only when he/she assumes all the functions and authority of the higher position. Appointments shall be approved in writing by the City Manager.

Subject to the terms and conditions of this policy, an employee performing work and service within the scope and role of an acting position, shall enjoy the benefit of additional compensation for such work and service. When the employee has performed at least thirty (30) consecutive days of service, or one full work shift for an acting position in the classified service, the employee shall be compensated a 5% higher than their current position in the pay range. Any service in an acting position of less than thirty (30) consecutive days, or, in the classified service any number of hours less than one full work shift, will be provided no additional compensation.

It is the policy of the City to prohibit any employee, who is the subject of any current disciplinary action, from serving in any acting role, position or capacity. Department Directors will consider the severity of any open disciplinary investigation, review or action, or prior disciplinary preceding any consideration for the acting position.

Maximum time any employee may perform work and service in an acting position or capacity is twelve (12) consecutive months. Should the position still be open at the end of twelve (12) consecutive months, the Department Director, the City Manager or the Mayor will act to either fill the position or eliminate the position.

03.055 Overtime and Hours of Work

When operating requirements or other needs cannot be met during regular working hours, employees may be scheduled to work overtime hours. When possible, advance notification of these mandatory assignments will be provided. All overtime work must receive the supervisor's prior authorization. Overtime assignments will be distributed as equitably as practical to all employees qualified to perform the required work. Failure to work scheduled overtime or overtime worked without prior authorization from the supervisor may cause disciplinary action, up to and including possible termination of employment.

Overtime compensation is paid to all nonexempt employees under federal and state wage and hour restrictions. The Fair Labor Standards Act (FLSA) sets forth certain conditions and procedures under which overtime is determined. However, certain positions as defined by FLSA may not require the payment of overtime, even if the employees in these positions work over 40 hours in a week. Classification under FLSA must be approved by the City Manager.

All work and service activity performed for the City under the direction and with approval of supervisory staff shall be compensable hours of work to perform overtime calculations and overtime calculations, as determined and controlled by applicable policy of the City. Overtime

will be paid at a rate of time and one-half the equivalent hourly, base wage rate.

Overtime pay is based on actual hours worked. Paid time off, such as sick leave, vacation leave, holidays, or any other leave of absence will not be considered hours worked to perform overtime calculations. Additional compensation, such as call-back duty pay or holiday pay that does not reflect actual hours worked, or additional compensation for special duty that already reflects overtime compensation shall not be used to calculate additional overtime pay. Notwithstanding the above, the following time may be used in the calculation of hours worked for overtime:

- A. Employees subject to call-back and call-out requirements in their job shall be allowed to include reasonable travel time directly associated with travel to perform emergency or additional duties in the computation of hours worked.
- B. When an employee uses compensatory time during the work week, those hours will **not** count as actual hours worked for calculating overtime pay.

Sworn fire officers (i.e., those employees hired to provide direct fire suppression and emergency relief services) and emergency services personnel will be paid overtime based on FLSA guidelines for those hours over 96 (5 OT) actually worked in a 12-day work period. Overtime for these employees will be paid on the first regularly scheduled pay day falling at least one week after the end of the 12-day work period in which the overtime occurred.

Sworn police officers are paid overtime based on FLSA guidelines for those hours over 86 worked in a 14-day work period depending on adopted work schedule of the entire department. (See [Compensatory Time Section 03.060](#) for the compensatory time accrued for “Gap-Time.”)

Other non-exempt employees (except sworn fire officers and emergency services personnel and sworn police officers) are paid overtime based on those hours over 40 worked in a 7-day work period.

The normal work schedule for most employees is eight hours a day, five days a week. Employees are scheduled to begin work at 8:00 a.m. and end work at 5:00 p.m., Monday through Friday. However, these hours or days may vary, depending upon work requirements and departmental functions. Work schedules, which vary from the above general rule, may be established by the Department Director or supervisor. Examples of differing work schedules would commonly involve shift work, such as in public safety or public works, or could involve Flexible Scheduling/Time off Plans policies.

The City’s pay period for all employees is based on two (2) consecutive weekly periods each which begins at 12:01 a.m. on Saturday and ends on the next Friday at 12:00 p.m. (midnight). Due to operating requirements and work demands, each employee’s own work period may vary from the City’s defined pay period.

Except for sworn fire fighters working shifts, the work period for all employees is based on a 7-day period, with no more than 40 hours regularly scheduled within such 7-day period. Unless an alternative 7-day work period has been established, an employee’s work period under conditions

governed by the federal Fair Labor Standards Act (FLSA) begins at 12:01 a.m. on Saturday and ends at midnight on the following Friday.

A Department Director may establish a different beginning and ending date and time for such 7-day period. Department Directors shall inform the City Manager, in writing, of the beginning and ending day and time for any such 7-day work period that varies from the general rule above. Information regarding the establishment of alternative work periods will be maintained in each employee's personnel file.

The work period for all sworn full-time firefighters is 96 (5 OT) hours in a 12 day period. Nonexempt firefighters working in excess of 96 hours in a 12-day period will be compensated at time and one half. The Fire Chief will designate the beginning and end of the 12-day work period. Part-time fire fighters will work 12 hours shifts and cannot work over 116 hours in any 14-day work period.

Supervisors shall inform employees of their work schedules and applicable work period. Employees are expected to be at work and ready to commence work at the start of their shift or established work schedule, and to remain working until either an approved break, or the end of their scheduled work day or shift. Employees wishing to leave at other times must check with and obtain approval of their supervisor.

03.060 Compensatory Time

Subject to the terms, conditions and limitations of this policy, the City provides compensatory time off in lieu of actual pay for merit and classified employees. The City places restrictions on both the accrual of compensatory time (sometimes referred to as, "comp time"), and payment for such. All eligible employees must sign a form annually designating their preference for compensatory time or overtime payment. The City, at its discretion, retains the right to pay overtime.

Subject to appropriate management discretion, it is the City's intent to allow compensatory time for designated employees, as approved by the Department Director as an alternative to payment of compensation for overtime hours worked. No compensatory time is allowed except in compliance with this policy. Compensatory time, as allowed by this policy, is another management tool available to departments to help direct and control the work force. Compensatory time off cannot be granted in advance of it being earned.

Compensatory Time Defined

Compensatory time is defined as the accrued time credits after having worked 40 hours in any week to an employee which the employee may take off work (excluding vacation leave, sick leave, and holiday leave), subject to department and City policy, at the employee's normal, regular base pay rate.

Eligible Employees

Compensatory time off is only allowed for the following City employees:

- Full-time classified

- Full-time merit
- Part-time employees – for work over scheduled budget hours

A cap on compensatory time for eligible employees may be set by Department Directors.

Classified Sworn Police Officers

Compensatory time off is only accrued in one-half hour increments at the employee's normal, regular base pay rate for hours worked from 40 to 43 (three hours maximum) in a 7-day work period, or 86 hours worked in a 14-day period.. (This 3 hour period is known in the City as "gap-time", which comprises the first three hours that a sworn police officer works above the regularly scheduled 40 hour work schedule. All hours worked over 43 hours in a 7-day work period will be paid to the employee at a rate of one and one-half times the employee's normal, regular base pay rate in the payroll period in which it was earned.

03.065 On Call Pay

Employees of the City in the Public Works and Police Departments required to serve in an "on-call" status and be available for a call back to work for up to a week during otherwise unscheduled, off duty hours. On-call employees are expected to comply with the City's Fitness for Duty policy during this on-call period. Employees cannot be in an on call status at the exact same moment they are on leave for sick, vacation or comp time.

It is the policy of the City to pay employees designated as on-call two (2) hours of overtime each day if on call Monday through Friday. On Saturday or Sunday, employees will receive three (3) hours of overtime pay each day they are placed in an on call status. If an employee in the Public Works Department performs actual work because of being called back to work, they will be paid any additional overtime for hours worked, with a minimum of one hour pay. If a police officer performs actual work and service because of being called back to work, they will be paid any additional overtime for hours worked, with a minimum of two hours pay. When a sworn police officer is designated as on-call employee, that officer shall receive a minimum of 5 hours of overtime for each week in which they serve in a paid on-call, or call-back status. If the officer performs actual work and service because of being called back to work, they will be paid any additional overtime for hours worked over 86 hours for the pay period, with a minimum of two hour's pay.

03.070 Other Compensation Considerations

Employees eligible for overtime compensation may be required to perform additional work and service outside their regular job duties that relate to the functions of their primary job duties and the needs of the department.

Additional work and service outside regular job duties may be approved and assigned through established authority and performed while at work and/or during scheduled work times. Such additional work or service shall be compensated as part of the employee's regular pay or compensation and is subject to overtime based on the employee's regular, base pay rate. While not all inclusive, examples of additional duties and services are: training or instruction (on a formal or informal basis); assisting another employee in completion of his/her own duties; or, temporary

work performed outside the normal duties and functions within an employee's job description. A special consideration is given to police officers who train, handle and board a member of the City's Canine Corps on their own time and at their own residence. (See Police Policies for the Canine Corps Pay policy.)

03.075 Appointment

- A. Pay for newly hired employees shall normally be set at the minimum of the pay range assigned to a job class. However, the City Manager may approve hires up to the range of midpoint, as warranted by job qualifications and experience subject to the availability of funds.
- B. The City Manager shall not authorize hiring above the midpoint of a pay range except in unusual circumstances.

03.085 Flexible Scheduling/Time off Plans

It is the policy of the City to provide work-scheduling tools to supervisors and Department Directors to help adequately manage their work force and direct the scheduling of work in their respective departments. The City encourages using Flexible Scheduling and Time off Plans by supervisors and Department Directors to meet workload demands and fulfill work requirement given the limitations of funds, staff and other resources available to their respective departments.

As stated in the Compensatory Time policy in this handbook, Time off Plans are a tool available to supervisors and Department Directors to direct and control the flow of work and work scheduling to comply with budgetary restraints and still meet work demands.

As allowed under the Fair Labor Standards Act (FLSA), South Ogden City's policy allows the supervisor of a nonexempt employee to schedule the employee to work a differing number of hours during a work period. This means the employee works more hours during one portion of a work period, and less hours during another portion of the same work period. Times off Plans are designed to control or limit the accumulation, accrual or payment of earned compensatory time and/or overtime by employees. Employees benefit with reduced work periods while still earning their full-time compensation. ([See Compensatory Time Policy Section 03.060](#))

Department Directors can implement Time off Plans for one or more of their respective employees as a tool to better manage the time, staff, money, and other resources available to their department.

03.090 Flexible Scheduling

Flexible Scheduling allows supervisors and Department Directors to schedule one or more employees to come to, or leave, work earlier or later during the normal work week hours.

Examples of Flexible Scheduling are:

- A. Example A: An employee has worked 40 hours in 3 days, and is normally scheduled to work another 2 days in the remaining portion of the workweek. The employee is directed to leave work and not report for those days remaining in the workweek.

- B. Example B: A single parent arranges with his/her supervisor to arrive at work at 8:30 a.m. and leave at 5:30 p.m. to facilitate the delivery and pick up of a child from day care.

03.095 Attendance

Employees shall be in attendance at their work stations during normal working hours, as defined by their Department Director, or designee.

03.100 Breaks and Lunch Periods

Each workday, most full-time nonexempt employees are provided with up to two break periods. Sometimes, workload or emergencies may preclude two rest periods. In such cases, employees may be allowed to have beverages and snacks at their desk(s) or place of work throughout the work period. Supervisors will advise employees of the regular break period length and schedule. To the extent possible, break periods will be provided in the middle of work periods. Since this time is counted and paid as time worked, employees must not be absent from their workstations beyond the allotted break period time.

All full-time regular employees are provided with one meal period of 30-60 minutes in length each workday. Supervisors will schedule meal periods to accommodate operating requirements. Unless designated as part of scheduled work time, employees will be relieved of all active responsibilities and restrictions during meal periods. When employees are relieved of all active responsibilities, they will not be compensated for that time.

03.105 Trading Work Shifts

The City allows Sworn Police and Fire Personnel to trade their scheduled hours or shifts of work under certain limited, qualifying conditions. These employees must request and obtain approval from their immediate supervisor and their Department Director in to trade a scheduled shift or work duty with another.

Since overtime must be paid by the City, trading shifts or schedule of work will not be permitted when any consequential overtime might occur. The department director is responsible to keep accurate and current records on all trading time.

At no time will the City approve of any trading of scheduled work or duty when either:

- A. Proper approval has not been obtained.
- B. The safety and protection of the public would direct otherwise, given the mission and duty of the department in which the trading of time would otherwise occur.

SECTION 4: BENEFITS

04.005 General Policy

South Ogden City offers a comprehensive benefit plan for all fulltime employees. The benefits summary is listed below. Please see the Assistant City Manager for complete details.

04.010 Medical Health Insurance

Subject to the terms and conditions of the group health insurance plan offered by the City and as provided by an approved Plan Provider, the City offers coverage for medical health insurance benefits for employees in eligible employment classifications. Eligible employment classifications are:

- Full-time employees
- Qualified, Part-time employees
- Non-merit, Special employees
- Introductory employees in the above classifications

Eligible employees may elect to participate in a group health insurance plan during annual open enrollment, or during the following life events:

1. Marriage, divorce or separation (marital status change)
2. Birth, death or adoption of a child (dependent status change)
3. Death of an employee or spouse
4. Spouse begins or terminates employment, affecting benefit coverage
5. Spouse loses health insurance coverage through his/her employer
6. Employment status change of an employee (i.e., moving into an eligible employment classification)

The City sponsors group medical health insurance plans, which are organized and administered through the terms and conditions of each Plan Provider. Employees granted coverage under any terms or agreement must also meet the conditions of eligibility as established by the Plan Provider. Information about each available plan (benefits, costs, etc.) is provided to eligible employees during open enrollment, upon hire, or through the Assistant City Manager.

Group medical health insurance coverage begins on the first day of the month following the hire date which establishes an eligible employment classification, and enrollment is established through the proper and timely completion of certain written forms and records. If no selection is made by the employee upon entering an eligible classification or during “open enrollment” periods in the calendar year, the City will provide at least minimum core coverage through a specific group Plan. Once notified, employees who fail to turn in their plan enrollment form when due will be eligible only for minimum core coverage until the next available qualifying enrollment period.

Under the terms and conditions of the group medical plan coverage and benefits, certain medical

services and costs may not be covered or provided for in a Plan or through a Plan Provider, depending upon the type of plan the employee selects. The specific plan provisions, including premium costs, co-payment amounts, deductibles and other factors related to plan coverage, are subject to change depending upon any Plan Provider which the City approves and selects.

Employees hired before February 18, 1997, who meet the conditions for retirement as determined by the South Ogden City-sponsored retirement plan may elect to continue their health insurance coverage upon retirement. In such case, those retirees shall have their full premium paid for by the city for insurance group coverage for a period of five (5) years for themselves and their dependents or until the June 30th following the retiree's 65th birthday. If the employee becomes ineligible for health insurance the June 30th after their 65th birthday, but his/her spouse has not turned 65 and is therefore not eligible for Medicare, the City will continue to carry and pay for individual health insurance until either five years after the employee's retirement date or until the June 30th after the spouse has turned 65. The first 18 months will be handled under COBRA provisions and any remaining time under a conversion policy. Under no circumstances, however, will the City pay for health insurance either for the retiree or a spouse longer than five years from the date of the employee's retirement.

Where an employee of the City: 1) is eligible for participation in the City's health and dental care plan, and, 2) provides proof on at least an annual basis he/she is covered by another health care program, that employee may elect to: 1) avoid participation in the City's health and dental care program and, 2) may receive an annual contribution of \$1500 for health opt out and \$500 for dental opt out supplement to that employee's base salary, which supplement must then be used by the employee on the "cafeteria" benefit of their choosing including, but not limited to: Flexible Spending Account (FSA), Dependent Care, and where not otherwise prohibited by law or regulation, 401(k) or related retirement programs. Retired employees who are eligible for insurance coverage may also opt out of insurance coverage. The decision to opt out of insurance coverage for a retiree is irrevocable.

When the employee elects to participate in the City's health and dental care program, and said employee is otherwise eligible to participate or, when the employee can no longer provide the annual proof of continuing coverage under an alternative source health care program, the employee shall no longer receive the annual supplement and shall otherwise be treated as and included with all other employees to receive benefits.

The City Manager, or his designee, may, without a further resolution of the Authority, execute any and all agreements and / or related documents or amendments which may, from time to time, be necessary or appropriate to enacted and effectuate the benefits created and continued, or to adopt or maintain the City's benefits in compliance with applicable federal, state and local law.

04.015 Dental Insurance

Subject to the terms and conditions of any approved insurance plan, the City sponsors dental insurance coverage and services through dental insurance plans. Employees in eligible classifications may select the dental insurance coverage they wish.

Eligible employees are:

- Full-time employees
- Qualified, Part-time employees
- Non-merit, Special employees
- Introductory employees in the above classifications

Eligible employees may elect to participate in a dental insurance plan during annual open enrollment, or during the following life events:

1. Marriage, divorce or separation (marital status change)
2. Birth, death or adoption of a child (dependent status change)
3. Death of an employee or spouse
4. Spouse begins or terminates employment, effecting benefit coverage
5. Spouse loses health insurance coverage through his/her employment
6. Employment status change of an employee (e.g., moving into an eligible employment classification.)

The City sponsors one or more group dental insurance plans, which are organized and administered through the terms and conditions of each Plan. Information about each available plan (benefits, costs, etc.) is provided by the Assistant City Manager.

Group dental insurance coverage begins on the first day of the month following the hire date which establishes an eligible employment classification, and enrollment is established through the proper and timely completion of certain written forms and records. Employees granted coverage under any terms or agreement must also meet the conditions of eligibility as established by the Plan Provider.

Under the terms and conditions of the group medical plan coverage and benefits, certain dental services and costs may not be covered or provided for in a plan or through a Plan Provider, depending upon the type of plan the employee selects. Certain costs related to dental services, prosthesis and products are borne directly by the employee. The employee is responsible for certain amounts or portions of fees charged such as deductible amounts and co-payment amounts. The specific plan provisions, including premium costs, co-payment amounts, deductibles and other factors related to plan coverage, are subject to change depending upon any Plan Provider which the City approves and selects.

Retirees hired before February 18, 1997, who meet the conditions for retirement as determined by the South Ogden City-sponsored retirement plan may elect to continue their dental insurance coverage upon retirement. In such case, those retirees shall have their full premium paid for by the

city for insurance group coverage for a period of five (5) years for themselves but not for their dependents. Qualifying retired employees desiring continued dental coverage for their dependents may elect to continue dependent dental insurance coverage under the terms and conditions of the group dental insurance plan sponsored by the City for retirees. The retirees shall be required to pay a monthly premium amount as determined and charged by the insurance Plan Provider of the City plus a 2% administrative fee. **Employees hired after February 18, 1997, are not eligible for either the 10% of gross salary benefit or City payment of health and dental insurance premiums.**

04.020 Life Insurance

The City sponsors a life insurance policy for all sworn police officers. The life insurance coverage provides a \$50,000 lump sum benefit if an employee's death occurs.

The City also provides a \$25,000 Life and a \$25,000 Accidental Death and Dismemberment Insurance policy on all qualifying employees. Employees may at their discretion cover their spouse and dependents as well, but the employee will be required to pay the price as established by the insurance company.

All city employees are eligible for a death benefit by their participation in the State retirement programs. Amount of the benefit varies among the retirement programs. Additional information can be obtained from the State Retirement Office at www.urs.org.

04.025 Long Term Disability

Subject to the terms and conditions established and controlled by the plan provider and/or other Disability Plan Provider(s), the City sponsors long-term disability insurance coverage for employees in eligible classifications to provide income protection against the loss of an employee's ability to work and earn income for periods of time exceeding 90 days.

Eligible employment classifications are:

- Full-time employees
- Non-merit, Special employees
- Introductory employees in full-time positions in the above classifications

Other eligible employee classifications, which might be provided long-term disability insurance coverage, are those for whom contributions are made by the City into the Utah State Retirement System.

Under the long-term disability insurance plan, there is a waiting period of 90 days before benefits begin. The City pays for the premium cost(s) associated with the respective long term disability insurance plan and policy provisions for covered employees. More information about respective coverage or plan participation may be obtained through the Assistant City Manager.

04.030 Unemployment Insurance

Under state law, the City provides an unemployment insurance program. Employees separated from employment with the City may be eligible for unemployment insurance benefits. The unemployment insurance program assists employees temporarily out of work through no fault of their own.

Established as part of a nationwide effort, the unemployment insurance system has as its main purpose the economic stabilization of businesses and communities in times of unexpected or high unemployment. Employees who voluntarily quit without good cause, or who are discharged for misconduct under certain “for cause” reasons, do not qualify for unemployment. The sole authority in determining a worker’s eligibility for unemployment benefits rests with the state unemployment insurance agency. Claims may be filed and benefits determined and coordinated through the local Job Service Office.

04.035 Workers Compensation

- A. All employees are covered by worker’s compensation, which provides medical reimbursement and disability benefits for job-related illness or injury. An employee does not accrue benefits while receiving workers compensation payments. For exact compensation coverage, check the workers compensation contract on file with the City Manager, or designee.
- B. Employees may use accrued vacation or sick leave to make up the difference between workers compensation benefits and their base pay.
- C. The employee must turn over to the city any money received by the workers compensation carrier. The finance director will reimburse the employee’s leave account according to the amount of the compensation provided by the workers compensation carrier.
- D. Medical Attention. An employee who sustains a bona fide, on-the-job injury may seek medical attention from the approved Worker’s Compensation medical facility. They must tell the doctor, HOW, WHEN and WHERE the accident occurred. The doctor will complete a medical report and copies of this report should be sent within seven (7) days to the insurance carrier, the Industrial Commission, and to the injured worker (Please Note: Do not submit doctor or hospital bills for on-the-job injuries or illness to the regular medical plan).
- E. Initial Reporting of Illness or Injury. Reporting the accident or illness is critical to qualification for payment under workers compensation. If an employee is injured while on the job, no matter how minor, the circumstances should be reported by filling out a first report of injury form and submitting it to the Assistant City Manager or designee.
- F. Return to Service. All employees must return to work after the approval of the attending physician. A statement from the attending physician stating the employee can resume normal duties will be required before returning to work. Failure to return to work when directed may cause immediate termination. An employee able to return to work in light

duty status may be required to work in a different department and perform duties not contained within their current job classification.

04.040 FMLA

Please refer to Chapter 11, [Leaves of Absence for FMLA policies](#).

04.045 Retirement Plans & Social Security Coverage

All full time South Ogden City employees are covered by the Utah State Retirement Systems, unless otherwise authorized by the City Council according to State Law. (This is in addition to their Social Security coverage).

The City offers three (3) types of retirement programs to employees in eligible employment classifications funded in part by the City, and in part by those eligible employees. Eligible employment classifications are specific to each type program, subject to the terms and conditions as described in this policy.

Social Security

- All employees are covered under the federal Social Security program. Social Security is designed to provide supplemental income to workers who retire. Social Security was not designated to provide retirement income, which will maintain a recipient at a lifestyle attained during working years.

Utah State Retirement

Subject to the terms, conditions and limitations as defined and regulated by the Utah State Retirement Board, the City provides coverage for employees in eligible employment classifications in the Utah State Retirement System. Eligible employment classifications are:

- Full-time employees
- Qualified, Part-time employees
- Non-merit employees
- Introductory employees in the above classifications

The following positions that are possibly eligible to exempt from retirement in accordance with Title 49:

- Mayor
- City Council member
- City Manager
- Assistant City Manager
- City Attorney
- Public Works Director
- Finance Director

- Police Chief
- Police Lieutenant
- Fire Chief
- Deputy Fire Chief

Tier 1 and Tier 2 Public Employees Retirement Systems

Membership Eligibility Requirements

Employees qualify for membership and must be certified eligible, if they meet **one** of the following:

- Their employment, contemplated to continue during a fiscal, school or calendar year, normally requires an average of 20 hours or more per week **and** they receive at least one of the benefits approved by the Retirement Board. These benefits consist of any leave benefits, employer contributions to a savings plan or insurance premiums given to the employee or paid for by the employer on the employee's behalf (this excludes payments mandated by state or federal law).
- They are Tier 1 elected officials or appointive officers (excluding elected or appointive State of Utah judges) who earn the minimum salary required by law beginning with their first full month in office and continuing throughout their term of office. The minimum salary is increased yearly based on the consumer price index.
- They are Tier 2 elected officials or appointive officers whose positions have been declared full time by their employers.
- They are in a probationary status and meet eligibility requirements (Probationary employees who meet eligibility requirements must be certified immediately).
- They perform services through an employee leasing or similar arrangement but qualify as employees under IRS guidelines and they meet eligibility requirements.

Appointive officers are employees appointed to a position for a definite and fixed term of office by a participating employer's official and duly recorded action, which is recorded in the employer's charter, creation document, or similar document. Appointive officers include [justice court judges](#).

Tier 1 appointive officer eligibility requirements are not determined by the number of hours worked or the benefits provided, but rather by the minimum earnings requirement each month during the term of office.

Tier 1 appointive officers of a city, town, county, or other political subdivision who meet the minimum earnings requirement for membership, and are not entitled to merit protection, may be certified online as either eligible for, or exempt from, retirement coverage.

Appointive officers, whose positions are full time positions, as certified and documented by the participating employer in a defined process, and who initially began employment on or after July 1, 2011, will be placed in the Tier 2 pension plan. All Tier 2 participants must make an election to participate in either the Tier 2 Hybrid pension plan or the Tier 2 Defined Contribution (DC)

Plan within the first 12 months of employment. For the first 12 months of employment, regardless of the employees' election, employers must report contributions into the Tier 2 Hybrid pension plan. At the end of 12 months, URS will transfer funds for all employees who have chosen to participate in the Tier 2 DC Plan and will notify employers to update reporting information.

Like appointed officials, Tier 1 elected officials' eligibility requirements are not determined by the number of hours worked or the benefits provided, but rather by the minimum earnings requirement each month during the term of office. Tier 1 elected officials working for a city, town, county, or other political subdivision, who meet the minimum earnings requirement for membership and are not entitled to merit protection, may be certified online as either eligible for, or exempt from retirement coverage.

Elected officials whose position is a full time position, as certified and documented by the participating employer in a defined process, and who initially began employment on or after July 1, 2011, will be placed in the Tier 2 Defined Contribution plan. (Elected officials are only eligible to participate in the Tier 2 Defined Contribution (DC) Plan) Part-time elected officials may have employer contributions and employee deferrals directed to a savings plan, like other employees ineligible for pension coverage, however participation is not required by Title 49.

Information about coverage, contributions, benefits and programs may be obtained through the Utah State Retirement Office in Salt Lake City, Utah.

South Ogden City Retirement Benefits

For employees of South Ogden hired **prior** to February 18, 1997:

Public Safety Employees

Twenty Years: Public safety employees who have been employed for not less than twenty (20) years as public safety employees of South Ogden City shall, at the time of their retirement from City employment and upon their participation in the State Public Safety Retirement Program, have the option of receiving their choice of EITHER **(i)** a retirement benefit payment equal to ten (10) percent of the employee's highest annual base salary for the last five (5) years of City employment to be paid to the employee annually for five (5) years after retirement from City employment; OR, **(ii)** payment by the City of health and dental insurance for the retiree as set out in the "Dental Insurance" section above, for five (5) years, as described in the Medical Health Insurance section of this policy.

Twenty Five Years: Public Safety Employees who have **(i)** been employed by the City for not less than twenty (20) years as public safety employees, and **(ii)** have at least twenty-five (25) years of service under the State Public Safety Retirement Program, shall be eligible to receive BOTH **(i)** a retirement benefit payment equal to ten (10) percent of the employee's highest annual base salary for the last five (5) years of City employment to be paid to the employee annually for five (5) years after retirement from City employment; AND, **(ii)** payment by the City of health and dental insurance for the retiree as set out in the "Dental Insurance" section above, for five (5) years, as described in the Medical Health Insurance section of this policy.

Public Employees

Twenty Five Years: Public employees (all non-public safety employees of the City) who have been employed for not less than twenty five (25) years as employees of South Ogden City shall, at the time of their retirement from City employment and upon their participation in the State Public Employee Retirement Program, (or its lawful successor, if any), **if** they exercise their rights under the State Public Employee Retirement Program to “buy” additional retirement credit to qualify for a thirty (30) year retirement under the State Program, be eligible to receive BOTH a retirement benefit payment equal to ten (10) percent of the employee’s last annual base salary to be paid to the employee annually for five (5) years after their retirement from City employment; and payment by the City of health and dental insurance for the retiree as set out in the “Dental Insurance” section above, for five (5) years.

In the event of the employee’s death, the remaining annual stipend will be paid out in a lump sum to the estate or person listed as a beneficiary.

The City will also pay to all employees retiring under the Utah State Retirement System a lump sum payment for all accrued vacation and for accrued sick leave up to 480 hours.

04.050 Qualified Savings Plan

As a benefit to employees, and to help plan for employee’s retirement and long-term financial security, the City offers qualified savings plans through the State Retirement System. Information on the options available can be secured from the Utah State Retirement System.

The City encourages all employees to save for their future, to meet personal goals and to plan for solid financial health. As with any financial investment, risks exist of which employees should be aware. The qualified savings plans sponsored by the City can be excellent tools for employees to maintain their own financial health and success. Employees are strongly encouraged to consider and participate in these qualified savings plans.

04.055 Insurance upon Retirement (Health and Dental)

As stated in the Benefits Continuation (COBRA) policy in this handbook, retirees of South Ogden City may elect to continue group health and dental insurance plan benefits and coverage for a period of up to eighteen (18) months under the same coverage, terms and conditions they had immediately prior to retiring. Under COBRA, retirees of the City are responsible for the monthly premium costs of applicable health and dental insurance plan coverage, including a 2% administrative fee, and are required to timely pay monthly premiums.

After 18 months under COBRA extended group health and dental insurance plan benefit coverage, South Ogden City retirees may elect, at their own expense, to extend the insurance benefits available through the City sponsored group plan and under the same conditions offered to other employees. The exact cost of the premium amount is determined annually through negotiated agreement by the City with the plan provider.

04.060 Clothing Allowance

It is the policy of the City to assist employees with applicable costs of uniforms and clothing accessories mandated by the City. This assistance is in the way of financial assistance or allowance to ensure employees maintain clean, neat and proper uniform and appearance in their role(s) of representing the City and its reputation and interests, or in the provision of actual clothing items or safety gear.

The clothing and accessories allowance covers the acquisition, repair, cleaning, upkeep and replacement of required and appropriate uniforms, safety equipment and clothing accessories as directed and controlled through employee's respective departments and Department Directors.

The financial assistance provided through and under this clothing allowance policy shall be treated and considered a separate and distinct matter apart from any other compensation pay plan, compensation, wage adjustment, benefit overtime considerations or other forms of compensation and are processed for payment monthly.

If financial assistance is provided to the employee for uniform, it may be considered income under the state and federal law and is subject to social security taxes and may not be deductible on the employee's personal taxes. It is the employee's responsibility to check with their own accountant or other sources to obtain information on income and tax law that might affect their personal circumstances.

Notwithstanding the foregoing, Departments for and on behalf of its employees, and at the discretion of the Department Director, and subject to the City Manager approval, may choose and establish an alternative form of uniform compensation to include, but not limited to the establishment of a full uniform replacement and cleaning program as approved and budgeted each year. This means then that since the current practice in some departments is based on the alternative form of uniform compensation the option for returning to the prior uniform allowance program, or modification of such, is still available to the Department without further action by the City Council.

Public Works

Each Parks and Public Works Employee, who is determined by their Department Director to be involved in work that requires or warrants protective clothing, will be provided by the City clean coveralls on a biweekly basis. The following safety gear will be provided by the City annually if needed:

1. Safety Glasses (OSHA-ANSI Standards)
2. Safety Goggles (OSHA-ANSI Standards)
3. Hard Hat (OSHA-ANSI Standards)
4. Safety Vest (OSHA-ANSI Standards)
5. Back Brace (OSHA-ANSI Standards)

All the above required safety equipment will be the responsibility of the employee to keep in good condition. Employees will be subject to safety gear inspection periodically. Employees not having the required safety gear will be given a written warning and one (1) working day to acquire the lacking safety gear. If the employee does not show visual proof to his or her supervisor the

equipment has been obtained, the employee will be suspended without pay until the employee has in his or her possession the required safety gear.

04.065 Tool Allowance

It is the policy of the City that employees hired as mechanics are expected to provide their own hand tools and will be compensated annually at a rate of \$20.00 per month for the use, repair and /or replacement of those tools they use on the job.

The financial assistance provided through and under this tool allowance policy will be treated and considered a separate and distinct matter apart from any other compensation pay plan, compensation, wage adjustment, benefit or overtime considerations or other forms of compensation otherwise due a covered employee.

04.070 Educational Assistance

The City recognizes that the skills and knowledge of its employees are critical to the success of the organization. The City's educational assistance program encourages personal development through formal education

The City may provide educational assistance up to fifty percent (50%) of the cost of tuition and fees to all eligible employees. The total assistance granted any employee shall not exceed \$1,500.00 per fiscal year. Eligible employees are:

- Full-time employees
- Non-merit, Special employees

To maintain eligibility employees must remain on the active payroll and be performing their job satisfactorily through completion of each course.

The City has the sole discretion to determine approval for any education assistance requested. The employee must receive approval before enrolling in the program or class. Approval must occur first through the Department Director and next through the City Manager prior to enrollment in the course, training or class offering. The City's Finance Director must verify availability of education assistance funds prior to requesting approval by the City Manager.

While educational assistance is expected to enhance employee performance and professional abilities, the City cannot guarantee that participation in formal education will entitle the employee to automatic advancement, a different job assignment, or pay increases.

The City retains the right, at the City Manager's discretion, to refuse educational assistance if, based upon the availability of funds as appropriated by the City Council, there are insufficient financial resources to adequately provide for a request for educational assistance. Requests for approved educational financial assistance under this policy shall be handled on a "first-come, first-served" basis, however, those individuals that may be in the middle of a program may have precedence over a first-time requestor, and funds shall not be reserved for anticipated, future courses.

Receipt of funding support under this policy shall be on a “Secondary Payer” basis only. That is, if an employee has obtained funding, whether from grants, loans, or other sources that pay the cost of approved tuition, City funds will not be authorized when such payment would create a “double dipping” or “unjust enrichment” reimbursement to the employee in an amount greater than the cost of the approved tuition or to repay amounts paid from other sources.

The City, under this policy, will reimburse not more than 50% upon successful completion of approved class or course work. Where a grade is given, the employee is required to successfully complete course work with a grade of “C”, its equivalent (e.g., a grade point of 2.0 within a 4.0 scale), or better. If the course is taken on a “pass/fail” basis, the employee must pass the course to qualify for reimbursement. If the employee does not successfully complete the course, there will be no reimbursement made. NO payments from or under this program will be made to employees who do not receive authorization to participate under this policy BEFORE committing to any financial obligation.

Within thirty (30) days of the successful completion of any approved course, the City requires the employee to submit a completed request for reimbursement, with documentation of successful completion of the course to the City Manager on proper form(s) available from the Finance Director.

If an employee voluntarily separates from the City’s employment within one year after completion of any course, the educational financial assistance for that course(s) will be only a loan. The City-paid portion of the educational costs will be deducted from the employee’s last paycheck. Exceptions to this repayment requirement may be made at the discretion of the City Manager, and will be limited to compelling circumstance(s) beyond the immediate control of the employee and for which a reasonable accommodation is requested.

If a course is changed, modified or deleted as a curriculum offering after the employee has obtained approval for reimbursement, the employee must notify the Assistant City Manager and his/her Department Director of the change immediately upon first knowledge of the change, modification or deletion. New, changed, or modified course(s) must receive written approval to receive reimbursement.

The City may, at its discretion, pay 100% of the education costs for certain when their occupation area is such that ongoing education is necessary to maintain a certification or continuing education required by the State or City (e.g., continuing legal education).

Employees should contact the Finance Director for more information or questions about educational assistance.

04.075 Catastrophic Sick Leave Bank

The Catastrophic Sick Leave Bank (the “Bank”) has been set up to provide employee financial support during times of severe illness. These guidelines will govern the operation of the Bank

- 1) The available Bank value shall be capped at \$10,000. The finance director shall monitor and maintain the available hours in, or value of, the bank.
- 2) Only extended illness and catastrophic medical issues, as documented by a licensed medical provider, will be considered for leave withdrawals from the Bank.
- 3) Only full-time employees approved for FMLA leave and who have depleted their sick, vacation and comp time balances shall be eligible to draw assistance from the Bank.
- 4) Catastrophic sick leave assistance can only be drawn for the illness of the employee, spouse, dependent child, or one standing in loco-parentis.
- 5) All requests for assistance must be in writing and submitted to Assistant City Manager.
- 6) Requests must outline the number of hours already used for the illness and the specific number of hours being requested.
- 7) Withdrawals from the Bank shall not exceed 240 hours per employee during any 12 month period or up to fifty (50) percent of the then available Bank resources, whichever is less. After the initial hours granted have been used, the employee may petition the committee for more hours and, upon showing of good cause, the committee may, at its sole discretion, grant additional hours.
- 8) Any employee applying for catastrophic sick leave must have used at least 120 hours of leave for the same illness before catastrophic sick leave may be granted. If the employee does not have paid leave time available, leave without pay may be used to satisfy the 120 hour requirement.
- 9) Catastrophic sick leave granted will only be used for the duration of the illness or condition which qualified the employee for the assistance. Upon cessation or termination of the qualifying illness or condition, the employee's right to assistance ends. Any catastrophic sick leave granted but not used will be returned to the Bank.
- 10) A committee comprised of peer employees from each department within the city will meet as needed to consider catastrophic sick leave requests. Requests for leave are granted only by a majority vote of committee members then present
- 11) The committee may investigate leave abuse. If the committee finds abuse, it may deny some or all requested catastrophic sick leave.
- 12) The decision of the committee will be provided to the employee in writing.
- 13) The employee may appeal the decision of the committee in writing to the City Manager within 5 working days of the committee's decision.
- 14) The City Manager shall have 10 working days from the appeal to respond. The City Manager can either sustain or overturn the decision. The decision of the City Manager is final and cannot be appealed.

04.080 Severance Pay

The following at will employees will be eligible for severance pay from South Ogden City equal to one month's salary for each full-time year of service up to a maximum of six month's severance pay if they lose their position because of an election.

- City Attorney
- Police Chief
- Police Lieutenants
- Fire Chief

- Deputy Fire Chief
- Director of Public Works
- Assistance Public Works Director
- Assistant City Manager
- Finance Director
- City Treasurer
- City Recorder

Employees in these positions who lose their jobs because of an election are not eligible, if they request, and are granted reinstatement to a previous merit position ([See Reinstatement Section 02-085](#)).

04.085 South Ogden City Service Awards

The City intends to recognize those employees whose loyalty and dedication to public service are reflected in their length of service to the City. The City expresses this recognition and attempts to show a measure of its appreciation through an Employee Service Awards Program.

As part of the Employee Service Awards Program, the City presents eligible employees with awards based upon the number on continuous, uninterrupted years of service. Eligible employees are:

- Full-time employees
- Part-time employees

Years of Service	Award
5 years	Coin, \$40 logo item, \$30 gift certificate
10 Years	Coin, \$50 logo item, \$50 gift certificate
15 Years	Coin, \$60 logo item, \$70 gift certificate
20 Years	Coin, \$70 logo item, \$90 gift certificate
25 Years	Coin, \$100 logo item, \$100 gift certificate
30 Years	Coin, \$100 logo item, \$150 gift certificate
35 Years	Coin, \$100 logo item, \$250 gift certificate

All service awards will bear the South Ogden City logo.

04.090 Holiday Pay

Employees working shift work, other than sworn fire personnel, receive additional compensation as holiday pay. (Designating holidays and the definition of eligibility are in the Holiday Policy of the Leave Section).

For this policy, “employees working shift work” are employees assigned to work holidays, as part of their regular work assignment to provide required City services. “Employees working shift work” include, but are not limited to, classified service full-time sworn police personnel, and Public Works employees responding to emergencies.

Additional compensation for holidays is provided to all eligible employees immediately upon assignment to an eligible employment classification. Additional compensation is calculated based on the employee's base pay rate at the time of the holiday and includes no special forms of compensation, such as incentives, commissions, or bonuses.

Although paid time off may be provided on an observed rather than an actual holiday, holiday pay will be based on the actual holiday for "employees working shift work," as defined herein.

Except for "employees working shift work", if an eligible employee must work on an observed holiday, hours worked are paid at a straight time rate and he/she will receive eight (8) hours of holiday pay. If such an employee must work on an actual holiday that falls on the employee's regularly scheduled day off, hours worked are paid at a rate of one and one-half (1.5) times their straight time, base pay rate plus eight (8) hours of holiday pay.

Sworn Police officers working shifts (except duty lieutenants) are compensated for holidays falling within their regular work period by receiving their straight-time base pay rate and are provided an equal number of hours off selected by the officer and approved by his/her supervisor. If an employee works on a holiday for which the employee was not regularly scheduled to work, those hours worked are paid their straight-time base pay rate, plus eight (8) hours of holiday pay. Only those hours worked on a holiday will be considered hours worked to calculate overtime.

If a shift work employee works a shift that spans a two-day period, one of which is a holiday, any holiday pay shall be limited to the hours falling within the 24 hours constituting the holiday.

Sworn fire personnel working 24- hour shifts are compensated for working holidays at their regular rate of pay, as if the day were not a holiday. These employees receive additional paid time off for holidays as provided in the holiday policy found in the leave policy.

Exempt employees are paid on the basis of set compensation and are compensated for all holidays based on that compensation. If an exempt employee works on a holiday, they are not compensated additionally for such work.

For implementation and clarification of the above policies, a department policy may be established, if it is not in conflict with this policy and is approved in writing by the City Manager.

SECTION 5: EMPLOYEE CONDUCT

05.005 General Policy

South Ogden City was incorporated in 1936. Its history and traditions serve as the foundation of strength, integrity and professionalism for all our employees. It is from this background and setting the City strives to provide continued excellence in public service to our patrons and the community.

The City has a strong desire to recognize people as individuals who have individual needs and desires. This recognition is best observed when employees treat each other and the public with

respect and interact with one another in a spirit of good faith and cooperation.

The City believes that employees function in a more efficient and effective manner when they have defined guidelines within which to work, and appropriate objectives and standards to achieve to perform their duties.

Employees represent the City both on and off duty through their behaviors and interactions with the public. As stated elsewhere in these policies, there are certain standards regarding off-duty conduct which employees are expected to uphold.

The City intends to encourage employees' involvement in community and civic affairs and encourages you to be an active, successful part of our community. The City expects all employees to meet its standards of professional work and service in a manner, which reflects integrity, honesty, and openness.

Employees are not to perform volunteer work for the City in such a manner that would deprive them of otherwise legitimate compensation. The City desires to reward and compensate all employees based on the City's pay plan and under federal and State laws governing the proper and timely payment of compensation and overtime earned within their employment.

The City encourages employees to make inquiry, raise concerns and voice their needs and opinions in an open, direct and respectful manner with appropriate supervisors. In this manner, we can work together for the common good of the City to meet the high standards of professional excellence and competence, which will have real impact on our progress now and in the future.

05.010 Employee Conduct and Work Rules

To ensure orderly operations and provide the best possible work environment, the City expects employees to follow rules of conduct that will protect the interests and safety of all employees and the organization. Violations of the City's rules of conduct may cause disciplinary action, up to and including termination of employment.

Many of these rules of conduct are outlined in other sections of policy. The following are examples of violation of rules of conduct:

- (1) Any behavior, event or condition, which violates the conditions of employment with the City, as described in any policy.
- (2) Any behavior or event which is a conflict of interest, or divulges confidential information for which a policy exists prohibiting such releases or publication. See the City's Conflict of Interest and Non-Disclosure Policy [Section 05.065](#).
- (3) Unauthorized or unacceptable use of City equipment or property as described in the City's Personal Use of Vehicles, Use of Equipment and Vehicles and Use of Electronic Communications and Mail System policies.
- (4) Violating the City's safety standards as discussed in the Safety policy.

- (5) Violating the City's Overtime policy rules and standards.
- (6) Violating the Work Schedules policy when a change in a work schedule or work activity is unauthorized and unapproved, irrespective of whether the employee benefits from such violation.
- (7) Violating the City's Sexual Harassment or Other Unlawful Discrimination or Harassment Policies or any State or federal law prohibiting discrimination against individuals in protected groups or classes.
- (8) Working under the influence of alcohol or illegal drugs or while abusing legal drugs.
- (9) Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty, or while operating City-owned vehicles and equipment.
- (10) Unexcused or excessive absenteeism or any absence without notice, or excessive or unexcused tardiness.
- (11) Violations of the City's Fitness for Duty policy.

Besides these policies, the following behavior or conduct may cause disciplinary action, up to and including termination of employment:

- (12) Actions which violate City ordinances or other local, state or federal laws including statements or comments which serve as proof or an admission of proof that the employee violated such laws, whether or not a conviction occurred regarding such violation.
- (13) Actions which violate Administrative Orders.
- (14) Violations of applicable departmental rules and procedures.
- (15) Violations of personnel policies.
- (16) Theft or inappropriate removal or possession of property.
- (17) Falsification of any City records, including personnel records, time-keeping records, employee expense reimbursement requests, etc.
- (18) Behavior or activity which reflects intent to be dishonest or untruthful.
- (19) Insubordination or disrespectful conduct or language toward members of the public, managers, or other employees.

- (20) Actions which discredit the name, reputation, or public mission, or interest of the City.
- (21) Negligence or improper conduct leading to bodily injury or damage of City-owned property or the property of third parties.
- (22) Boisterous or disruptive activity in the workplace; behavior or activity which creates disharmony or a disorderly environment.
- (23) Fighting or threatening violence in the workplace.
- (24) Smoking in prohibited areas.
- (25) Possession of dangerous weapons or materials, such as firearms or explosives, except as required or authorized within the employee's scope of employment.
- (26) Violation of safety or health rules establish by the City or its departments or divisions, or safety or health rules regulations as governed by applicable code or competent authority.
- (27) Unauthorized use of City-owned telephones, electronic communications or mail systems, computers and software, or other City-owned equipment or property.
- (28) Unsatisfactory performance or conduct.
- (29) Unauthorized absence from workstation during the workday.

It is the policy of the City to seek reasonable and consistent treatment of all employees and to encourage positive and cooperative relationships among all employees and between employees and supervisors. The City recognizes that from time to time disputes may arise over actions or discipline as the result of enforcement or interpretation of the policies and procedures of the City. Severe or serious disciplinary action may cause suspension, demotion or termination of employees within the scope of the City's policies and procedures.

05.015 Professionalism

South Ogden City is a professional association whose purpose, among others, provides professional services to its citizens. Its employees must adhere to high standards of public service that emphasize professionalism and courtesy. Employees must carry out efficiently the work items assigned at their responsibility, to maintain good moral conduct, and to do their part in maintaining good relationships with their supervisors and fellow employees, the public, and other member employees and officials.

05.020 Alcohol and Drug Free Workplace

It is the City's intent to provide a drug-free, healthful, and safe workplace. To promote this goal,

employees must report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.

While on the City premises and while conducting City related activities off City premises, all employees must be fit for duty and no employee may use, possess, distribute, sell, or be under the influence of alcohol or illegal drugs. The legal use of prescribed drugs or non-prescription drugs is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and/or does not endanger other individuals in the workplace.

It is the policy of the City to enforce a drug-free, safe work place through specific procedures detailed and contained within its Fitness for Duty Program and related drug and alcohol policies. Violations of this program or these policies may lead to disciplinary action, up to and including immediate termination of employment and/or required participation in a substance abuse rehabilitation or treatment program. Such violations may also have other legal consequences.

Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action may request approval to take unpaid time off to participate in a rehabilitation or treatment program. Unpaid leave may be granted, if such leave does not cause the City any undue hardship, if the employee agrees to abstain from the problem substance and abides by all the City policies, rules, and prohibitions relating to conduct in the workplace from that point forward.

Under the Drug-Free Workplace Act, an employee who performs work for a government contract or grant must notify the City of a criminal conviction for drug-related activity in the workplace. The report must be made within five (5) days of the conviction.

Employees required to drive in performing their jobs and are involved in any alcohol or drug related traffic violation or criminal charge stemming from that work-related driving must report such information to their Department Director prior to returning to duty.

Employees with questions on this policy or issues related to drug or alcohol use in the workplace should raise their concerns with their supervisor or the Assistant City Manager and no reprisal will be allowed in questioning or discussing the issues with such employees if no violation of the notification requirements outlined above occurs.

Employees are solely responsible and expected to inform their supervisor of any prescription drugs they are taking which may alter their ability to perform their jobs. Supervisors have the responsibility to deny an employee access to city provided vehicles and equipment if the effects of prescription drugs will render the employee unsafe in the operation of the vehicle or equipment.

Employees taking prescription medication or that have a medical condition affecting ability to perform tasks required in the job description, or that may require first aid, should notify their immediate supervisor. Examples of medical conditions that may require first aid could include but not limited to:

- Asthma

- Allergies (severe bee/wasp, food, etc.)
- Diabetes
- Taking blood thinners

If a medical condition is treated by prescription aids, such as epinephrine for bee stings, a supervisor should be notified of where this medication is kept in case assistance is needed.

“CDL” Special Issues and Considerations

Consistent with City’s desire to provide a drug-free, healthful, and safe workplace, and recognizing the special responsibilities placed on those who operate City equipment requiring a Commercial Driver License (CDL), the following additional standards and requirements apply to all City personnel required to have a CDL as a condition of their employment with the City.

Requirements to Drive a Commercial Motor Vehicle

A person may not drive a commercial motor vehicle for the City, unless the person has been issued and is in immediate possession of a valid CDL for the commercial motor vehicle being driven, or a valid CDL Instructional permit and is accompanied by the a person holding a valid CDL for the commercial motor vehicle being driven.

A person may not drive a commercial motor vehicle for the City if his privilege to drive a commercial motor vehicle is suspended, revoked, or canceled, or is subject to disqualification or an out-of-service order.

CDL Disqualification or Suspension – Grounds and Duration – Procedure

A person who holds or must hold a CDL is disqualified from driving a commercial motor vehicle for the City for the terms and under the conditions set out by UCA 53-3-414, which standards are adopted as if fully set forth in this policy. Any inconsistencies between or within this policy and UCA 53-3-414, or any successor or amended section(s), shall be resolved in favor of said Utah Code section, except where there may be a conflict with the Drug-Free Workplace Act, in which case said inconsistencies shall be reserved in favor of said Act.

DRUG TESTING

General Policy

Using or being under the influence of drugs or alcohol on the job may pose serious safety and health risks. To help ensure a safe and healthful working environment, all post-offer applicants, as a condition of employment, and continuing employees, under suspension or sanctions under this policy as set out below, may be asked to provide body substance samples (such as urine and/or blood) to determine the abuse of, illicit or illegal use of drugs and/or alcohol. Refusal to submit to drug testing may cause disciplinary action, up to including termination of employment.

The City will endeavor to assist its employees in obtaining confidential counseling and referral services through available community resources with such problems as drug and/or alcohol abuse or addition. It is the employee’s responsibility to seek assistance from available community resources prior to reaching a point where his or her judgment, performance, or behavior threatens or endangers the maintenance of a safe, efficient, and productive work environment for all

employees or leads to imminent disciplinary action. The City reserves the right to take and continue any disciplinary action before the employee admitted the existence of a problem.

When Tests are required

In keeping with the City's commitment to provide a safe and productive work environment for all employees and to protect the public, drug and alcohol testing may be conducted within the guidelines established by this policy. The City will attempt to protect the confidentiality of all drug test results to the degree practicable. Drug tests may be conducted under the following situations or conditions:

- A. POST-OFFER – As a pre-qualification to assuming any position, prospective employees must provide a body substance sample for drug and alcohol testing.
- B. POST-ACCIDENT – Any employee involved in an work related accident or accident while on duty, whether on or off the City's premises, involving damages to any City property, where the damages have a reasonably apparent value over \$100 or results in any personal injury, shall be asked to provide a body substance sample to test for drugs and/or alcohol.
- C. FITNESS FOR DUTY – This test may be required if significant and observable changes in employee performance, appearance, behavior, speech, etc. provide reasonable suspicion of the influence of drugs and/or alcohol. A fitness for duty evaluation may include testing one or more body substance sample(s). See Fitness For Duty – Procedures and Testing Policy below.
- D. RANDOM TESTING – Under federal law, and as enforced by the U.S. Department of Transportation or other federal or state requirement, any employee in a position requiring a valid Commercial Driver License (CDL) as a requisite or qualification for his/her job shall be subject to random testing for drugs and/or alcohol. Random Testing requires that one-half of the employees in CDL-required positions, as determined by a random selection, be tested at least once a year. The actual selection of the individual employees to be tested is made in a random manner and method as prescribed by the U.S. Department of Transportation. See Fitness For Duty – Procedures and Testing below.

Contract Employees and Volunteers

Contract employees and volunteers providing goods or services for and on behalf of the City shall also be subject to the terms and conditions of all policies and procedures involving drug and alcohol testing, including the cancellation or refusal of continues services or work of said volunteer(s) or contract employee(s), found to violate these policies. Contract employees and volunteers shall be given notification of City policies and procedures involving drug and alcohol testing. This notification shall be given before work or services are provided to, for, or on behalf of the City. A properly signed acknowledgement of said notification shall be made part of the contract or file of contract workers or volunteers.

The City has provided guidelines for supervisors to use in determining when and under what circumstances employees may be called into question about their adequate performance or fitness for duty or when accident or injury occurs. Employees must notify supervisors whenever they

witness or have information about accidents, injuries, or an employee's inability to adequately or safely perform his/her job duties.

DRUG TESTING PROCEDURES & FITNESS FOR DUTY

General Policy

Consistent with the City's policies on Drug & Alcohol Use, the City intends to enforce its policies and provide a framework of procedures and testing guidelines for all employees, contract employees, and volunteers.

The City requires its employees and volunteers to be "fit for duty" when performing work or service, or otherwise acting in a representative capacity for the City and/or its operations. Subject to the terms and conditions of this policy, other related City policies, and relevant state and federal law, the City will not allow or permit any employee or volunteer to perform work or service when there is a reasonable suspicion that the employee cannot do so safely and effectively.

Testing Procedures

Post-offer Applicants

It is a requirement of the City that a chemical test and a body substance test be performed to detect the presence in the body of controlled substances and/or alcohol upon or after an offer of employment is made to an applicant. Any applicant who tests positive will be denied employment, unless otherwise allowed elsewhere in these and related policies.

If a test result is positive for an applicant, the applicant may, upon written request to the Department Director, within fourteen (14) days after receiving notice of a test result, have the test verified using a proven, reliable test method designated by the City. The applicant shall pay the costs of the verification test. If the verification test is negative, the City shall reimburse the applicant for the costs of the verification test.

If the applicant has made a timely request for verification of test results, and if the sample has become lost, stolen, contaminated, or has otherwise become unusable, unavailable, or unreliable, the applicant shall be allowed to provide another sample for testing at a time and place designated by the City.

Employees

If reasonable suspicion exists to believe an employee is using, consuming illegal drugs or is under the influence of alcohol or drugs (whether such are legal or illegal) while engaged in a work activity or a work-related purpose or event, the employee shall be required to immediately undergo a test for alcohol or drugs in the system at a medical or testing center authorized and designated by the City. The employee shall be taken to the collection site at the medical or testing center by the supervisor or a designee of the supervisor.

Missed Duty- Negative Test

An individual who misses duty solely because of drug testing will be paid for time away from scheduled work if the drug test results are negative.

Reasonable Suspicion

As defined under terms and definitions in this policy, reasonable suspicion includes an articulable belief and reasonable inference that an employee is under the influence of, is impaired by, or is using, drugs or alcohol. Circumstances which constitute a basis for determining reasonable suspicion include, but are not limited to, the observation or knowledge of:

- A. A pattern of abnormal or erratic behavior. Unclear thinking, as communicated by the employee when asked questions about what they are doing, could be part of a pattern of abnormal or erratic behavior. This may include the inability to list or follow consecutive events or directions in a predictable and/or logical manner.
- B. A work-related incident or accident. This may include the observation and/or knowledge of behavior, which violated known or expected safe work standards. An example might be an employee using a welding torch or a saw to threaten or tease another individual, even if such action does not result directly in immediate harm.
- C. Direct observation of drug or alcohol use. If any employee observes the presence, sale, distribution, use or possession of alcoholic beverages, illegal drugs or drug paraphernalia by any other employee on the City's time or premises, the observing employee must notify his supervisor immediately.
- D. The presence of physical symptoms of drug or alcohol use. An example of physical symptoms present might be the burnt, sweet, acrid odor of marijuana "joint"; the clear odor of alcohol on a person's breath; slurred speech, unsteady walk, uncontrolled shaking or small tremors in the hands, arms, legs, etc.; poor coordination and/or reflexes; and glossy or bloodshot eyes.

Notwithstanding any other terms or examples in this policy, an employee shall be required to undergo medical examination and/or chemical testing for alcohol or drugs, if the employee has been principally or directly involved in any behavior and/or action which served as the cause of contributed to the reason for any accident resulting in either property damage, which reasonably appears to be over \$100.00, or a physical injury. Except where determined by existing evidence or competent authority, the City requires two (2) confirming opinions by supervisors and/or Department Directors to determine the value of any property damage.

Test Refusal

A refusal to submit to or undergo an examination or test referred to in this and related policy directives shall be interpreted as violating these policies and, besides to being treated as a positive test result, may include interpreting insubordination depending upon the involved employee's actions and behaviors in the circumstances. In either case, the employee shall be subject to disciplinary action up to and including termination.

No employee will be forced to submit to a fitness for duty examination or chemical test. However, the City is intent on enforcing its own policies regarding a safe and drug-free work environment, and employees who refuse to comply with or cooperate in examination or testing procedures shall

be subject to disciplinary review as noted above and throughout this policy.

Dilute specimen

A dilute specimen, by definition, is a urine specimen that has a creatinine of less than 20 g/dl and a specific gravity of 1.003 or less. If the urine sample is determined to be negative and diluted, the donor will be required, at the employer's request, to not drink excessive amounts of fluids and provide, with minimum possible advance notice, another specimen to be tested. If the second test is also negative – dilute, the employer must accept that result and cannot continue re-collections. The second test is the test of Record. An applicant/employee's refusal to submit to a re-collection for a negative-dilute result will be considered a test refusal.

Positive Test Results & Verification Procedures

A test result is determined to be positive to enforce this and related policies if the result is at, or over, the level specified by the City (in the Appendix at the back of this policy). A positive test of .04 grams or greater concentration of alcohol in the blood or breath shall be deemed to cause impairment and would be a positive test. If a test result is positive, those results shall be verified (confirmed) using a proven, reliable test method designated by the City.

An employee who tests positive (i.e. a positive test occurred from testing their body samples), and whose test results are confirmed shall be subject to disciplinary action which can include termination. The employee may be referred to counseling, care or rehabilitation besides any disciplinary action. In no case will any treatment, counseling, care or rehabilitation, which is allowed or permitted by the City, abrogate or set aside the City's right to take disciplinary action it deems appropriate in its sole discretion.

Verification

Verification tests shall be performed on the same sample from which the initial test was completed. All verification tests results shall be interpreted by a qualified medical professional of physician selected by the City.

Control of Samples

The sample will remain with, and be under the custodianship of, the medical or testing center designated by the City for at least sixty (60) days following the initial testing.

Positive Test – Program Referral – Follow up Testing

An employee who tests positive for drugs or alcohol and who successfully completes rehabilitation will be subject to unscheduled testing for up to a twelve – month period following return to work. Besides unscheduled testing, an employee who has tested positive for drugs or alcohol and has been allowed to return to work shall have a written Return To Work Plan (the "Plan") completed by his/her Department Director, in concert with the employee, upon the employee's return to work. The Plan shall set forth specific conditions of performance and work conduct of the employee that shall be satisfied during the twelve – month duration of the Plan. The Plan shall be tailored to the circumstances involved in enforcing this policy or any other related City policy on work performance, employee conduct and drug and alcohol testing and shall be subject to acceptance and approval by the Department Director and the City Manager.

Medical Release

Whenever a positive test result has occurred, a supervisor shall require that the affected employee obtain a medical release from the medical facility or testing center authorized by the City indicating the employee's fitness for duty as a condition of both returning to work and continued employment. Such medical release shall permit, but not require, the employee to be restored to duty with the City.

Identification of Unfit Conditions

In order to properly provide safe and adequate working conditions for employees and the public, both employees and supervisors must fulfill certain responsibilities under this policy dealing with proper identification of employees who may be unfit for duty.

Duty of Employees

Employees must report to their supervisor any behavior or situation which appears to have the potential to negatively impact the health or safety of the public or other employees or the public's perception of the City. This latter condition may occur regarding behavior or situations which could occur in a social setting connected to the work roles or representations of an employee of the City. Employees must keep confidential their information and reports of information about any other employee and to tell only appropriate supervisors.

Employees who act in good faith to appropriately identify behavior to their supervisor which may indicate another employee may not be fit for duty will be defended, indemnified and held harmless by the City for any and all damages claimed or sustained if litigation occurs.

Employees must advise their immediate supervisors and Department Directors, prior to working, whenever they are using prescription or non-prescription drugs which might otherwise impact or impair their ability to perform job tasks assigned them, including – and especially – the operation of equipment or vehicle. The City may require the employee to provide medical information about such prescribed drug and/or the employee's condition or ability to perform the required functions of his/her job assignment to ensure a safe and adequate work environment for the employee and others including members of the public.

Question concerning this policy or its administration should be directed to the Assistant City Manager through the employee's Department Director.

Duty of Supervisors

Certain procedures shall be followed by supervisors whenever an employee's behavior(s), interactions or communication(s) discloses a reasonable suspicion to question the employee's ability to perform tasks required of the job or to question the employee's ability to perform adequately within the scope of the job. Supervisors must follow through and act properly and in a timely manner upon first knowledge or report of a possible impaired worker or unfit condition. Supervisors shall investigate all claims, issues and situations related to enforcement of this policy. Such investigation shall include the confidential identification of all witnesses to the conduct, performance, or behaviors of any impaired worker. Such investigation shall include the confidential identification of all witnesses to the conduct, performance, or behaviors of the impaired worker. Such investigation shall also include providing notification to the Assistant City

Manager of any impaired employee, with the results of the Supervisor's investigation.

Supervisors shall hold confidential all information about a reported concern or issue related to enforcement of this and related policies and share such confidential information only with the appropriate "chain of command" superiors who require such information to enforce this and related policies.

Supervisors must consult with the Assistant City Manager, contact the police department, and arrange for confiscation of illegal materials, for drug or alcohol testing, transportation to testing sites and other activities necessary to enforce the City's policy against drugs and alcohol in the workplace.

Police Notification

The City's procedures require that supervisors notify the police or other appropriate law enforcement official(s) whenever they believe or suspect an employee is in possession of, selling or transferring illegal or controlled substances.

Investigation Procedures – Employee Status

Pending determining an employee's fitness for duty, the employee may be suspended, with pay, from any work activity or duty. This suspension is an important safety valve and should be used whenever possible and practicable. Employees on suspension may not return to the job until and unless the suspension has been lifted. Employees must be notified by the supervisor on duty of the initial suspension. Determinations whether or not a suspension will be lifted shall be made after the conclusion of other procedures described in this and related policies and will be communicated through the Department Director or supervisor to the suspended employee.

Suspended employees reasonably perceived to be potentially unfit for duty shall not be allowed to leave the place of work unless accompanied by a supervisor or his/her designee. Management has the responsibility to ensure safe transportation for the employee from the job site. If the employee refuses to let the supervisor or his/her designee transports him/her, the supervisor must notify the appropriate law enforcement authorities.

During a suspension under this policy, a fair and thorough investigation shall occur ensuring adequate and thorough compilation of all facts, records and evidence (including test results) pertaining to the reason(s) and cause(s) for the suspension of the employee.

Applicable city policies and any Civil Service Rules and Regulations related to procedures and steps regarding suspensions, their time frames and/or limitations, and the employee's return to work shall apply.

Documentation

It is an essential element of this policy and its enforcement that the supervisor and any other management member involved in evaluating the employee make a detailed record of all actions, observations, statements and other pertinent facts related to their basis of reasonable suspicion and their perception that a worker was impaired or unfit for duty.

The documentation shall include specific facts related to the date, time, location and observations made or other information known to exist when a reasonable suspicion was first formed, or believed to exist, that the employee was potentially unfit for duty.

Any witnesses who also were involved should be identified, and their statements taken when possible.

Administrative Hearing Procedures

An employee who tested positive on a chemical test or examination, or who refused to take the test when requested to do so under this policy shall have a right to request an administrative hearing before the City Manager. The request for an administrative hearing shall be in writing and shall be filed with the City Manager within fourteen (14) calendar days from either the date of receipt by the employee of the verification (or confirmation) of test results or from the date of disciplinary action (suspension) resulting from the employee's refusal to be tested.

Time of Hearing

A hearing shall be held within thirty (30) calendar days from receipt by the City Manager of the written request for such hearing. A record shall be made of the hearing, and both parties – the City and the employee- shall be interested parties to the hearing.

Scope of Hearing

The hearing will be informally structured. Interested parties will present evidence, information, witness(es), records and reason(s) or rationale why a test was requested, accepted or refused. The process and procedure of the test, its administration, results and interpretation shall be subject to review and discussion at the hearing. At such hearing, all information, records and reports pertinent to any issue(s) related to the legal or illegal control or use(s) of any substance, behaviors and interactions regarding the effect and impact on work, task, and/or service for the City and proper compliance with law, and/or intended controls through prescriptions, regarding the possession, distribution, sale or use of any substance, as related to this or any other involved policies of the City, shall be subject to review and discussion.

Representation

Since any hearing under this part is informal and administrative and structure, there is no requirement for either party to be represented by someone outside the employment of the City. Either party may provide a representative of their choosing. The costs of representation shall be borne by the party having such representation.

Time and Scope of Hearing Decision

The City Manager shall, within thirty (30) calendar days following the conclusion of a hearing, issue written findings of fact, conclusions based on those facts, and a decision or order supporting those conclusions. The City Manager shall have full authority, subject to the terms and conditions of this policy and procedure and under any other existing rules, regulations and/or policies of the city, to affirm any disciplinary action taken or proposed, invoke other disciplinary action apart or in combination with that already taken or proposed, and/or set aside any disciplinary action taken or proposed. Subject to the terms and conditions of this policy and procedure, the Manager shall have authority to reinstate an employee with or without compensation retroactive to any prior

suspension or other lost time directly attributable to action(s) taken regarding this and related City policies.

It is the intent of the City this administrative hearing procedure and process provide an avenue of timely, effective and inexpensive, review and enforcement of any disciplinary action or testing requested or performed under the terms and conditions of the City's drug-free workplace policy and the standards and procedures of enforcement in this and other related policies. Other appeals or grievances regarding and related to the enforcement of this policy shall be governed by applicable grievance and appeal rights and procedures as found under other policies of the City.

Private and Confidential Records

In all cases involving testing for substances as detailed and provided for in this and other applicable policies, test results and records related to specific testing methods, steps and procedures shall be released to the City. Such results, records and other material related to the testing and results are and shall remain the property of the City. Testing information and results shall be shared by the City only with interested parties and only on a need-to-know basis. Such need-to-know basis shall exist regarding sharing confidential records with Department Directors or immediate supervisors who shall be entrusted with disciplinary action, evaluation procedures and other direct responsibility over the employee. This release of such information occurs only when it is reasonably necessary to insure the employee is performing the assigned job and otherwise comporting their behavior to any ongoing requirements of the City.

Specific test results and specific records related to the test method(s), procedure(s), and related medical process shall be kept in separate and confidential records apart from the employee's file. Reference to the existence of such results and records shall be made in the employee's file regarding any record of disciplinary action taken or terms and conditions of continuing employment stemming from, or arising out of, a testing procedure, request, or outcome. The only exception to such reference shall occur regarding the restoration of an employee to duty whenever a hearing decision and order provides for such restoration and directs the expunging of such record or reference.

Responsibility for Expenses

The expense of any fitness for duty evaluations, examination or testing requested or required by the City under this and related policies shall be paid by the City. The expenses for any treatment or rehabilitation, volunteered or mandatory, shall be the responsibility of the employee.

Right to Change or Terminate Policy

This policy describes the City's testing procedures, protocols for review, and applicable steps involved with upholding, supporting and enforcing its policies on Fitness for Duty, Drugs & Alcohol in the workplace and Drug & Alcohol Testing. The City intends to also uphold and enforce other applicable policies, which deal with the conditions and terms of employment with the City, including, but not limited to, the City's policies and practices related to disciplinary action for violations of its employment conditions, terms and standards.

As stated elsewhere in this and other policies of the City, nothing in this or any other policy shall

constitute a contract of employment. Nothing in this or any other policy constitutes a term of contract of employment. Nothing in this or any other policy constitutes a term of contract nor is there any express term or condition of employment to be inferred from this or any other policy.

The City reserves the right to amend, replace, and/or terminate this policy and without the consultation with, or approval of, any employee(s).

Federal Law

Nothing in this policy should violate or supersede the intent or provisions of the federal Drug-Free Workplace Act, which, among other provisions, compels self-publication of conviction(s) based on the illegal activity or use associated with illegal drugs or alcohol. Any inconsistencies between or within this policy or the Drug-Free Workplace Act shall be resolved in favor of said Act.

Test Standards and Results

It is the policy of the City to test for alcohol and drugs. Except regarding Random Testing as determined and controlled through the Department of Transportation or other applicable authority of law, the City may test for alcohol and the standardized nine (9) other chemical substances. These nine generalized substances are listed below. The levels, or results, obtained in each test for each substance shall be under standardized accepted cut off levels, established by current medical and State standards:

1. Amphetamines
2. Marijuana
3. Cocaine
4. Opiates (heroin, morphine, codeine)
5. Phencyclidine (PCP, “angel dust”)
6. Barbiturates
7. Benzodiazepines
8. Methadone
9. Propoxyphene
10. Tests performed may be analyzed for alcohol and the following generalized chemical substances their salts, isomers, esters, ethers and metabolites as described in UCA, Utah Controlled Substances Act; 58-37-4, schedule; 1-5.

Positive test results as described in this policy shall be the basis of taking appropriate action under other applicable City standards and policies relating to job performance, safety, equipment and vehicle use, employee conduct and behavior, drug and alcohol testing and procedures, and fitness for duty requirements.

Terms and Definitions

A. Abuse of alcohol and/or drugs

1. Reporting to work or working/performing service(s) while under the influence of, or while impaired by, alcohol or any other drug(s); or,

2. Chemical dependence on alcohol or other drugs where job performance or people's safety is adversely affected; or,

3. Using illegal drugs.

B. Alcohol

Ethyl alcohol or ethanol

C. Chief Administrative Officer

City Manager

D. Employee(s)

Any individual engaged to perform work or services for the City. This includes all employment categories and volunteers.

E. Fit For Duty

The condition of any employee, when he/she is able to perform work or service in a safe and effective manner; can safely and adequately perform the essential functions of assigned tasks, with or without reasonable accommodation, and is otherwise unimpaired by any substance.

F. Illegal Drugs

Includes, but is not limited to, marijuana, cocaine, heroin and similar drugs where possession, use and consumption are prohibited, or controlled under state or federal law; UCA, UCSA, 58-37-4 and includes prescription drugs unless validly prescribed by a licensed medical practitioner and properly used by the employee.

G. Impaired

Any negative effect on the employee's ability to safely and adequately perform assigned tasks, which occur from the use/ingestion in the body of any quantity of alcohol and/or drugs or other substances.

H. Misuse of legal drugs

Improper use of a validly prescribed medication or using a non-prescription drug or other substance (e.g. glue) not intended for human consumption or ingestion.

I. Facilities (or Premises)

All buildings, property, parking lots with their traffic areas and servicing corridors and access ways, including above and below ground areas such as ventilation, sewer or water ducts or access ways; also includes equipment and vehicles used in the conduct of work and service for the City, whether owned privately or by the City.

J. Positive Test

The results of any medical examination or medical testing procedure which measures or determines a discernible level of alcohol, illegal drugs, or improper level of legal drugs or other substances in an individual's body.

K. CDL – Random Testing

The random selection of an employee, from the pool of all employees holding positions requiring a Commercial Driver License, to perform chemical tests for drugs or alcohol under the Federal Department of Transportation, state, or other applicable government authority.

L. Reasonable Suspicion

An articulate belief, based on specific facts and reasonable inference drawn from those facts, that an employee is under the influence of, is impaired by, or is abusing alcohol, drugs or other substance.

M. Sample

Body substance or fluid drawn and/or used to conduct medical examination or medical testing procedures (s). Includes, but not limited to, urine, blood, breath, saliva and/or hair.

N. Under the influence

This term means the same as “Impaired” or unable to safely or appropriately perform the essential duties of their job.

O. Use/Consumption of alcohol

The use and ingestion of alcohol, beer and liquor.

05.025 Privileged Information

South Ogden City employees involved with information of significant public interest may not use this privileged information for personal gain, nor to benefit friends or acquaintances. If an employee has an outside interest which could be affected by any South Ogden City plan or activity, this situation must be reported to the City Manager immediately. Each employee is charged with the responsibility of ensuring only information that should be provided to the general public is released as defined in the Government Records Access and Management Act

05.030 Confidentiality

Fellow employees have an unquestionable right to expect all personal information about themselves, their illness, their family and financial circumstances to be kept confidential. Every employee has an obligation to protect this confidence. Never discuss privileged information with others not authorized to receive it.

05.035 Acceptance of Gifts

The Utah Municipal Officers and Employees Ethics Act (10-3-1301) prohibits the acceptance of most gifts by employees. Under these provisions, no employee shall knowingly receive, accept, take, seek or solicit, directly or indirectly, any gift or loan for himself/herself or for another person, if the gift or loan influences the employee in the discharge of his or her official duties.

There are exceptions under these laws, including:

- A. An occasional nonpecuniary gift having a value of less than fifty dollars (\$50.00);
- B. An award publicly presented;
- C. Any bona fide loan made in the ordinary course of business; or
- D. Political campaign contributions used in a political campaign.

Violation of these laws and/or ordinances may subject an employee to termination and/or criminal charges. Employees desiring more information about these provisions may contact the City Manager or the City Attorney's Office.

05.040 Attendance and Punctuality

To maintain a safe and productive work environment, the City expects employees to be reliable and to be punctual in reporting for scheduled work. Absenteeism and tardiness place a burden on other employees and on the City. On those occasions when employees cannot avoid being late to work or cannot work as scheduled, employees should notify their supervisor when possible.

Employees must report all absences. Department Directors and their designees have the right to inquire of an employee as to any reason(s) for repeated, excessive or unexcused absenteeism or tardiness. Poor attendance and repeated tardiness are disruptive. Either may lead to disciplinary action, up to and including termination of employment.

In the case of incarceration and an inability to report for work when scheduled, employees must notify their immediate supervisor or their Department Director immediately.

05.045 Personal Appearance and Dress Code

South Ogden City reserves the right to expect its employees to present a favorable impression during any contact with the public. All employees are expected to maintain a neat and clean personal appearance. Standards of dress shall be appropriate to the job and the tasks to be accomplished.

Dress, grooming, and personal cleanliness standards contribute to the morale of all employees and can affect the business and professional image the City presents to patrons and visitors.

During business hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their positions. Employees who appear for work inappropriately dressed will be sent home and directed to return in proper attire. Under such circumstances, employees will not be compensated for the time away from work unless accrued vacation or compensatory time is used.

Consult the supervisor or Department Director if there are questions what constitutes appropriate attire.

05.050 Personal Use of South Ogden City Equipment

A. Computer Equipment.

- (1) Personal use of South Ogden City owned computer systems is permitted only when all of the following criteria are met:
 - a. The use offers an opportunity for the employee to increase the employee's job-related knowledge and skills.
 - b. The employee is not compensated for the work performed, unless the employee has received prior written approval by the City Manager, or designee.
 - c. The employee pays for the cost of consumables and other attendant expenses (diskettes, paper, computer on-line/access charges, etc.).
 - d. The employee uses the computer system after hours, or on the employee's personal time.
 - e. The employee does not use the computer system for permanent storage of data.
 - f. Use does not conflict with the employee's South Ogden City responsibilities or normal South Ogden City business.
 - g. The use has been approved by the City Manager, or designee.
 - h. All data stored on, and software developed on, South Ogden City owned computer equipment is the property of South Ogden City and may be viewed/reviewed by the City Manager, or designee. No pornography or sexually explicit material shall be accessed, stored, or viewed/reviewed on South Ogden City owned computer equipment.

B. Painting of any City building, inside or out, must have prior approval from the City Manager.

C. Postage Meters. No employee shall be allowed to use South Ogden City owned postage metering machines for posting and mailing of any personal material.

D. FAX and Copying Machines. Any employee desiring to use South Ogden City owned FAX or copying machines for personal items may do so after paying for such use at the employee rate in effect at the time of use.

E. Telephone calls.

- (1) Employees are expressly prohibited from making personal long distance telephone calls on South Ogden City owned telephones.

(2) All employees will use South Ogden City owned telephones for local personal calls judiciously. Local telephone calls will be limited to necessity and must not disrupt the carrying out of employee responsibilities.

- F. City Vehicles. Subject to the terms and conditions of various City vehicle policies, employees may only operate City vehicles: on City business when authorized or directed to do so; between home and work when authorized; for minor, infrequent personal use during working hours, if permitted by department policy; or for other circumstances as permitted by specific department policy. The City provides use of city vehicles for personal use, such as between home and work, at its sole discretion and solely as a privilege to its employees.

The City will accept no claims of liability should its equipment or vehicle(s) be used in a manner contrary to its intended purpose, or outside the scope and controls of this policy. The only individuals allowed in and around city operating equipment or city vehicles are those who, because of necessity, must be present to perform the functions of the employee's normal duties. The City prohibits any other individuals from being transported or provided transportation in city vehicles, including for personal use of city equipment or vehicles, unless approved by the Department Director and City Manager.

It is the responsibility of each employee who uses his/her personal vehicle in conjunction with City duties, to exercise proper caution, care and safety, regarding the use of the vehicle. Employees have a duty and obligation to act in a manner consistent with good citizenship, respect and courtesy while using their personal vehicles for a business use or business-related activity of the City.

The City will reimburse employees for use of their personal vehicles for City business at the rate allowed under Internal Revenue Service regulations.

The City will routinely monitor the driving records of all employees. Employees showing serious driving infractions on their records (e.g., DUI, reckless driving, or multiple speeding tickets) will be subjected to disciplinary action ranging from referral to counseling, suspension, and/or termination, depending on the severity and/or repetition of infractions. Disciplinary action may be taken regardless of whether infractions occur during duty or off duty hours.

05.055 Purchasing

When procurement involves the expenditure of federal assistance funds, South Ogden City shall comply with all federal laws and regulations, state laws, and city ordinances and resolutions.

For further information, please see the purchasing policy adopted by the City Council.

05.060 Credit Cards

South Ogden City credit cards shall be used for official business only, and shall not be used for the personal convenience of an employee.

05.065 Conflicts of Interest

South Ogden City employees shall not use South Ogden City owned property to support outside interests and activities when such use would compromise the integrity of South Ogden City or interfere with the employee's duties. An employee involved in an outside activity such as a civic organization, church organization, committee unrelated to South Ogden City business, public office, or service club, shall:

- A. Pursue the outside activity on the employee's own time.
- B. Pursue the outside activity away from South Ogden City offices.
- C. Discourage any phone, mail or visitor contact related to the outside interest at South Ogden City offices.
- D. Arrange for annual leave or compensatory time off in advance to pursue the outside interest during business hours.
- E. Except as outlined above, not use data processing equipment, postage metering machines, copiers, other South Ogden City owned equipment or supplies for the outside interest.

The officers and employees of the City (and persons serving on City boards, committees, commissions, or agencies) are subject to the Utah Municipal Officers' and Employees' Ethics Act (10-3-1301).

The law has prohibitions regarding the employee's position for personal benefit by prohibiting:

- A. The improper use of private, controlled, or protected information;
- B. The securing of special privileges or exemptions;
- C. The use or attempted use of the employee's official position to secure special privileges for the employee or others;
- D. The acceptance or solicitation of gifts or loans if the gift or loan influences the employee in the discharge of his or her duties. (Exemptions for certain gifts are referred to in the Acceptance of Gifts policy.)

Beyond these prohibitions, the law imposes certain disclosure and filing requirements for relationships of the employee, which involve:

- A. The receipt of compensation for assisting in a transaction involving the City;
- B. Having an interest in a business entity regulated by the City;
- C. Having an interest in a business entity doing business with the City;

- D. Having a personal interest or investment, which creates a conflict between the employee's personal interests and his or her public duties.

(Note: The above interests can include interests held by spouses or minor children, or may arise through ownership or the holding of certain positions in the entity.)

Employees should also know a prohibition against conflict of interest activities exists under the City's contracting and purchasing ordinances. No purchase order or contract of the City may be approved in which a City employee is financially interested, including interests of spouses and children.

Conduct found in violation of these provisions may subject the employee to termination and/or criminal charges. Employees desiring more information about state law or the City ordinances, or who have questions about conflicts of interest, may request further information from the City Manager or the City Attorney's Office.

All elected officials, board members, and employees will be required to fill out a financial disclosure statement.

05.070 Political Activity

Except as otherwise provided by law or by rules and regulations promulgated under the authority of the South Ogden City Council, for federally aided programs, South Ogden City employees may voluntarily participate in political activity subject to the following provisions:

- A. No person shall be denied the opportunity to become an applicant for a position under the merit system in any covered department by political opinion or affiliation.
- B. No person employed by South Ogden City under its employee policies may be dismissed from service because of political opinion or affiliation.
- C. A person employed by South Ogden City under its employee policies as an employee may not contribute funds to support political groups or candidates for elective offices in South Ogden City or actively campaign for any candidate for any South Ogden City elective office. Neither may employees become candidates for elective public office in South Ogden City while still employed by South Ogden City.
- D. No South Ogden City officer or employee, whether elected or appointed, may directly or indirectly coerce, command, or advise any officer or employee covered under the city's employment system to pay, lend, or contribute part of his or her salary compensation or anything else of value to any party, committee, organization, agency, or person for political purposes. No South Ogden City officer or employee, whether elected or appointed, may attempt to make any officer's or employee's personnel status dependent upon the employee's support or lack of support for any political party, committee, organization, agency, or person engaged in a political activity.

- E. No officer or employee may engage in any political activity during the hours of employment nor shall any person solicit political contributions from South Ogden City employees during hours of employment. Nothing in this section shall preclude voluntary contribution by a South Ogden City employee to the party or candidate of the employee's choice outside of South Ogden City.
- F. Nothing in this policy shall be construed to permit partisan political activity of any South Ogden City employee prevented or restricted from engaging in such political activity by the federal Hatch Act.

05.075 Secondary Employment

- A. South Ogden City employment is primary.
 - (1) Fulltime Employment with South Ogden City shall be the employee's primary employment. South Ogden City employees may engage in secondary or outside employment under the following guidelines. Outside employment must not be of a type that would reasonably establish criticism or suspicion of conflicting interests or duties.
 - (2) Employees must provide written notification to the City Manager or designee before starting any secondary or outside employment. This notification should include the following information:
 - a. The employer's name, business name, and business address.
 - b. A general overview of the type of business engaged in by the secondary employer.
 - c. The specific duties engaged in by the employee at their secondary employment.
- B. South Ogden City's approval process.
 - (1) The City Manager, or designee, shall review the information in the Employee's Notice of Secondary Employment and determine whether the employee's secondary employment is approved or denied. Factors to consider include, but are not limited to:
 - a. That the secondary employment reasonably articulates some factor or factors which could negatively impact their employment with South Ogden City. That the secondary employment could reasonably be expected to be too physically or mentally draining on the employee.
 - b. That the secondary employment could invoke a conflict of interest with their employment with South Ogden City.
 - c. That the secondary employment is immoral or unethical.

C. This decision shall be communicated in writing to the employee, The employee:

(1) Shall abide by that decision.

(2) May voluntarily resign their employment with South Ogden City.

05.080 Position Certification and Licensing Requirements

It is the policy of the City that employees may work only in positions for which they are qualified and otherwise meet the minimum qualifications and requisites for which they are employed.

An employee is required to immediately report to their Department Director losing certification or license necessary or required to perform their job or fulfill the functions of their position. Losing any certification or license that is a necessary requisite to perform a job or fulfill the function of a position in the City may cause discharge from service with the City. Losing certification to perform a job may include, but not be limited to:

A. Suspension or revocation of a required professional license or certification

B. A limitation or revocation of a required driver's license

C. Suspension of a required license or certification to work

Employees required to drive as part of their assigned duties or job tasks must report to their supervisor or Department Director when their license has been suspended, revoked or modified. Employees may not drive vehicles for which they do not have the appropriate license or have not been properly trained. These responsibilities are a condition of continued employment for any employee required to drive for the City as part of their job.

05.110 Residency & Commuting Requirements

While the City provides equal opportunity to all individuals applying for employment, it also requires as a condition of employment that employees in certain identified jobs or positions reside within a required commuting time from their place of employment. The City's job descriptions identify those employees subject to commuting time requirements.

Positions requiring the employee's place of residence to be within a designated commuting time or distance from their place of employment will be those positions for which it has been determined that job functions, duties or tasks create urgent or emergency demands for service.

05.115 Responding to Citizen Complaints

It is the policy of the City to hear and respond in reasonable, courteous and open manner to all complaints from its citizens about service and functions of the City, and treatment received from City employees. When an employee of the City receives a complaint from a citizen, the employee

is expected to assist in a positive and appropriate resolution of the complaint and/or correction of the problem to the degree the complaint or problem falls within the scope and functions of the employee's job with the City. If a complaint cannot be resolved to the satisfaction of the affected citizen, the citizen should be advised of the steps taken to resolve it, and be referred to the employee's supervisor.

Regardless of their resolution, all complaints reported to employees must be communicated to that employee's supervisor. Serious complaints should be communicated on the same day they are first received if at all possible, and not later than the next working day. Each department and division has responsibility for maintaining a record of citizen complaints or grievances. Complaints that remain unresolved by the supervisor will be forwarded to the Department Director, division manager, or to the City Manager, as may be appropriate. To the extent practicable, the Department Director, or the City Manager should inform all involved individuals of the final resolution of a complaint.

05.120 Solicitation

To assure a productive and harmonious work environment, persons not employed by the City may not solicit or distribute literature in the workplace unrelated to City services.

The City recognizes that employees may have interests in events and organizations outside the workplace and in order to assist our employees, on a "not-to-interfere basis", they may, on a strictly non-compulsory basis, periodically solicit or distribute literature concerning these activities or interests. However, employees may not solicit or distribute literature concerning these activities during work time. (Work time does not include lunch periods, work breaks, or any other periods during which employees are not on duty.)

Examples of impermissible forms of solicitation include:

- A. The collection of money, goods, or gifts for religious groups
- B. The collection of money, goods, or gifts for political groups
- C. The sale of goods, services, or subscriptions outside the scope of official business by non-employees.
- D. The circulation of petitions
- E. Distributing literature not approved by the City
- F. The solicitation of memberships, fees, of dues
- G. Posting written solicitations on City bulletin boards is restricted. These bulletin boards display important information, and employees should consult them frequently for:

- (1) Internal Memoranda

- (2) Job openings
- (3) Organization announcements
- (4) Workers compensation information
- (5) State unemployment insurance information
- (6) Safety information/programs/meetings
- (7) Educational and training information
- (8) Employee announcements

If employees have a message of interest to the workplace, they may submit it to the City Manager or their Department Director for approval.

05.125 Media Policy

South Ogden City seeks to keep residents, businesses, and visitors informed by engaging in a pro-active communications program. South Ogden City recognizes that one of the most effective ways to communicate policies and activities to citizens is by working in partnership with the news media. The City Manager or designee is the designated spokesperson for all City related business.

SECTION 6: SEXUAL HARASSMENT

06.005 General Policy

It is the policy of South Ogden City that:

- A. The giving or withholding of tangible job benefits based on granting sexual favors (Quid Pro Quo) and any behavior or conduct of a sexual/gender based nature which is demeaning, ridiculing or derisive and results in a hostile abusive or unwelcome work environment constitutes sexual harassment.
- B. Unlawful discrimination/harassment of employees of any type, on or off duty, based on sex/gender, subtle or otherwise, shall not be tolerated and violators will be subject to disciplinary action up to and including termination.
- C. Retaliation or reprisals are prohibited against any employee who opposes a forbidden practice, has filed a charge, testified, assisted or participated in any manner in an investigative proceeding or hearing under this policy.
- D. False or bad faith claims regarding sexual or gender harassment shall cause disciplinary action, up to and including termination, against the accuser.
- E. Employees accused of sexual harassment and facing disciplinary action shall be entitled to

receive notice of charges, the evidence to be used against them, and an opportunity to respond before any disciplinary action may be taken.

- F. Records and proceedings of sexual harassment claims, investigations, or resolutions are confidential and shall be maintained separate and apart from the employee's personnel file.
- G. All employees, supervisors and management personnel shall receive training on the sexual/gender harassment policy and grievance procedures during orientation and in-service training.

06.010 Prohibited Conduct

- A. Any deliberate, unwanted, or unwelcome behavior of a sex/gender based nature, whether verbal, non-verbal, or physical is prohibited.
- B. Two major categories of sexual/gender harassment are:
 - (1) Quid Pro Quo, or the granting or conditioning of tangible job benefits or granting sexual favors.
 - (2) Creating a hostile or unwelcome work environment, which can occur through any or all of the following general means:
 - a. Level One: Sex role stereotyping.
 - 1. Assignments made or denied solely on the traditional historic perceptions regarding the jobs that specific gender may/should perform.
 - 2. Comments or written material reinforcing traditional historic perceptions regarding gender.
 - b. Level Two: Gender harassment/discrimination.
 - 1. Intentional or unintentional behavior/conduct of a visual or verbal nature directed at a specific gender which is demeaning, ridiculing, or derisive.
 - 2. Creating an environment that demonstrates a demeaning, ridiculing, or derisive attitude toward a specific gender.
 - c. Level Three: Targeted or individual harassment.
 - 1. Intentional behavior predicated on gender or expressing sexuality directed at a specific group or individual.
 - 2. Offensive conduct may be verbal, visual, or physical, including unwanted touching of a non-criminal nature.

d. Level Four: Criminal touching.

1. The intentional unwanted touching of the breasts, buttocks, or genitals of another.
2. Forcible sexual abuse.

06.015 Types of Corrective Action

Any employee being sexually harassed or who has personal knowledge of offensive conduct may address the issue either through the formal or informal processes described below:

A. Informal Action.

- (1) Employees experiencing an unwelcome or hostile work environment at Level One, Level Two, or Level Three as described above may, if they so desire, address that unwelcome behavior/conduct informally by notifying the individual responsible for the behavior of the behavior that is objectionable, that the conduct/behavior is unwelcome, and that future similar behavior will cause a formal complaint. Employees experiencing sexual harassment at this level are not required to use the informal process and may file a formal complaint if they so desire.
- (2) This notification may be:
 - a. Verbally, in person.
 - b. In writing, signed or unsigned.
 - c. Through a supervisor, verbally or in writing. The victim may:
 1. Ask the supervisor for assistance in determining what to say and how to approach the offending employee.
 2. Request the supervisor to accompany the victim when the victim gives the offending employee notice.
 3. Ask the supervisor to give notice to the offending employee, accompanied by the victim.
 4. Ask the supervisor alone to provide notice to the offending employee.

B. Formal Action.

- (1) Employees experiencing an unwelcome or hostile work environment clearly offensive or at Level Four, or who have been subjected to quid pro quo type sexual harassment, should address that unwelcome behavior/conduct through the formal remedial process.

- (2) Formal complaints should be in writing and specify:
 - a. The identity of the victim.
 - b. The identity of the offending employee.
 - c. The offensive behavior that the employee engaged in.
 - d. The frequency of the offensive behavior.
 - e. Damage the victim suffered because of the offensive behavior.
 - f. How the victim would like the matter settled, or what the victim would like to see happen.
- (3) The victim will be allowed reasonable time during work to prepare a formal complaint.
- (4) The victim should submit formal written complaints to their immediate supervisor. If the immediate supervisor is the employee engaging in the offensive behavior, the formal complaint should be submitted to the next highest supervisor, the Department Director, the City Manager, or designee.
- (5) If the employee cannot follow the chain of command in reporting, they may file their formal complaint with the City Recorder.

06.020 Disciplinary Action

Employees found guilty of sexual harassment may face disciplinary action up to, and including, termination based on all the circumstances of the case, and the offending employee's work history.

06.025 Maintaining Complaint Files

- A. Information related to any sexual harassment complaint, proceeding, or resolution shall be maintained in a separate and confidential sexual harassment complaint file. This information shall not be placed or maintained in an employee's personnel file.
- B. Information in the sexual harassment complaint files shall be released only with the written authorization of the victim and the City Manager, or designee.
- C. Participants in any sexual/gender harassment proceeding/investigation shall treat all information related to that proceeding/investigation as confidential.

06.030 Victim Protection

- A. Individual complaints, either verbal or written, are confidential.
- B. Victims of alleged sexual harassment shall not be required to confront the accused outside of a formal proceeding.

- C. The accused shall not contact the victim regarding the alleged harassment.
- D. Retaliation or reprisals are prohibited against any employee who opposed a practice forbidden under this policy, or who has filed a charge, testified, assisted, or participated in any manner in an investigation, proceeding or hearing.
 - (1) Any employee engaging in prohibited retaliatory activities shall be subject to disciplinary action up to, and including, termination.
 - (2) Retaliation is an additional and separate disciplinary offense.
 - (3) Retaliation may comprise, but is not limited to:
 - a. Open hostility.
 - b. Exclusion or ostracism.
 - c. Special or more closely monitored attention to work performance.
 - d. Assignment to demeaning duties not otherwise performed during the regular course of the employee's duties.

06.035 Other Unlawful Discrimination or Harassment

The City will provide a work environment free of discrimination and any unlawful harassment. Employment actions, words, jokes, or comments based on an individual's sex, race, ethnicity, age, religion, handicap, disability, or any other legally protected characteristic will not be tolerated.

It is the policy of the City to prohibit any unlawful discrimination and harassment. It is against both federal and State law, and City policy, for any employment decisions to be based on race, creed, religion, color, national origin, or gender. Any illegal discrimination or harassment shall also be treated as a serious violation of the City's policy and work standards.

Illegal discrimination or harassment can take many forms. Refusal to promote an employee based on his/her race, making fun of a coworker based on his/her mental physical limitations, or denying an impaired employee access to work areas/services which others enjoy, are examples of possible illegal discrimination or harassment.

06.040 Investigation of Alleged Illegal Discrimination or Harassment

Any employee, who believes he/she has been the victim of any illegal discrimination or harassment or wants to report an incident of illegal discrimination, should promptly report the matter to his or her supervisor. If the supervisor is unavailable or the employee believes it would be inappropriate to contact that person, the employee should immediately contact the City Attorney, City Manager, or Department Director. Employees can raise concerns and make reports without fear of reprisal.

Any supervisor or manager who learns of possible illegal discrimination or any type of harassment

should promptly advise the City Manager or any member of management who will report the concern to the Equal Employment Opportunity (EEO) Officer of the City. The City Manager is the EEO Officer for the City. The City Manager will conduct a timely and confidential investigation of all claims or reports of sexual harassment. The City Manager may delegate a representative or agent to conduct fact finding on his/her behalf. As part of the investigation, the City Manager or his/her designee will meet with the employee bringing the complaint to determine the nature of the harassment, make inquiry about what remedy the employee is seeking, and otherwise determine the focus of the investigation. The employee may report their concern to the City Recorder, if they are not comfortable with the established chain of command.

Should the investigation disclose that evidence exists on which to determine that illegal discrimination or sexual harassment has occurred; the individual(s) found engaging in such prohibited activity will be subject to disciplinary action, up to and including termination of employment. Consideration will be given to the nature, the severity and the circumstances of the illegal discrimination or harassment. During an investigation the Department Director, with the approval of the City Manager, will have the authority to temporarily restructure work assignments, change work conditions, and separate involved and interested parties in the interests of maintaining a work environment free from any potential threat, hostility or intimidation. While all materials, records and notes about the investigation shall remain confidential, any disciplinary action taken as the result of such investigation shall be made a matter of record in the involved employee's personnel file.

Investigations will include interviews with individuals involved in, or who have knowledge of the events, circumstances or conditions surrounding any complaint of discrimination or sexual harassment. Investigations shall be conducted and concluded within reasonable time frames, not to exceed 30 days. Investigations will report and record findings of fact, conclusions based upon those facts, including reasonable beliefs supported by evidence and record, and will outline actions to be taken.

The City Manager will, upon completing an investigation, act within thirty (30) days on the investigation's findings of fact, conclusions and recommendations to determine what, if any, disciplinary action should be taken. The City Manager will review the investigation with the City Attorney and review what action is contemplated. Besides disciplinary action, the City Manager has the right to direct an appropriate and reasonable remedy to work conditions, or to direct a change in procedures, and otherwise act to correct, modify or change work environments to enforce this policy.

The City Manager will communicate the conclusion(s) of the investigation and action to the employee bringing the complaint, and the employee accused of the discrimination or harassment.

SECTION 7: PERFORMANCE EVALUATIONS

07.005 General Policy

Performance evaluations will consist of a review between the supervisor and the employee using South Ogden City's Performance Evaluation Form, or department form approved by the City Manager. It is the policy of South Ogden City that employee evaluations be conducted in a manner,

which will ensure fair treatment and an objective evaluation of employee performance.

Goal setting is critical to develop performance plans and standards. Goals define in broad terms the underlying purpose of an activity or set of activities. Objectives specify what should be achieved during an employee's employment with South Ogden City.

Certain fundamental principles govern the establishment of goals, objectives, and performance standards.

- A. Participatory Goal Setting. In setting goals and objectives of employees, the supervisors should seek to involve employees.
- B. Outline Results to be achieved. There should be room for flexibility. The supervisor should discuss with the employee how much will be done, when must be completed, and what resources will be required.
- C. Relate to Organizational Objectives and Goals. In the process of initially formulating performance plans, each employee should be provided with the larger picture and how their work contributes to the organization. This is the responsibility of each supervisor.
- D. Define Objectives. Objectives must be clearly defined and understood by both employees and their supervisors. There must be clear agreement on resources to be provided, periodic reviews and other related control activities.
- E. Give Support. Employees should understand they will be fully supported by their supervisors in pursuing the achievement of the mutually agreed upon objectives and standards.

07.010 Performance Plans

- A. Performance planning is a continuing and collaborative process in which employees and their supervisors:
 - (1) Jointly identify objectives for the next performance evaluation period.
 - (2) Define priorities and performance standards for the next performance period.
 - (3) Compare progress against expectations and revise the plan, when necessary.
- B. The performance plan shall include goals and objectives, mutually acceptable performance standards, and a prioritization of goals and objectives.
- C. Both employees and their supervisor shall sign the performance plan. The employee shall receive a copy from their supervisor who shall retain a copy.

07.015 Performance Standards

- A. Performance standards and expectations shall be established for each employee. Employees shall participate in the establishment of performance standards and expectations relevant to their jobs.
- B. Employees shall be advised of how they are performing in relation to established standards.
- C. Performance evaluations are an ongoing process which requires that supervisor and subordinates meet periodically to discuss achievements, review performance and mutually agree on strategies to eliminate performance deficiencies.
- D. Employees shall be made aware of the time frames and actions to be taken to improve performance and to increase the value of service.
- E. Employees shall know what role their supervisors shall play in providing them with assistance toward improved performance.
- F. Under no circumstances should employees be allowed to prepare their own performance evaluation. It is the responsibility of the employee's supervisor to prepare performance evaluations.
- G. Employees shall have the right to prepare relevant comments to accompany their evaluations.

07.020 Performance Ratings

Employee evaluations shall provide an overall performance rating which can be equated to:

- **Consistently Exceeds Expectations** - **Reserved** for those that consistently meets and exceeds all relevant performance standards. Provides leadership, fosters teamwork, is highly productive, innovative, and responsive, and generates outstanding top quality work.
- **Meets or Exceeds Expectations** - Consistently meets and sometimes exceeds all relevant performance standards. Shows initiative and versatility, works collaboratively, has strong technical and interpersonal skills, or has achieved significant improvement in these areas.
- **Fails to Meet Expectations** - Sometimes meets the performance standards. Seldom exceeds and often falls short of desired results. Performance has declined significantly, or employee has not sustained adequate improvement as required since the last performance review.
- **Significantly Deficient** - Consistently falls short of performance standards.

07.025 Performance Periods

A. Introductory employees

- (1) Employees shall have performance evaluations following the end of their introductory period.
- (2) The performance evaluations may provide information to both the employee and management regarding the employee's performance.
- (3) Introductory employees should understand their performance evaluations and the results of such evaluations shall not obligate South Ogden City to a particular course of action relative to introductory employees, nor shall it create any property/due process rights for introductory employees relative to their jobs/positions.

B. Full-time and Part –time Employees

- (1) Performance evaluations should be completed annually.
- (2) Although a salary adjustment never automatically follows a performance evaluation, the performance evaluation will be included as a component of any future compensation increase.

07.030 Performance Evaluations

The formal evaluation form is available from the Administrative Office. The evaluation form shall be signed by the employee, his/her immediate supervisor, and the Department Director. The completed, signed evaluation form must accompany a completed Personnel Action form, when returned to the Administrative Office to put into effect any recommended increase in compensation.

Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal, day-to-day basis. Formal performance evaluations are conducted at the end of an employee's initial introductory period in any new position. This introductory period allows the supervisor and the employee to discuss job responsibilities, standards, and performance requirements of the position.

Department Directors may, upon their own initiative, conduct other formal, written, or informal performance evaluations with their employees outside the requirements of an initial or annual evaluation process. It is the policy of the City to encourage Department Directors to communicate with their employees on an ongoing to recognize achievement and accomplishment and to acknowledge excellent performance in writing where warranted and appropriate. Additional formal performance evaluations may be conducted to provide both supervisors and employees the opportunity to discuss job tasks, identify and correct weaknesses, encourage and recognize strengths, and discuss positive purposeful approaches for meeting goals.

As discussed elsewhere in these policies, performance evaluations are linked to wage reviews and adjustments. Employees, whose work performance is unsatisfactory, or whose behaviors and interactions regarding job performance standards are unacceptable, are not entitled to a wage adjustment. In such cases, the employee will be denied a wage adjustment.

Completed performance evaluations shall permanently remain in the employee's personnel file and become a part of the private information of that file.

Performance evaluations may be used in decisions concerning advancement, future training needs; performance related salary adjustments and contested disciplinary actions.

07.035 Promotions

Promotions will be made by the Department Director(s). Promoted employees will begin a new introductory period for the new position related to work performance only. The promotion will not affect the employee's benefit status. If a promoted employee is unsuccessful in the new position within the introductory period, he/she may be placed back in the position held immediately prior to the promotion, or to another position, subject to availability and the employee's qualifications.

Promoted employees receive any commensurate pay increase established for the position commencing with the effective date of the promotion, and within the range and placement within the range based upon longevity and other considerations.

It is the policy of the City to prohibit from consideration or application for any promotion any employee who is the subject of any current disciplinary action. Department Directors will consider the severity of any prior disciplinary actions and of any ongoing disciplinary review in determining whether to consider promoting any City employee.

It is the policy of South Ogden City to promote from within the ranks by filling vacancies with qualified city employees, unless it is determined by the Department Director to be in the best interests of the City to hire from outside the organization. Specific procedures exist within City policy to fill vacancies in the classified and merit service.

If a promotion decision and placement is set aside during the introductory period, the involved employee may return to his/her former job with no prejudice to the employee, at the same compensation and benefit level associated with the former job, or to another position, subject to availability and the employee's qualifications. In cases of error by the City, the City shall make all reasonable effort and accommodation to place the employee back in their previous job or similar position, so long as an undue hardship to the City is not created.

If the employee in the full-time merit or full-time classified service cannot be returned to his/her former or similar position, they shall be placed on the Reinstatement list and shall be subject to all reinstatement rights and privileges. [See Reinstatement Rights Section 02.085.](#)

An employee wishing to file a complaint or request a review of a decision involving the promotion of another employee must file a complaint or request for review directly with his/her Department

Director and provide a copy to the Assistant City Manager within five (5) days of the effective date of the promotion, or he/she shall forfeit any and all rights of grievance, appeal or review under this or any other policy provision of the City.

07.040 Employee Recognition and Performance Incentive Program

Annually based on budget availability and approval of the city council, the city may allocate a sum of money to fund an employee recognition and performance incentive program to reward staff behavior on a more frequent or instant basis. These funds are based on availability of the budget, and should only be used to incentivize behavior that goes above and beyond an employee's regular and routine call of duty. The Department Director will submit documentation to the Assistant City Manager for approval of this incentive. This incentive can be given any time of year, and is not linked to the annual performance evaluation.. Rewards may include in-kind gift cards, tickets to an event, sky miles, etc.

SECTION 8: RECORD KEEPING

08.005 General Policy

Federal law requires employers to keep detailed data about their employees.

08.010 Non-Disclosure of Confidential Information

Employee records are maintained in compliance with the law.

- A. Confidentiality must be maintained at all times with access limited to employees and their supervisory chain.
- B. South Ogden City's policy is only relevant, job-related information is maintained on its employees, that such information is held in strict confidence, and that access is limited only to those who require it for legitimate business reasons.
- C. Employees have the opportunity to review their own files in the presence of the Assistant City Manager, or designee, on South Ogden City premises during regular business hours.

08.015 Personnel Files Requirements

A. General.

- (1) Personnel files are maintained on each employee and kept by the Assistant City Manager, or designee. The record copy (original) of all appropriate personnel information, as set forth hereafter, related to an employee shall be filed in the employee's personnel file.
- (2) No information from any record placed in an employee's personnel file will be communicated to any person or organization except by the Assistant City Manager, or designee.

- (3) Employees, or their representative designated in writing, may examine the employee's personnel file upon request during normal working hours at South Ogden City. When a Supervisor requires access to the personnel file of an employee under their supervision for handling personnel matters, the supervisor must obtain authorization from the Assistant City Manager, or designee.

B. Contents.

- (2) An employment record; including the employee's job application, resume, A signed copy of the employee's acknowledgment of receiving a copy of the personnel policies and procedures manual; and the performance standard for the position the employee occupies.

- (3) All personnel action forms, including:

- a. Performance evaluations.
- b. Promotions or transfers.
- c. Salary rate changes.
- d. Disciplinary action taken. The employee will be asked to sign the disciplinary action form. If the employee refuses to sign this form; the City Manager, or designee, will so state.

- (4) Any information the employee wants included in response to the above actions.

- (5) Records of citations for excellence or awards for good performance.

- (6) Record of any other pertinent information affecting the employee's status.

- C. Employee Information/Change of Employee Status. Employees should ensure that personal employee information in their personnel files is current and accurate. Employee information (, marital status, address, email address, telephone number, etc.) should be updated by notifying the Finance Director or Assistant City Manager.

- D. Giving References. South Ogden City limits information in a reference to the following:

- a. Verification that the employee worked, full-time or part-time, for South Ogden City during a stated period.
- b. A description of the position held.
- c. Verification that the employee achieved a given salary range.

d. Eligibility for re-hire.

Personnel files are the property of the City, and access to the information is restricted. Only supervisors and management personnel of the City who have a legitimate reason to review information in a file may do so. As with other City records and controls, access to personnel files and information is affected by guidelines established by the Government Records Access and Management Act under Chapter 2, Title 63, or other applicable provision of law.

To the extent permitted by law, copies of an employee's personnel file may be provided to the employee upon approval by the Assistant City Manager and advance notice.

Medical information and ongoing investigative files and information are not kept as part of any personnel file.

Required confidential records shall be under the direction and supervision of the Department Director and the Assistant City Manager.

08.020 Other Files Requirements

Records related to the items listed below should be kept for a period of at least one (1) year, or as otherwise required by records retention laws or regulations. Records should be examined annually to keep the files current and to save those records that management feels should be kept longer.

- A. Job applications.
- B. Test papers completed by job applicants or candidates for any position.
- C. Results of any pre-employment physical exam and mobility exams should be kept for a period of least four (4) years.
- D. Any advertisements or notices relating to job openings or promotions.
- E. Records of promotion, demotion, transfer, selection for training, layoff, rehire, or termination of any employee.

08.025 Wage/Salary Requirements

The Federal Labor Standards Act (FLSA) requires South Ogden City to keep all of the following data on all employees for a period of at least three (3) years.

- A. Employee's sex.
- B. Time and day workweek begins.
- C. Hours worked each day and total hours worked each week.

- D. Total daily or weekly straight-time earnings.
- E. Total additions to, or deductions from, wages paid each pay period, including an explanation of items that make up additions and deductions
- F. Date of payment and pay period covered.
- G. Total overtime above regular compensation for workweek.

08.030 Other Requirements

There are record keeping requirements under other federal and state laws over which the personnel record keeping function has jurisdiction:

- A. Occupational Safety and Health Act (OSHA) record of injuries.
- B. Employee Retirement Income Security Act (ERISA) record of pensions.
- C. I-9 forms should be kept for three (3) years after the person is hired or for one (1) year after employment is terminated, whichever is later.

SECTION 9: PAYROLL ADMINISTRATION

09.005 General Policy

It is the policy of the City to act within accordance of all Federal and State laws regarding all payroll administrative tasks.

09.010 Pay Periods

The Fair Labor Standards Act 7k exemption requires wages be calculated on a work period basis. A work period may be from seven (7) consecutive days to twenty eight (28) consecutive days for employees working in public safety activities, such as Law Enforcement and Firefighters, and forty (40) hours for employees not working in public safety activities, unless an exception is granted by the Department of Labor.

09.015 Pay Days

South Ogden City's paydays are bi-weekly.

09.020 Minimum Wage/Salary

The Fair Labor Standards Act requires that South Ogden City pay an employee at least the minimum wage, as a gross wage/salary, minus the legally required pay deductions.

09.025 Pay Deductions and Garnishments

The law requires that the City make certain deductions from every employee's compensation. Among these are federal and state income taxes. The City also must deduct Social Security taxes

on employee's earnings up to a specified limit called the Social Security "wage base". The City matches the Social Security taxes paid by the employee.

Voluntary pay deductions, such as health insurance, life insurance and other benefits, are made at the written direction of the employee. Voluntary deductions can have restrictions placed on the effective date and/or amount of the deduction. Such restrictions are determined and controlled by the terms and conditions of the applicable plans, benefits/policies for which the deductions are made.

Garnishments are court-ordered pay deductions taken by the City and forwarded to another party authorized to receive them.

If you have questions concerning why deductions were made from your paycheck or how deductions were calculated, contact your supervisor or the Finance Director.

09.030 Timesheets

All employees of South Ogden City must maintain an accurate and legible record of all their hours worked for South Ogden City on time cards. Time cards will be signed and dated by the employee, and forwarded to the City Finance Director, as directed for review and payment.

Accurately recording time worked is the responsibility of every nonexempt employee. Federal and state laws require the City to keep an accurate record of time worked to calculate employee pay and benefits. Time worked is all the time spent on the job performing assigned duties.

Nonexempt employees should accurately record the time they begin and end their work, and the beginning and ending time of each meal period. They should also record the beginning and ending time of any split shift or departure from work for personal reasons. Overtime work must always be approved before it is performed.

Altering, falsifying, tampering with time records, or one employee recording his/her time on another employee's time record may cause disciplinary action, up to and including termination of employment.

Nonexempt employees should report to work in sufficient time to be at work and work-ready when scheduled. Nonexempt employees may not stay after their scheduled stop time without expressed prior authorization from their supervisor.

It is the employee's responsibility to record his or her time to verify the accuracy of all time recorded. The supervisor will review and then initial the time record before submitting it for payroll processing. If corrections or modifications are made to the time record, both the employee and the supervisor must verify the accuracy of the changes by initialing the time record.

09.035 Pay Advances

The City does not provide pay advances on unearned wages to employees.

09.040 Administrative Pay Corrections

The City tries to ensure that employees receive the correct pay each paycheck and employees are paid promptly on the scheduled payday.

In the unlikely event there is an error in the amount of pay, the employee shall promptly bring the discrepancy to the attention of the Finance Director so corrections can be made. To the extent the law allows, the City reserves the right, upon discovery, to correct errors in pay and benefits by offsets in payroll or through civil action(s).

09.045 Compensation upon Separation

It is City policy to comply with all laws regarding issuance of final paychecks. If an employee voluntarily resigns, the final paycheck will be issued on the regular payday. If an employee is terminated, or involuntarily resigns, then the final paycheck is due within 24 hours.

SECTION 10: TRAVEL AND TRAINING

010.005 General Policy

The City recognizes job specific training is useful in gaining knowledge, skills and abilities. Upon approval, The City will pay for training when it is job related or mandatory.

010.010 Training and Conferences

If required to attend training seminars, conferences, briefings, or gather information; an employee will be compensated, at the rate of one and one-half (1/2) times their regular pay if hours worked exceed forty (40) hours in that week.

010.015 Travel Policy

- A. Mileage reimbursement will be provided for privately owned vehicles for City purposes. The reimbursement rate will be what is allowed under IRS regulations.
- B. The following round trip mileage will be reimbursed to these specific cities:

City	Mileage
St. George	676
Moab	546
Cedar City	570
Salt Lake	70
Park City	132
Provo	160
Logan	92
Spanish Fork	184

- (1) If the travel destination is not listed on the chart above, employees will use Google Maps or MapQuest to determine that travel distance. The start point will be South Ogden City Hall.
- (2) Employees will be allowed up to 20 miles additional reimbursed miles per day (or prorated portion for a part day) if they are not staying at the site of the conference.
- (3) If a City-owned vehicle is taken to a conference, the employee will be reimbursed for actual gasoline expense, and will not receive mileage.
- (4) City owned vehicles will not be driven over 50 miles from the conference site without prior approval.
- (5) City owned vehicles will not be driven across State lines except under the following circumstances:
 - a. The conference site is in a different state; and
 - b. Driving a City-owned vehicle is the preferred mode of transportation; and,
 - c. Driving a City-owned vehicle is approved by the Department Director and the City Manager.
- (6) When airline travel is required, employees will ensure reservations are made at least 21 days in advance of the anticipated departure date to ensure the least expensive airfare unless specifically approved by the City Manager.
- (7) Per Diem will be determined by using the U.S. General Services Administration website www.gsa.gov .
 - a. Per Diem amounts for full days, first and last days of travel can be garnered from the applicable charts on the GSA website.
 - b. If the destination city is not specifically identified by the GSA, the standard rate is used. For example, in Utah, the cities of Moab, Park City, Provo and Salt Lake City are specifically identified and St. George is not. Therefore, anybody traveling to St George will use the standard rate.
- (8) No per diem will be issued for one day training except possibly for lunch at the discretion of the Department Director.
- (9) When a Department Director or other approved employee attends a professional luncheon meeting such as UCMA, Fire/Police Chiefs or Recorder or other meetings, the employee will be allowed the equivalent of a lunch per diem amount. Lunch Per Diem amounts may be exceeded at the discretion of the Department Director or City Manager.

010.020 Reimbursable Expenses

With prior approval, legitimate expenses will be reimbursed by South Ogden City to the employee.

Receipts are required to reimburse the employee. Reimbursement may be in petty cash, or a separate check.

010.025 Overnight and Extended Training

NOTE: Per Diem amounts are prescribed in Section 7 (a) and (b) above. While an employee is at the training site, they will receive a full day's per diem at the discretion of the Department Director.

- A. Per Diem will be provided only for the days of the conference and the travel time. Employees electing to arrive earlier or later at the destination than is required for City purposes will not receive per Diem for the extra time.
- B. The City will pay single occupancy hotel rates. Additional charges incurred because of the accompaniment of a spouse will be paid by the employee.
- C. Employees arriving at a conference earlier or leaving later than is required for City purposes will pay any additional hotel costs incurred.
- D. Employees will pay all additional costs associated with the accompaniment of a spouse on a City business trip.
- E. When several employees attend a conference, they are encouraged to car pool.
- F. Department Directors must provide authorization for all travel and training within their department.
- G. Elected officials may attend any conference sponsored by the National League of Cities and Towns and the Utah League of Cities and Towns.
- H. If any elected official agrees to attend a conference for which costs are incurred in advance, and then does not attend the conference, the elected official will reimburse the City for all unreimbursed expenses. Exceptions are: (a) serious illness of the individual; or, (b) serious illness or death in immediate family; or, (c) costs are refunded; or, (d) another elected official attends the conference in his/her place. If none of these criteria is met, the City Manager is instructed to place the issue on a City Council agenda for discussion and a decision.
- I. Elected officials will not be reimbursed for any travel expenses resulting from travel after an election in which the official either was defeated or did not run for reelection.
- J. Elected officials will provide a verbal briefing in Council meeting of any conferences attended.

- K. Lodging will not be provided for training or conferences located within 30 miles of South Ogden.
- L. Time spent traveling is considered work time if it occurs during the employee's regular shift. Overtime will not be paid for traveling unless the conditions for work time are met in accordance with Title 29 Part 785 Hours Worked of the Portal-to-Portal Act of 1947.
- M. Employees will be given up to 21 days after returning from approved travel to submit requests for reimbursement for acceptable expenses.

SECTION 11: LEAVES OF ABSENCE

011.005 General Policy

There are many types of leaves of absence from the workplace. The City encourages all employees to wisely use their leave accruals.

011.010 Vacation

The length of eligible service to determine the vacation rate of accrual is calculated on the basis of a 12-month period that begins on the date of hire for the eligible classification. Any unpaid leave of absence will not count toward the 12-month period except for a Military Leave of absence. [Military Leave](#) does not affect this calculation.

To take vacation, employees must request approval in advance from the supervisor authorized to receive and review requests. Exceptions to this advance notice requirement can only be granted by the Department Director or his/her designee. Requests will be reviewed and either denied or approved based on several factors, including business needs and staffing requirements.

Employees exempt from the Fair Labor Standards Act are expected to work their assigned schedule each regular workday. Exempt employees who take time off work on a day, in which some work was performed, will not have their vacation leave reduced. Otherwise, they have the same conditions and limitations applicable to the qualified and proper use of vacation leave.

Vacation time off is paid at the employee's base pay rate at the time of vacation. Base rate of pay does not include overtime or any special forms of compensation such as incentives, commissions, and bonuses. Paid vacation time shall be accounted for in minimum increments of 15 minutes.

As a condition of utilizing Family & Medical Leave Act leave, Employees must use available sick and vacation leave for the care and support of themselves or another under conditions described in the Family & Medical Leave policy. Employees, supervisors and Department Directors must notify the Assistant City Manager whenever paid vacation leave is used for a serious health condition.

011.015 Vacation Leave Benefits

Vacation time off with pay is available to eligible employees to provide opportunities for rest, relaxation, and personal pursuits. Employees in the following employment classification (s) are eligible to earn and use vacation time as described in the Vacation Leave Policy:

- Full-time employees
- Qualified, Part-time employees
-
- Introductory employees in the above classifications

The paid vacation time employees receive each year increases with the length of their employment as shown in the following schedule.

Vacation Accrual – Full-Time Employees (Excluding sworn fire fighters and Department Directors)

Years of Eligible Service	Vacation Hours Earned Biweekly	Annual Vacation Days
Upon hire	3.08	10
After 5 years	4.62	15
After 10 years	6.16	20
After 15 years	6.92	22.5
After 20 years	7.69	25

Vacation Accrual – Full-Time Sworn Fire Fighters

Years of Eligible Service	Vacation Hours Earned Biweekly	Annual Vacation Days
Upon hire	4.62	5 shifts (120.12)
After 3 years	5.54	6 shifts (144.04)
After 9 years	6.47	7 shifts (168.22)
After 14 years	8.31	9 shifts (216.06)

*** NOTE:** A vacation day for most employees is based upon a normally scheduled eight (8) hours shift of work. Sworn Fire Personnel earn vacation “shifts” based on a twenty-four (24) hour shift basis, since they work on a 24-hour shift basis.

Once employees enter an eligible employment classification, they earn paid vacation time according to the schedule. Vacation accrual rates for qualified, part-time employees are prorated based on the full-time schedule.

Besides the vacation accrual rates described above, employees may also accrue additional vacation pay in lieu of regular holiday time off (see Holiday Policy), or because of converting certain

accrued sick leave to vacation leave.

Employees who would otherwise qualify for holiday pay also accrue one day of vacation time off annually as a preference day. Employees may schedule using this time under normal vacation procedures, once accrual of the additional time/day has occurred. Sworn Fire Personnel, and other employees designated as working shift work for the Holiday policy receive this time as described in the holiday pay policy.

Full-time Department Directors are credited 160 hours of vacation pay annually on January 1 of each year. If the eligible employee is hired after January 1, the number of hours of vacation pay credited on the date of hire will be prorated based on the months remaining in the year. Full-time Department Directors will be credited with 180 hours of vacation annually upon completion of 5 years of full-time employment and will be credited with 200 hours of vacation time annually upon completion of 15 years of full-time employment.

If available vacation is not used by the end of the calendar year, employees may carry unused vacation time forward to the next calendar year. However, if the unused, accrued or credited vacation time at the end of the last pay period in March has exceeded a “cap” of 240 hours for Full-time and Non-merit, Special employees, or 336 hours for Sworn Fire Personnel, the excess balance will be forfeited to the Employee Sick Leave Bank. If an employee is not allowed to use previously scheduled and approved vacation leave because of unforeseen needs of the City, the City Manager may in writing grant an extension up to 60 calendar days from the forfeiture date in which the employee may use his/ her vacation time. Vacation balances for Department Directors and City Manager will be addressed accordingly at the same time.

011.020 Sick Leave

The City provides paid sick leave benefits to eligible employees to provide time off away from work to care for the medical needs of the employee and/or their dependents. Employees are encouraged to accrue sick leave in amounts sufficient to provide them financial security and regular income during periods of extended sickness or injury, such as may be the case during surgery and post-surgical recovery periods.

Paid sick leave shall be accounted for in minimum increments of 15 minutes. Exempt employees, who take time off on a day in which some work was performed, shall not have their sick leave deducted for sick time taken. Otherwise, exempt employees have the same conditions and limitations applicable to the qualified and proper use of sick leave for illness, injury or bereavement.

Subject to procedures established by Department Directors, employees unable to report to work due to illness or injury should notify the immediate supervisor or other designated individual. The direct supervisor should also be contacted on each additional day of absence.

Except in case of emergency or unexpected illness, employees should request time off at least two weeks in advance of the beginning date of an extended period of sick leave. Verification may be requested for sick leave absences and may be required as a condition to receiving sick leave benefits. If an employee is absent for over 40 consecutive hours (or 2 consecutive shifts for Sworn

Fire Personnel) due to illness or injury, a physician's statement will be required verifying the disability and its beginning and expected ending date. An employee may also be required to provide a physician's statement identifying whether he/she can return to work, and what, work restrictions or limitations exist. ([See Family & Medical Leave and Fitness for Duty policies Section 11.085](#))

Employees returning from sick leave of less than 40 consecutive hours (less than two consecutive shifts for Sworn Fire Personnel) may be required to provide a physician's statement upon their return to work.

Where an unusual pattern of sick leave use is present, or a question arises as to the legitimate use of accrued sick leave, Department Directors have the right to investigate use of sick leave, make inquiry of the employee as to his/her ability to perform essential functions of the job, and otherwise request medical information be provided to the supervisor.

Employees, supervisors and Department Directors must notify the Assistant City Manager whenever paid sick leave is used for a medical disability or serious health condition of the employee. A serious health condition means an illness, injury, impairment, or a physical or mental condition that involves an absence of five (5) days or longer under the care of a health care provider, inpatient care in a hospital, hospice, or residential medical care facility; or continuing treatment by a health care provider.

The City has developed a reporting form to be completed by the employee and submitted to the Assistant City Manager. This form is used to determine the effective date of any medical disability or serious health condition of the employee and the period of available leave (paid and unpaid) benefit for the employee.

If the proper form is not completed, the Assistant City Manager or his designee will determine the effective date of any serious health condition and the period of available leave (paid and unpaid), based on the first date the employee was granted any leave related to, and/or in connection with, the employee's medical disability or serious health condition.

011.025 Sick Leave Benefits

The City provides sick leave to eligible employees. Sick leave is accrued by pay period at a rate of 3.70 hours per period, for 12 days annually. Eligible employees include:

- Full-time
- Qualified Part-time
- Introductory Employees in Full-time Positions in the Above Classifications

Qualified part-time employees accrue sick leave on a prorated basis.

011.030 Sick Leave Payment upon Death

It is the policy of the City that, upon the death of a full-time employee, regardless of the cause of death, the City will pay a lump sum benefit to the surviving heir(s) based on the employee's

accrued, unused sick leave. Upon the employee's death, the 50% of the employee's accrued unused sick leave, with a maximum of 960 hours, will be paid to the lawful heir(s) of the deceased. If an employee is killed while performing duty for the City, the City will pay the lawful heirs an amount equal to 75% of unused accrued sick leave with a maximum payment of 1440 hours.

011.035 Sick Leave Conversions and Payment

The City allows employees to benefit from a certain amount of unused sick leave each year. After an employee accrues over 240 hours of sick leave (336 hours for Sworn Fire Personnel), that employee may elect to convert unused sick leave benefits, above that 240 hour threshold amount, to vacation leave each calendar year at the end of the first complete pay period in January. For example:

- An employee with 246 hours of sick leave may convert up to 6 hours to vacation leave.
- An employee with 264 hours or more of sick leave may convert up to 24 hours to vacation leave.
- A maximum annual conversion of not more than 24 hours will be allowed.

For employees retiring with State retirement benefits or other city approved retirement program benefits during a calendar year, conversion to vacation benefits will occur upon the effective date of retirement.

Accrued sick leave benefits are intended solely to provide income protection if death occurs, illness or injury or conversion to vacation as allowed in this policy. Unused sick leave benefits will not be paid as direct compensation to employees while they are employed or upon termination of employment except as otherwise stated in this policy.

The City intends to provide some additional compensation for employees retiring from public service, by paying the employee for a portion of their accrued, unused sick leave. Subject to the terms, requirements and controls of any City-approved retirement system program, an employee retiring under an approved system may be paid the value of one-half his/her unused, accumulated sick leave (1,344 hours for Sworn Fire Personnel, and 960 hours for other eligible employees). Therefore, the maximum payment made to an employee retiring with retirement benefits would be 672 hours for Sworn Fire Personnel and 480 hours for other eligible employees. Such payment will be based on the hourly or equivalent base rate of pay in effect at the time of the employee's retirement.

011.040 Holiday

The City provides paid time off or additional compensation, as provided in the Holiday Pay Policy, to all eligible employees for holidays designated by the City. Employees in the following employment classification(s) are eligible for this benefit:

- Full-time employees
- Qualified, Part-time employees
- Non-merit, Special employees

- Introductory employees in the above classifications

The holidays designated by the City for this benefit are:

Holiday	Date of Leave
New Year's Day	January 1
Martin Luther King Jr., Day	Third Monday in January
Presidents' Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Pioneer Day	July 24
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans' Day	November 11
Thanksgiving	Fourth Thursday in November
	Friday Following Thanksgiving
Christmas	December 25

For paid time off, a holiday that falls on a Saturday is observed on the preceding Friday and a holiday that falls on a Sunday is observed on the following Monday. (Notwithstanding the above, holiday pay will be based on the actual holiday for "employees working shift work.")

Paid time off or additional compensation for holidays is provided to all eligible employees immediately upon assignment to an eligible employment classification. For all eligible employees, except sworn fire personnel and qualified part-time employees, a holiday is equivalent to eight (8) hours of regularly scheduled work. For sworn fire personnel working a 24-hour shift, a holiday is equivalent to twelve (12) hours of regularly scheduled work. Holidays for qualified, part-time employees are prorated based on their regular work schedule.

Paid time off is calculated based on the employee's base pay rate at the time of the holiday and includes no special forms of compensation, such as incentives, commissions, or bonuses. Whether holiday time is considered hours worked to calculate overtime will vary from department to department.

Sworn fire personnel working 24-hour shifts are compensated for working holidays at their regular rate of pay, as if the day were not a holiday. These employees will receive additional paid time off for holidays included within any regular work period assigned as an employee working a 24-hour shift, whether worked or not. If the employee is assigned to shift work during the entire calendar year, the paid time off amounts to an additional six (6) 24-hour shifts for holiday time, or 144 hours of holiday paid time off (which includes benefit for personal preference day). Such additional paid time off for holidays will be prorated to adjust for any changes during the year from, or to, shift work assignments.

If a designated holiday falls during an eligible employee's paid absence (i.e., vacation or sick leave), holiday paid time off will still be granted for the holiday, rather than vacation or sick leave.

See Holiday pay for employees working shift work and other employees required to work on a holiday.

011.045 Personal Leave

The City may provide leaves of absence without pay, at its sole and complete discretion, to eligible employees who wish to take time off from work duties to fulfill personal obligations. Employees in the following employment classification(s) are eligible to request personal leave as described in this policy:

- Full-time employees
- Qualified, part-time employees
- Special, non-merit employees

When eligible employees learn of the need for a personal leave of absence, they should request a leave from their supervisor.

Personal leave may be granted for a period of up to 30 consecutive calendar days every one year. If this initial period of absence proves insufficient, consideration will be given to a written request for a single extension of no more than 60 consecutive calendar days. An employee must take any applicable and available paid leave before the commencement of any personal leave. Requests for personal leave will be evaluated based on several factors, including anticipated workload requirements and staffing considerations during the proposed period of absence.

Subject to the terms, conditions, and limitations of the applicable plans, the City will continue to provide health insurance benefits for the first thirty (30) days of the approved personal leave. Benefits accruals, such as vacation, sick leave, or holiday benefits, will be suspended during the leave and will resume upon return to active employment. Seniority will not continue to accrue during any unpaid leave including personal leave.

When a personal leave ends, every reasonable effort will be made to return the employee to the same position, if it is available, or to a similar available position for which the employee is qualified. However, the City cannot guarantee reinstatement in all cases.

If an employee fails to report to work promptly at the expiration of the approved leave period, the City will assume the employee has resigned.

011.050 Administrative Leave

- A. While performing authorized duties. A qualified or introductory employee may be granted administrative leave with pay to perform authorized duties for South Ogden City business, attend trade or professional meetings which relate to official duties, participate in recognized and authorized training programs, or facilitate the needs of South Ogden City.
- B. Pending possible disciplinary action. A qualified or introductory employee may be granted administrative leave with pay pending the outcome of an investigation undertaken to

determine if disciplinary action against the employee is warranted.

- C. Administration or pending review of employee performance or fit for duty as it relates to policy.

011.055 Military Leave

A military leave of absence will be granted to all employees, except those occupying temporary positions, to attend scheduled military training assignments, or if called to active duty with the U.S. Armed Services.

Employees will continue to receive full pay while on leave for scheduled military training assignments up to ten (10) working days (80 hours). The portion of any military leaves of absence over these ten (10) working days will be unpaid. However, employees may use any available paid time off such as compensatory time or vacation time for the absence.

Subject to the terms, conditions and limitations of the applicable plans for which the employee is otherwise eligible, health insurance benefits will be provided by the City up to the first ten (10) calendar days of the military leave of absence.

Vacation, sick leave, and holiday benefits will continue to accrue during a military leave of absence of up to ten (10) calendar days. Thereafter, benefit accruals shall be suspended during longer military leaves of absence.

Employees on scheduled, annual, active duty training assignments must return to work for the first regularly scheduled shift after the end of the training, allowing reasonable travel time. Employees on longer military leave must apply for reinstatement under applicable state and federal laws.

Every reasonable effort will be made to return eligible employees to their previous position or a comparable one. They will be treated as though they were continuously employed to determine benefits based on length of service, such as the rate of vacation accrual and job seniority rights.

011.060 Jury Duty

The City encourages employees to fulfill their civic responsibilities by serving jury duty when required. Jury duty pay will be calculated on the employee's base pay rate times the number of hours the employee would otherwise have worked on the day of absence. Employee classifications that qualify for paid jury duty leave are:

- Full-time employees
- Qualified part-time employees
- Introductory employees in full-time positions
- Non-merit, special employees

Except for exempt employees, any fees paid by the court or other jurisdictional authority to an employee on a paid jury duty leave must be returned to the Finance Director within one (1) week of their receipt. Under the provisions and guidelines of the Fair Labor Standards Act, (FLSA)

exempt employees shall not be required to return any such fees, if the length of the paid jury duty leave was less than one full workday in any single event.

Employees must show the jury duty summons to their supervisor when possible so the supervisor may accommodate their absence. Employees are expected to report for work whenever the court schedule permits. Either the City or the employee may request an excuse from jury duty if, in the City's judgment, the employee's absence would create serious operational difficulties.

The City will continue to pay its portion of the premium costs for health insurance benefits during jury duty absence. Vacation, sick leave, and holiday benefits, will continue to accrue.

011.065 Witness Duty

The City encourages employees to appear in court for witness duty when subpoenaed to do so. If on duty employees have been subpoenaed or otherwise required to testify as witnesses, they will receive their regular pay for the entire period of witness duty, but will be required to remit any witness fees received to the City. If an off duty is called, then they are entitled to keep the witness fee.

The subpoena should be shown to the employee's supervisor immediately after it is received so operating requirements can be adjusted, where necessary, to accommodate the employee's absence. The employee is expected to report for work whenever the court schedule permits.

011.070 Bereavement Leave

Employees who experience a death in their immediate family may, at the discretion of the Department Director request up to five days of bereavement leave.

Employees may apply for bereavement leave in the following manner:

- A. Up to five (5) days may be granted for bereavement leave for the death of an employee's spouse or child.
- B. Up to three (3) days may be granted for bereavement leave for the death of an employee's parent, spouse's parent, grandchildren, or sibling.
- C. One (1) day may be used for bereavement leave for the death of the employee's grandparents, brother-in-law, or sister-in-law.

011.075 Time Off to Vote

The City encourages employees to fulfill their civic responsibilities by participating in elections. Employees can find time to vote either before or after their regular work schedule. If employees cannot vote in an election during their non-working hours, their Department Director may grant a reasonable paid time off, up to two hours, for employees to vote.

Employees should request time off to vote from their supervisor at least two working days prior to the Election Day. Advance notice and prior approval is required so the necessary time off can be scheduled to minimize disruption of work schedules and operations.

011.080 Workers Compensation - Leave of Absence

Under Utah State law, the City provides workers compensation insurance. Subject to applicable legal requirements, this program covers injury or illness sustained on the job. The purpose and a brief description of workers compensation and its benefits are found in the Workers Compensation policy.

Unless the employee is terminated or separated from the City, it is the policy of the City to provide an unpaid leave of absence to any employee unable to work because of a work-related injury, accident or illness. The length of time of this leave is determined by both the medical condition of the employee and the employee's ability to return to work in a capacity for which a medical practitioner has approved and provided a release to such duty. The length of this leave is discussed in the Medical Termination policy under the heading "Employment".

As with any other time off from scheduled work, employees must complete a Request for Time Off form and return it in to their supervisor. Employees requesting leave because of a work related illness or injury will be required to submit written documentation from a physician that the employee cannot perform their duties because of the work related illness of injury for the time for which leave is requested. Employees have an obligation to request the time off work, keep their supervisors informed of their whereabouts, and otherwise keep the City apprised of their intentions and availability to return to work.

During the leave period, worker's compensation payments are paid under applicable law, and paid as a specific amount based on the employee's earnings and eligibility. Employees may qualify for Family & Medical Leave as part of workers compensation leave, or as a separate leave altogether. [See also Family & Medical Leave policy Section 11.085.](#)

If an employee is on an approved workers compensation leave and is receiving a worker's compensation disability benefit, they may use any available vacation or sick leave to supplement the workers compensation amount up to 100% of the average net pay the employee was receiving during the last 13 weeks of service for the City immediately preceding the workers compensation injury.

The City has specific policies and procedures for handling workers compensation claims. Safety programs have been established to properly address safe working conditions and environments. Employees are responsible for obtaining information about, and adhering to direction on, the City's safety programs.

If an employee fails to report to work promptly at the end of an approved leave related to workers compensation, the City will assume the employee has resigned. Employees may be terminated for work-related reasons even though they receive workers compensation.

011.082 Return to Work Program

Policy: South Ogden City is committed to providing a safe work environment to our employees. However, if an employee becomes injured on the job, we will do everything we can to help the employee heal and return to work as quickly as possible. When employees are able to work and be a contributing team member, the injured employee heals faster, we are more productive, and the morale of our entire organization is lifted.

Workers Compensation Coordinator: The Assistant City Manager is our Workers Compensation Coordinator (WCC). The Workers Compensation Coordinator will help injured employees and their supervisors achieve the goal of helping injured employees get healthy and back to being a contributing team member.

Medical Providers: If a life-threatening injury occurs, 911 should be called to access normal emergency care. Employees with routine, non-life-threatening injuries should be taken by their supervisor or designee to:

- IHC Workmed, 1355 W. Hinckley Drive, Ogden, Utah 84401, (801) 387-6150.
- If the Network Provider is not available (after hours, etc.), call the Workers Compensation Coordinator to arrange medical care.
- Employees must seek care from the provider designated by the WCC. Failure to do so may affect their workers compensation claim.

Injury Reporting: All injuries, no matter how minor, must be reported immediately to the employee's supervisor. Supervisors report these injuries to the Workers Compensation Coordinator, who begins a workers compensation claim and helps to arrange medical care. All injuries must be reported the day they occur. Failure to report injuries could jeopardize coverage of the injury.

Post Injury Procedures: After receiving medical treatment, these steps must be taken:

- Employee and his/her supervisor deliver all paper work from the medical provider to the Workers Compensation Coordinator.
- WCC and the injured employee's supervisor review any restrictions given by medical provider with the injured employee's job description and determine if the employee's normal job meets the restrictions. If not, a Restricted/Light/Transitional Duty job will be assigned to accommodate the restrictions.
- Injured employees must comply with the restrictions they are given. Failure to do so could slow their recovery or cause further injury.

Restricted/Light/Transitional Duty: South Ogden City will accommodate restricted duty jobs for workers injured on the job. The WCC will work with the supervisor to design a work strategy that meets the injured employee's restrictions and accomplishes South Ogden City's goals.

Follow Up: Injured employee's supervisor and the Workers Compensation Coordinator will regularly follow up with the employee and medical providers to make sure the employee is

getting the care required, attending their medical appointments, complying with their restrictions, and that any restricted duty assignments are helping the employee move closer to their regular job duties.

Interaction with Adjusters: One of the best ways to help an employee get healthy and return to work quickly is to communicate with adjusters who manage the workers compensation injury claim. Adjusters have access to resources and have a vast knowledge in how to help injured employees get better. Utah Local Governments Trust has partnered with Constitution State Services (CSS) to adjust claims. They can be reached at 800-243-2490.

011.085 Family and Medical Leave

In compliance with the Family and Medical Leave Act of 1993 (FMLA) and the January 28, 2008, Military Family Leave Provisions, South Ogden City's Family and Medical Leave Policy allows eligible employees to take up to twelve (12) work weeks of unpaid leave for various family and medical reasons and up to 26 weeks for qualifying events connected to the Military Caregiver provisions of the law.

An "eligible employee" is defined as an employee employed by South Ogden City for at least 12 months (not necessarily consecutive) and who has worked at least 1,250 hours during the 12 months preceding the leave.

Family and Medical Leave will be granted to eligible employees for the following reasons:

- A. Family Leave of up to 12 weeks for the birth of the employee's child;
- B. Family Leave of up to 12 weeks to place a child with the employee for adoption or foster care;
- C. Medical Leave of up to 12 weeks to care for a spouse, child, or parent with a serious health condition; or
- D. Medical Leave of up to 12 weeks due to the employee's own serious health condition that makes it impossible for the employee to perform the functions of his or her own job;
- E. Military Exigency Leave of up to 12 weeks to deal with exigencies resulting from a Federal Contingency Act;
- F. Military Caregiver Leave of up to 26 weeks to care for a covered military family member injured in the line of duty.

If an employee's spouse, son, daughter or parent of a military service member is on active duty, or on notice of an impending call to active duty, the Company will grant up to 12-weeks of unpaid leave in a 12-month period based on "any qualifying exigency".

If an employee's spouse, son, daughter, parent or "next of kin" of a military service member is injured in the line of duty, the City will grant up to 26-weeks of unpaid leave in a rolling 12-month period to care for the injured family member.

To qualify for leave under the new amendments, an employee still must comply with other provisions of the FMLA Note, also, that if an employee requests FMLA leave to care for an injured service member and that employee has already taken FMLA leave in the past 12 months, the 26-week leave period will be reduced by the leave previously taken.

Amount and Timing of Leave

An eligible employee is entitled to 12/26 weeks of unpaid FMLA leave within a 12-month period for one or more of the six reasons listed above. However, if a husband and wife are both employed by South Ogden City, they are entitled to a combined total of 12 weeks of unpaid FMLA leave for the same reason (e.g., the birth of a child, placing a child for adoption or foster care, or to care for a parent). South Ogden City calculates FMLA entitlement on a "rolling 12-month" basis. The 12-month period begins on the first day of a FMLA leave.

Notice and Procedures for Requesting a Leave

Employees should make requests for medical leave by submitting a completed **Form WH-381** to the Assistant City Manager at least 30 days in advance of foreseeable events and when possible for unforeseen events. Additional unprotected leave extending beyond the 12/26-weeks will only be granted upon further review and approval from management.

Certification for Medical Leaves

An employee requesting FMLA leave to care for a spouse, child or parent or due to his or her own serious health condition must provide South Ogden City with a medical certification completed by a health care provider verifying the need for medical leave and the probable duration of the leave. The medical certification form may be obtained from the Assistant City Manager. South Ogden City will not determine if a leave falls under the FMLA guidelines until the medical certification form is received. South Ogden City may require an employee on FMLA leave to report periodically on his or her status or intent to return while on leave.

Use of Paid Leave

Employees may substitute accrued paid vacation, personal time or sick time-off for any type of family or medical leave. The time during which paid leave is substituted for unpaid leave **will be counted against the 12/26-week FMLA entitlement**. After using any paid time off for the FMLA leave, the balance of the FMLA leave will be provided without compensation. Workers' Compensation, Short-Term Disability, and Long-Term Disability time off will be counted against the employee's 12-week FMLA entitlement.

Health Care Coverage

An employee may elect to continue coverage under South Ogden City's group health and dental plans for the duration of the FMLA leave at the same level and under the same terms and conditions as if he or she were not on leave. An employee who elects coverage must continue to pay his/her portion of the monthly premium. Payment arrangements can be made with the Assistant City

Manager to maintain health and dental insurance benefits while the employee is on leave. Failure to make premium payments when they are due may cause a loss of coverage. Whether or not the employee elects to continue medical coverage during the FMLA leave, when the employee returns to employment, he or she will be reinstated to the same coverage as he or she had before the leave.

Reinstatement

Upon returning from FMLA leave, an employee will be restored to his or her original position or be placed in an equivalent position with equivalent employment benefits and pay. If an employee takes FMLA leave due to his or her own serious health condition, the employee must present South Ogden City with a fitness-for-duty certification completed by the employee's health care provider prior to returning to work. If it is discovered the employee worked for another Company while on FMLA leave, South Ogden City maintains the right to terminate employment with the employee.

Employees are encouraged to talk with their supervisors or to contact the Assistant City Manager and make inquiry, raise concerns and seek information about the Family & Medical Leave Act, or their working conditions related to taking such leave, without fear of retaliation.

011.090 Leave without Pay

Other than conditions specified within these policies, taking leave without pay is discouraged. For the City to obtain its goals and provide service to the public, employees must routinely come to work. Excessive leave use results in employees going into a leave without pay status, which is often symptomatic of leave abuse. All leave without pay must be approved by a Department Director. Employees requesting leave without pay for illness may, at the Department Director's discretion, be required to exhaust all vacation leave before going on a leave without pay status. Employees unable to justify continued leave without pay will be subject to disciplinary action up to and including termination.

- A. Any unauthorized absence of an employee from duty shall be grounds for disciplinary action, up to and including termination.
- B. Any employee absent for three (3) or more consecutive workdays without authorized leave shall be deemed to have voluntarily resigned their position and employment without notice. Where extenuating circumstances are found by the Assistant City Manager, or designee, a subsequent grant of leave with or without pay as the circumstances dictate.
- C. Leave without pay may be granted for special exceptions as approved by the Department Director and City Manager.
 1. Employees are expected to apply for leave without pay in advance and in writing, providing as much detail about the absence as possible so the City Manager, or designee, may decide where the leave without pay is warranted.

011.095 Emergency Closings

Emergencies such as severe weather, fires, power failures, or earthquakes, can disrupt government operations. In extreme cases, these circumstances may require closing a work facility. In the event that such an emergency occurs during non-working hours, local radio and/or television stations

will be asked to broadcast notification of the closing.

When the decision to close a work facility is made, employees will receive official notification from a supervisor. When an emergency occurs, under the authority of City Manager, Department Directors and supervisors will determine how time missed away from work will be handled. Under these circumstances, missed time away from work may be completed at another time during the work period, or administrative leave may be granted, at the discretion of the City Manager.

Employees in essential operations may be asked to work on a day when operations are officially closed. In these circumstances, employees who work will receive regular pay, and if other employees have been granted administrative leave, will receive compensatory time off. Where applicable, overtime pay or compensatory time will apply.

011.100 Leave Documentation

Some absences must be supported by a copy of the official paperwork documenting the need for the absence. Such paperwork must be submitted to the City Manager, or their designated representative, when possible. Where official paperwork is not available, the City Manager, or their designated representative, may request that the employee supply additional information in writing to support the absence.

SECTION 12: GENERAL SAFETY

012.005 General Policy

The City recognizes that each department within the City, and all employees, have certain responsibilities to uphold the integrity and value of the safety program for the City. These responsibilities are designed to enable everyone to better understand and enforce the procedures of the safety program. The City provides information to employees about workplace safety and health issues regular through internal communication channels such supervisor-employee meetings, bulletin board postings, memos, or other written communications.

012.010 Safety Committee

The City has established a safety committee to support and grow a safety-oriented culture throughout the City and to review the effectiveness of the safety program. The safety committee reviews all work-related accidents, reviews and makes recommendations for safety-related policies and procedures, oversees and /or performs safety audits, and discusses the overall safety needs of the City's departments. Areas of the building and work procedures are reviewed to determine potential liabilities to the city.

012.015 Safety

Employees and supervisors receive periodic workplace safety training. The training covers potential safety and health hazards and safe work practices and procedures to eliminate or minimize hazards. This training may comprise on-the-job training, equipment and hazards training, first aid and CPR training, and may also include formal classroom training, either on or off the job.

Supervisors shall assume the responsibility of thoroughly instructing their personnel safe practices to be observed in their work situations. They will consistently enforce safety standards and requirements, set the example of good safety practices and act positively to eliminate any potential hazards within the activities under their jurisdiction. Safety records will be measured with other phases of supervisor performance. In discharging their responsibilities for safety, supervisors shall:

- A. Enforce all safety regulations in effect and make employees aware that violations of safety rules may be cause for disciplinary action.
- B. Ensure all injuries and/or accidents are reported promptly.
- C. After consultation with the City Manager and City Attorney, conduct thorough investigations of all accidents and prevent reoccurrence by implementing proper employee safety education, changes in operating procedures, and/or appropriate modification of equipment.
- D. Before work begins, provide employees with adequate and appropriate safety instructions regarding their duties, obligations and functions.
- E. Before placing new or relocated equipment into operational service, conduct careful examination and safety checks of the equipment and the area of service.
- F. Ensure equipment is properly stored when not in use, and properly maintained and serviceable when in use.
- G. On a regular and frequent basis inspect for unsafe practices and/or conditions of work in progress and the work environment, and take appropriate corrective action to ensure safe work practices and safe work environments.
- H. Maintain high standards of cleanliness and orderliness within the work force and the work environment in all areas of operations under his/her supervision.
- I. Ensure proper and safe equipment and protective devices for each job or work duty are available and in use.
- J. Conduct safety briefings at organizational meetings and encourage employee implementation of safety suggestions.
- K. Provide full and active support to all safety procedures, activities and programs within his/her area of supervision and influence.

Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must immediately report any unsafe condition to their supervisor or to the appropriate supervisor. Employees who violate safety standards, who cause hazardous or dangerous situations, who fail to report or, where appropriate, remedy such situations, may be subject to disciplinary action, up to and including termination of employment. Examples of employees' responsibilities

to uphold safe work standards include, but are not limited to:

- A. Proper use of safety equipment provided for work activity and completing work assignments.
- B. Where necessary or required, wear uniforms and safety gear properly.
- C. Use or operate tools, equipment and machinery only when adequately trained and proper orientation has been received for their safe use.
- D. Report defective or hazardous equipment or maintenance problems immediately to a supervisor. Assist where appropriate and directed to properly tag or secure such items until proper repair or replacement procedures have been completed.
- E. Refrain from the use or operation of unsafe tools, equipment or vehicles until they have been properly replaced or repaired and placed back into service by the employee's division manager or Department Director through established procedures.
- F. Warn coworkers and others of unsafe conditions or practices in which they may be engaged.
- G. Report dangerous, hazardous or unsafe work environment or physical conditions that exist throughout the work place or the City. Such conditions may include, but not be limited to defective sidewalks, obstructed traffic signs, broken curbs, hanging limbs in public access areas, open manholes, and missing or damaged pedestrian, school, or traffic signs.
- H. In the case of accidents that result in injury, regardless of how insignificant the injury may appear, employees should immediately notify their appropriate supervisor. Such reports are necessary to comply with various laws, City policies, and initiate workers compensation claims.
- I. Protect the public and coworkers from unsafe or hazardous conditions resulting from City work or work in progress.
- J. Use all tools (either hand or power-driven) in a safe for the purpose for which the tool was made.

012.020 Modified Duty Work Assignments

It is the policy of the City that employees may work only in positions for which they are qualified and in which they can perform the job duties, tasks and essential functions in a safe and proper manner.

When employees have been off work due to an injury, illness or disease, it is the City's policy to provide and encourage a speedy return to work to the extent appropriate and practicable. It is the experience of the City that employees able to return to work quickly, even on a limited basis, regain their full health, physical functioning and abilities quicker and more completely than if they remain inactive and off work for longer periods of time.

For medical reasons, a physician may indicate an employee cannot immediately return to full duty work assignments, and may release the employee to work with limited or modified duty restrictions until the employee can completely and safely fulfill all essential work duties and functions. Notwithstanding a medical report allowing modified duty work, the City reserves the right to allow or deny modified duty work assignments in its discretion, consistent with applicable Americans with Disabilities Act (ADA) provisions.

Any modified work assignments longer than one week in duration must be documented by a letter from a physician indicating the beginning date of modified duty work assignments, and another letter indicating an ending date of modified duty work assignment. Under no circumstances are modified duty assignments to be permanent or to extend beyond a reasonable period of time, unless such modification is subject to the protections and conditions of the ADA. ([See Chapter 15.015 Medical Termination](#))

Examples of modified duty work assignments include temporary assignments within the employee's department, temporary assignments in other City departments, and community service work with outside agencies. The employee's appointing department will remain financially accountable for wages for modified work assignments.

012.025 Disabled Workers

The City will consider a reasonable accommodation where appropriate and necessary for an employee who has presented medical records, which set forth a specific and documented disability for which, an accommodation is requested. Such reasonable accommodation may include changes in the physical or functional work methods, or the work conditions or environment, so long as the employee can perform the essential functions of the job.

Medical information on individual employees is treated confidentially. The City will take reasonable precautions to protect such information from inappropriate disclosure. Managers, supervisors and other employees have a responsibility to respect and maintain the confidentiality of employee medical information. Any employee inappropriately disclosing such information is subject to disciplinary action, up to and including termination of employment.

012.030 Use of Equipment and Vehicles - Reporting Problems/Accidents

Equipment and vehicles essential in accomplishing job duties are expensive and may be difficult to replace. When using City property, employees are expected to exercise care, perform required maintenance, and follow all operating instructions, safety standards, and guidelines.

The supervisor can answer any questions about an employee's responsibility for maintenance and care of equipment or vehicles used on the job. The improper, careless, negligent, destructive, or unsafe use or operation of equipment or vehicles, and excessive or preventable accidents or violations, can cause disciplinary action, up to and including termination of employment.

Accidents, mishaps (including "near misses"), injuries and traffic violations occurring while on duty in City vehicles are to be reported immediately to the appropriate supervisor and the City Manager or his designee. Department Directors and supervisors, and involved employees, are

responsible for the timely and accurate reporting of accidents, mishaps, injuries, and traffic violations.

Employees who witness or discover an accident or injury regarding work activity related to the City, may be asked to assist in completing an accident or investigation report by law enforcement authorities or other appropriate management staff. Employees will provide a clear and detailed factual report. Employees should not admit, or give opinions about, fault, blame or liability. The investigation must be based on factual information, not opinion or speculation.

The City intends to provide for prompt and appropriate investigation, review and other proper action(s) regarding determining the cause of any accident or other event, which may involve an issue of safety for employees, or the public. The City takes seriously any accident or event involving actual or potential harm, or threat of harm, to any person(s) or their property.

Employees can be held personally liable for any loss or damage to person(s) or property resulting from willful, wanton, and/or reckless negligence. This liability can extend to the employee irrespective of any insurance coverage or liability of the City.

The City will take reasonable precautions to avoid accidents or injury, and will act in a manner consistent with safe work practice to help ensure prompt and appropriate attention to correct work conditions or related problems so unsafe conditions are dealt with properly.

012.035 Accident Review

It is City policy to investigate, review and analyze all accidents involving South Ogden City motor vehicles. All motorized equipment capable of self-propulsion involved in an accident are within the scope of this policy, while used for a work-related City activity. This includes both City-owned and personal vehicles. A motor vehicle accident is any event that results in personal injury or property damage that can be attributed to the motion of a vehicle or its load. Any employee involved in a motor vehicle accident must report the accident to his/her supervisor or Department Director when possible after the accident, and always within 24 hours of occurrence. Involvement includes a physical observation of an accident, a direct influence in an accident, or participatory action in which an individual was directly affected in an accident, whether or not injury occurred. Reportable property damage under \$1000 may not be subject to the review board if approved by the City Manager.

012.040 Investigations and Reporting

Unless exigent circumstances warrant otherwise, any employee involved in a motor vehicle accident must remain on the scene of the accident until proper legal authorities have arrived, have obtained the employee's statement, and have either released the employee or detained the employee under custody. Any employee involved in a motor vehicle accident is to provide his/her name, driver's license, and employment data to the driver of any other vehicle involved. Any other information is provided only to proper investigating authorities.

The employee's Department Director shall have the employee's supervisor or other designated management member investigate the accident and review available information and records to obtain factual evidence related to the reason(s), conditions and preventability of the accident.

Within two (2) working days of the accident, the department investigator shall complete the Supervisor's Investigation Report form and forward the report to the Assistant City Manager or his designee.

Whenever serious physical injury occurs in, or stems from, a motor vehicle accident, the supervisor or Department Director shall report this information immediately to the City Manager or his designee.

When any motor vehicle accident results in damage to a South Ogden City vehicle, an Incident Report form must be completed by the employee and supervisor within two (2) days and forwarded to the Assistant City Manager or his designee.

012.045 Review and Action

All motor vehicle accidents and attending reports shall be reviewed by the City. The Safety Committee will review all available records, documents and other evidence pertaining to any motor vehicle accident to determine the preventability of the accident. Preventable accidents are subject to disciplinary action, up to and including discharge, as deemed appropriate by the employee's Department Director.

Records, evidence and testimony regarding accidents are confidential. Discussions about and pertaining to any on-going investigation are confidential, and information will be provided to other management members of the City who legitimately need to know.

012.047 Driver Qualification Program

All employees or volunteers operating South Ogden City owned vehicles, or who may operate any vehicle while conducting business for or on behalf of South Ogden City must be authorized drivers. The authorization process requires an analysis by the Fleet Manager of the employee's driving record to ensure compliance with the driver qualification standard as identified in this policy. Assistant City Manager is the Fleet Manager for the purposes of this policy.

As part of the driver qualification process, all driver's or potential driver's Motor Vehicle Record (MVR) will be screened and monitored on an ongoing basis to ensure the standard is met and maintained. Drivers will be qualified as "Acceptable," "Unacceptable," or "Borderline." Drivers qualified as "Borderline" may be authorized to drive on a probationary basis as determined by the Fleet Manager. Drivers whose record does not meet the driver qualification standard will not be allowed to operate any vehicle while engaged in our business.

All drivers must possess a valid Driver's License. Required endorsements must also be maintained. The driver qualification evaluation will be based on the driver's MVR and may also take into account work related motor vehicle incidents, whether or not the incident has been recorded on the driver's MVR. All violations recorded on the MVR, whether they occurred on the job or not, are included in the driver qualification evaluation.

"Acceptable" or "Borderline" qualification will be determined using the following criteria. Any

number of violations or accident in excess of the “Borderline” criteria constitutes a failure to meet the driver qualification standard resulting in revocation of driver authorization. (Note – DUI and DWI are not evaluated as a standard violation.)

Acceptable

- Up to two violations recorded on the MVR, or
- Up to one at-fault, work-related accident in the prior three years, or
- A combination of one violation on the MVR and one at-fault, work-related accident in the last three years

Borderline

- Three violations recorded on the MVR or,
- Two at-fault, work-related accidents in the last three years, or
- DUI or DWI with in the last five years, or
- Any violation for Careless, Reckless, or Distracted driving

Unacceptable

- No valid driver license,
- Recent DUI conviction, (within the last twelve months)
- Four violations recorded on the MVR

A single major violation recorded on the MVR, or resulting from a work-related incident, *may* result in revocation of the drivers’ qualification and driver authorization. Major violations include, but are not limited to:

- DUI or DWI in the previous 24 months
- Failure to stop/report an accident
- Making a false accident report
- Attempting to elude a law enforcement
- Others as determined by the Fleet Manager

012.050 Life-Threatening Illnesses in the Workplace

Employees with life-threatening illnesses such as cancer, heart disease, often wish to continue their normal pursuits, including work, to the extent allowed by their condition. The City supports these endeavors as long as employees can meet acceptable performance standards. As in other disabilities, upon request the City will make reasonable accommodations under all legal requirements to allow qualified employees with life-threatening illnesses to perform the essential functions of their jobs.

Employees with questions about life-threatening illnesses are encouraged to contact the Assistant City Manager for information and referral to appropriate services and resources.

012.055 No Smoking Policy (Utah Indoor Clean Air Act)

In keeping with the Utah Indoor Clean Air Act and to promote a safe and healthy work environment, it is City policy that smoking is prohibited in all enclosed indoor places of public

access and publicly owned buildings and offices. No smoking signs shall be conspicuously posted on all entrances or in a position visible on entry into any public area or building. As City vehicles are considered places of employment, it is City policy that smoking is also prohibited in all City vehicles.

Outdoor smoking is permitted only in designated smoking areas at least 25 feet from any public access entry or exit; and at least 25 feet from any open window where others are working.

This policy applies equally to all employees and members of the public. Any employee who observes someone violating this policy must bring the matter to the attention of his/her immediate supervisor or Department Director. Supervisors and Department Directors have the responsibility for enforcing the smoking policy of the City.

012.060 Security Inspections

The City wishes to maintain a work environment free of illegal drug, alcohol, firearms, explosives, or other improper materials. The City also believes that the health and safety interests of the public mandate policies and procedures be in place to protect those interests. The City prohibits the possession, transfer, sale, or use of such materials on its premises. The City requires the cooperation of all employees in administering this policy. The City likewise wishes to discourage theft or unauthorized possession of the property of employees, the City, visitors, and customers.

Desks, lockers, and other storage devices may be provided for the convenience of employees, but remain the sole property of the City.

GENERAL POLICY. The following general safety rules will apply in all agency work places. Each work unit may prepare separate safety rules applicable to the specific nature of work in their area but not in conflict with these rules.

- A. Proper licensing and extreme caution are required by all employees operating any type of power equipment.
- B. Employees will use safety equipment appropriate to the job, such as safety glasses, gloves, toe guards, back supports, and hard hats, if required or appropriate to the work performed.
- C. Employees will avoid wearing loose clothing and jewelry while working on or near equipment and machines. Long hair will be properly secured.
- D. All accidents, regardless of severity, personal or vehicular, shall be reported immediately to the supervisor/manager.
- E. Defective equipment will be reported immediately to the supervisor or Department Director.
- F. Employees will not operate equipment or use tools for which licensing and training has not been received.

- G. In all work situations, safeguards required by State and Federal Safety Orders will be provided.
- H. Due to the potential risk of serious injury or death, employees are prohibited from entertaining, or caring for, guests or family members in or around inherently dangerous work areas. These areas include, but are not limited to:
 - (1) Road repair.
 - (2) Construction areas.
 - (3) Vehicle maintenance areas.
 - (4) Splash pad
 - (5) Animal control.
 - (6) Power plants.
 - (7) Sewers.

012.065 Proper Use of South Ogden City Equipment and Tools

Using of South Ogden City equipment or tools for private purposes is strictly prohibited. However, reasonable use of South Ogden City tools and equipment to protect property and preserve life is authorized.

- A. Employees shall be required to attend training provided by South Ogden City; including an explanation of job hazards, safety procedures and training on all equipment, tools, etc., necessary for the accomplishment of the employee's job description. Employees may attend additional training as approved by South Ogden City.
- B. A commercial driver's license (CDL) is required for operators of commercial motor vehicles. No individual shall be allowed to operate such vehicles unless they have a current commercial driver's license in their possession. This license is required under the Commercial Motor Vehicle Safety Act, signed into law on October 27, 1986. Employees must renew their commercial driver's license at four (4) year intervals.
- C. Operators and passengers in a business-use vehicle equipped with seat belts must wear them when the vehicle is in operation, and all employees operating vehicles shall observe all local traffic laws.
- D. Employees shall keep the agency vehicles used by them clean, presentable, and serviceable. Employees receiving car allowances shall also keep their vehicles clean, presentable, and serviceable.

012.070 Cell Phone While Driving

Employees are required to be familiar with and comply with local laws before using a wireless device while operating a motor vehicle for city purposes. Safe operation of any vehicle in the performance of city business is the responsibility of the driver and must be given appropriate attention at all times. In every situation, do not use a wireless device while the vehicle is in motion if doing so distracts attention from driving. Additionally, all employees are prohibited from using data services on their wireless devices, such as texting or accessing the mobile web or other distracting activities, while driving a city vehicle.

SECTION 13: DISCIPLINARY ACTION**013.005 General Policy**

- A. It is the policy of the South Ogden City that management will inform its employees about what is expected at work, what constitutes employee misconduct, and what the employee's rights are, if disciplined.
- B. It is the responsibility of all employees to observe rules of conduct necessary for the proper operation of South Ogden City government. Administrative procedures have been established for handling disciplinary measures when required. All such measures shall follow the presentation of charges to the employee.
- C. Disciplinary action, up to and including termination, may be imposed for misconduct.
- D. Written documentation concerning employee disciplinary action imposed will become a permanent part of an employee's Personnel Record.

013.010 Types of Disciplinary Action

- A. Verbal Warning.
 - (1) Whenever grounds for disciplinary action exist, and the Department Director or designee, determines more severe action is not immediately necessary, the deficiency demonstrated should be verbally communicated to the employee.
 - (2) Whenever possible, sufficient time for improvement should precede additional disciplinary action.
- B. Letter of Caution
 - (1) A non-punitive letter of caution is a mild letter of reprimand. The recipient is not being punished for the actions they engaged in, but they are being notified what they did was wrong and that they will be closely watched in the future. A non-punitive letter of caution is a step down in severity from a written reprimand.

C. Written Reprimand.

- (1) The Department Director or designee may reprimand an employee. The Department Director, or designee, shall furnish the employee with a written reprimand notification setting forth the reason(s).
- (2) A copy of the written reprimand notification, signed by the Department Director and the employee, shall be permanently placed in the employee's personnel file. If the employee refuses to sign the form the City Manager, or designee, will so state.

D. Suspension.

- (1) The Department Director, with approval of the City Manager, or designee, may suspend an employee with or without pay for up to, but not exceeding, thirty (30) calendar days for cause.
- (2) When suspending an employee, the City Manager, or designee, shall follow the due process proceedings set forth in this section.
- (3) By the effective date of the suspension, the City Manager, or designee, shall furnish the employee with a written suspension notification setting forth the reason(s) for suspension.
- (4) A copy of the suspension notification, signed by the City Manager, or designee, and the employee, shall be permanently placed in the employee's personnel file. If the employee refuses to sign the form, the City Manager, or designee, will so state.
- (5) An employee on suspension shall make full employee contributions to their employee medical insurance benefits.

E. Demotion.

- (1) The Department Director, with approval of the City Manager, or designee, may demote, or reduce pay and employee for cause or provide for reasonable accommodation in appropriate circumstances.
- (2) When demoting an employee, the Department Director or designee, shall follow the due process proceedings hereinafter set forth in this section.
- (3) On or before the effective date of the demotion, the Department Director or designee shall furnish the employee with a written demotion notification setting forth the reason(s) for demotion.
- (4) A copy of the demotion notification, signed by the City Manager, or designee, and the employee, shall be permanently placed in the employee's personnel file. If the employee refuses to sign the form the City Manager, or designee, will so state.

F. Transfer.

- (1) The Department Director, with approval of the City Manager, or designee, may transfer an employee (except for an introductory employee) by furnishing the employee with a written transfer notification.
- (2) Notification of the transfer, signed by the Department Director and the employee, shall be permanently placed in the employee's personnel file. If the employee refuses to sign the form, the Department Director or designee, will so state.

G. Termination.

- (1) The Department Director with approval of the City Manager, or designee, may terminate an employee for cause.
- (2) When terminating an employee for cause, the Department Director, or designee, shall follow the due process proceedings set forth in this section.
- (3) By the effective date of the termination for cause, the Department Director, or designee, shall furnish the employee with a written termination notification setting forth the reason(s) for termination.
- (4) A copy of the termination notification, signed by the Department Director or designee, and the employee, shall be permanently placed in the employee's personnel file. If the employee refuses to sign the form the Department Director, or designee, will so state.

013.015 Causes for Disciplinary Action

Causes for disciplinary action, up to and including termination, may include, but are not limited to:

- A. Violation of the laws of Utah or the United States, other than minor traffic offenses.
- B. Violation of the code of personal conduct.
- C. Unjustified interference with work of other South Ogden City employees.
- D. Misconduct.
- E. Malfeasance.
- F. Misfeasance.
- G. Nonfeasance.
- H. Incompetence.
- I. Negligence.

- J. Insubordination.
- K. Failure to maintain skills.
- L. Inadequate performance of duties.
- M. Unauthorized absence or tardiness.
- N. Falsification or unauthorized alteration of records.
- O. Violation of South Ogden City policies.
- P. Falsification of employment application.
- Q. Discrimination in hiring, assignment, or promotion.
- R. Sexual harassment.
- S. Violation of the Personnel Policies and Procedures.
- T. Use of alcohol or drugs, other than medication prescribed by a physician, that affect job performance.
- U. Falsifying South Ogden City Records.
- V. Knowingly marking the time slip of another employee, authorizing one's time slip to be marked by another employee, unauthorized alteration of a time slip.
- W. Unauthorized possession of firearms, weapons, or explosives on South Ogden City owned property, with the obvious exception of police officers.
- X. Carelessness which affects the safety of personnel.
- Y. Threatening, intimidating, coercing, or interfering with fellow employees on the job, or the public.
- Z. Theft or removal of any South Ogden City property or the property of any employee from the work area premises without proper authorization.
- AA. Gambling or engaging in a lottery at any South Ogden City work area.
- BB. Misusing, destroying, or damaging any South Ogden City property or the property of any employee.
- CC. Deliberately restricting work output of themselves or others.
- DD. Drinking any alcoholic beverage during the workday, or being under the influence of illicit drugs or alcohol during the workday.

- EE. Sleeping during working hours, with the obvious exception of firefighter employees.
- FF. Fighting (verbal or physical) on South Ogden City premises, or while on city business, or in a city uniform.
- GG. Any act which might endanger the safety or lives of others.

013.020 Conducting an Investigation

- A. The Department Director, or designee, may conduct an investigation into the allegations, which form the grounds for disciplinary action.
- B. All investigations will be conducted in a fair and consistent manner.
- C. During an investigation to determine the facts upon which disciplinary action may be imposed, the Department Director, or designee, may place an employee on administrative leave.
- D. The investigation shall include an opportunity for the employee to respond to the allegations.
- E. Each employee shall be afforded prior access to South Ogden City's rules, policies, and procedures.
- F. In determining the type and severity of the disciplinary action, the Department Director or designee, may consider aggravating and mitigating circumstances which include, but are not limited to, the repeated nature of misconduct; prior disciplinary action imposed; the severity of the misconduct; the employee's work record; the effect on South Ogden City operations; and/or the potential of the misconduct to harm person(s) or property.
- G. For disciplinary action on a written reprimand, the Department Director, or designee, shall notify the employee, in writing, of the findings of the investigation. The written statement shall include:
 - (1) The grounds for disciplinary action, including a description of the specific misconduct for which the disciplinary action is being imposed.
 - (2) Any prior disciplinary action imposed.
 - (3) The disciplinary action to be imposed.
 - (4) The effective date and duration of the disciplinary action.
 - (5) The corrective action necessary for the employee to avoid further disciplinary action.

- (6) Suspension, demotion, transfer, or termination of an employee shall require the approval of the City Manager.
- (7) The Department Director, or designee, may note the disciplinary action on their personal notes when the disciplinary action is imposed and/or on the employee's performance evaluation form.

013.025 Predetermination Hearing

Subject to the terms and conditions of this and other applicable policies, the City intends to provide employees in eligible employment classifications with a Predetermination Hearing to review with the employee certain actions, which may be taken against the employee. Eligible employment classifications are all employees, except Non-merit Service employees.

Eligible employees shall be informed of the purpose of any Predetermination Hearing and shall be provided written information about the hearing procedures. The City provides a Predetermination Hearing be held by the Department Director or the Department Director's designee for employees in eligible employment classifications for the following actions;

- A. Serious disciplinary action which could cause a suspension from work without pay for over two (2) work days.
- B. Demotion in job classification or pay range.
- C. Discharge proceedings , including termination for cause, lay-off, reduction in force, or for any other reason

Prior to a Predetermination Hearing, the Department Director, at his/her sole discretion, may take action to reassign, restructure or otherwise change the conditions and function of the employee job or duties, subject to City policies governing such changes.

A Predetermination Hearing shall be conducted after advance notice to the employee of the reason for, and date and time of the hearing. The hearing officer will be the Department Director, or his/her designee, unless the person for whom the hearing is being held reports directly to the Department Director. When the person for whom the hearing is being held reports directly to the Department Director, the City Manager will be the hearing officer.

The hearing officer shall allow each party to state his/her point of view, and shall provide the affected employee with the reason(s) for the contemplated action and a review of the records which support the action. Likewise, the employee shall present his/her point of view, and any records or witness(es) which support his/her point of view. The employee may provide rebuttal to any allegations or charges and be granted an open and direct opportunity to understand and respond to all allegations and reasons for the contemplated. A record shall be made and kept of the procedures, process, and factual content of the Predetermination Hearing.

The hearing officer has the authority to initiate, withhold, set aside, or modify the contemplated action, based on information available, including but not limited to, the discussion and exchange

of information in the Predetermination Hearing. A decision about any contemplated action may be made at the Predetermination Hearing, or within fifteen (15) calendar days after the Predetermination Hearing. The decision will include written notification to the employee of his/her rights to file a grievance or appeal request.

Suspensions resulting from a Predetermination Hearing may be with or without pay, at the discretion of the hearing officer, depending upon the seriousness of the problem(s) or issue(s). Any suspension without pay, which is later over turned, modified, or set aside, shall be subject to retroactive pay for the time, or an applicable portion of time, during which the employee was without pay. Suspension without pay pending an investigation and decision will occur only under serious and compelling circumstances.

Certain eligible employees, who disagree with the action of their supervisor, or the decision of the Department Director, have further rights of review and appeal as described under other review and appeals policies. The Department Director will inform the employee of his/her appeal rights in writing.

013.030 Appeal Procedures

Subject to the terms and conditions described in this policy, and consistent with the terms of UCA 10-3-1106, the City intends to provide a review to employees in eligible employment classifications, who are the subject of serious disciplinary actions involving suspensions, demotions and discharge. Eligible employees may request a review to grieve appointments and/or promotions, which directly affect them.

Eligible employees must file a written request for the appeal with the City Recorder within specific time limits from final action by their Department Director. The time limit is within ten (10) calendar days.

- A. Introductory employees have no appeal rights.
- B. Non Merit Service Employees have no appeal rights.
- C. Employees have no verbal warning appeal rights.
- D. Employees have no letter of caution appeal rights.
- E. Employees have no written reprimand appeal rights.
- F. Appealing to a Hearing Officer. Upon written receipt of an Employee Demotion, Transfer, or Termination Notice, some employees have the right to first appeal the disciplinary process and action imposed by the Department Director, or designee, to a Hearing Officer (exceptions include Introductory Employees and Department Directors):

013.035 Hearing Officer

The Hearing Officer shall have jurisdiction, under UCA Section 10-3-105 and Section 10-3-1106 UCA over employees in eligible employment classifications involving any action regarding an

eligible employee's job regarding a demotion, a transfer to a position with less remuneration, or discharge from service.

The Hearing Officer and its jurisdiction shall follow Section 10-3-1106 UCA as amended. The City intends to comply with all legally mandated provisions and limitations regarding the make-up and jurisdiction of the Hearing Officer.

An employee must file an appeal with the City Recorder within 10 days of the termination, transfer, or demotion. The City Recorder will refer a copy to the Hearing Officer. The Hearing Officer will begin an investigation, take evidence and fully hear the matter and decide within 15 days of transmittal of the appeal to the Hearing Officer. The employee may attend the Hearing Officer meetings, be represented by Counsel, and attempt to refute or rebut any information provided to the Hearing Officer.

If the Hearing Officer upholds the transfer, discharge, or demotion, the employee has 10 days to appeal the decision to the Court of Appeals. The deliberations of the Court of Appeals will be based on the record from the Hearing Officer. If the Court of Appeals does not uphold the transfer, discharge or demotion, the matter will be closed and no further proceedings will take place.

- A. An employee must submit their written notice of appeal to South Ogden City's Recorder within thirty (30) days or an employee will be deemed to have waived all appeal rights.
- B. Decisions of the Court of Appeals
 - (1) If the Court of Appeals overturns the Employee Disciplinary Action:
 - b. The City Manager or designee shall remove the record of the disciplinary action from the employee's personnel file.
 - (2) If the Court of Appeals upholds the Employee Disciplinary Action, the decision shall be final and the employee has no appeal rights.

013.040 Conflict Resolution

The City intends to develop and encourage consistent and clear policies that reflect the standards of work and expected conduct applicable to each employee's position and job requirements. Issues and conflicts can arise in applying and enforcing City policies and procedures. It is the policy of the City that, where issues and conflicts within the work setting and environment be resolved at the lowest possible level in an informal manner that appropriately reflects respect and good faith between individuals.

When employees are concerned about issues or events pertaining to their work conditions, work environment or their own jobs, they are expected and encouraged to openly and frankly discuss their concerns directly with their immediate supervisor.

If any employee believes it would not be appropriate to discuss a concern with his/her immediate

supervisor, the employee is encouraged to discuss the concern with the next level of supervision in his/her department. If the employee does not believe it would be appropriate to discuss the concern with any supervisor, then the Department Director should be contacted and a meeting requested.

In cases involving the [Drug and Alcohol policy Section 05.020](#), or the [Sexual Harassment Section 6](#) or [Discrimination policy Section 01.020](#), or that concern the City's [Equal Employment Opportunity policy Section 1](#), the employee can report his/her concerns directly to the City Manager, if he/she believes it would be inappropriate to discuss a concern with their Department Director.

Work review and evaluation of an employee's job performance are among many important factors in determining an employee's success in any job. Supervisors and Department Directors are expected to communicate work performance standards and provide feedback to employees on an ongoing basis. Likewise, employees are expected to communicate directly and openly with supervisors and Department Directors on an ongoing and regular basis to seek feedback and to assess whether they are meeting work goals, job requirements, and achieving the results expected of them by their supervisor and Department Director.

It is the experience of the city that when communications are open and direct, the work environment and atmosphere can be pleasant and productive. Eligible employees have certain appeal rights available to them to ensure reasonable and consistent standards are applied. These other measures are covered by applicable City policy. See also [Predetermination Hearing Section 13.025](#) and [Appeals Procedures policies Section 13.030](#).

SECTION 14: GRIEVANCE PROCEDURES

014.005 General Policy

- A. Employees who perceive they have a grievance against South Ogden City should exhaust the administrative procedure in the body of this policy before addressing their grievance through any other forum. An employee may file a grievance about any perceived work related injustice or oppression resulting from an act occurrence, omission, condition, or unfair labor practice. Issues addressable throughout the grievance process include, but are not limited to:
 - (1) Employee-supervisor relationships.
 - (2) Duty assignments not affecting job classification.
 - (3) Shift and job location assignments.
 - (4) Working conditions.
 - (5) Practices affecting granting of leave.

- B. Grievances should be resolved at the lowest administrative level possible. Employees and supervisors shall attempt to resolve grievances informally by discussing the grievance issues before any formal written grievance is filed. Each employee pursuing a formal grievance must prepare and submit a separate written grievance/appeal. Written grievances shall contain, at a minimum, the following information:
- (1) Name of the employee.
 - (2) Date the occurrence or action underlying the grievance occurred.
 - (3) Nature of the grievance.
 - (4) Historical information related to the grievance.
 - (5) Requested resolution.
 - (6) Signature of the employee filing the grievance and date filed.
- C. Employees will be allowed reasonable time during work to prepare written grievances. Employee grievances must be filed within ten (10) days of the occurrence or event establishing the grievance, or within ten (10) days of when the employee acquires knowledge of the occurrence or event establishing the grievance.
- D. At each level of the grievance process, after an administrator has received an employee grievance, the administrator shall have ten (10) working days to respond in writing to the grievance.
- E. If an administrator cannot answer the grievance within the specified time period due to extenuating circumstances, the administrator may take an additional ten (10) working days to answer the grievance if they notify the employee in writing of the exigent circumstances and that the extension is being exercised. If the grievance remains unresolved or the decision is unacceptable, the employee may appeal the decision to the next level of appeal.
- F. Absent exigent circumstances, if the supervisor fails to respond within the allotted time, the employee may proceed to the next level of appeal.
- G. Only the issues presented in the original grievance may be considered throughout the appellate process. A grievance and any necessary appeals shall be processed through the following chain of command, if applicable:
- (1) Immediate Supervisor
 - (2) Department Director
 - (3) City Manager

(4) Hearing Officer

(5) or Court of Appeals

H. The decision of the Court of Appeals constitutes the final level of appeal and cannot be appealed.

014.010 Confidentiality

Written Grievance's shall be private data under the government Records Access Management Act of the State of Utah. The City Manager or City Council may declare the grievance documents to be confidential and/or order the entire record, or any part, sealed.

014.015 Filing

No document relating to a grievance shall be placed in the employee's personnel file. If any disciplinary action against an employee is rescinded because of the grievance process, the Assistant City Manager, or designee, shall remove the record of the disciplinary action from the employee's personnel file.

If any disciplinary action against an employee is modified because of the grievance process, the unmodified record of the disciplinary action shall be removed from the employee's personnel file and the modified record of the disciplinary action shall be placed in the employee's personnel file.

SECTION 15: TERMINATION OF EMPLOYMENT

015.005 General Policy

Resignation is a voluntary act initiated by the employee to terminate employment with the City. Although advance notice is not required, the City requests at least two weeks written notice of resignation from employees and one month's notice from employees in non-merit, special positions.

Prior to the effective date of termination of employment, supervisors shall inform the Department Director of the impending resignation, so an exit interview can be conducted and information can be provided to the employee regarding any applicable benefits.

Failure to provide adequate advance notice may cause in an unfavorable recommendation for rehire.

015.010 Types of Termination

Any involuntary termination or termination of any employee allowed to resign, in lieu of an involuntary termination, should be reviewed with legal counsel before termination is pursued or a resignation is accepted to ensure the employee's due process property rights are not violated.

A. Retirement. Voluntary termination at the end of an employee's career.

- B. Voluntary Resignation. When an employee wishes to leave South Ogden City, they will submit a letter voluntarily resigning with last day worked and present it to the City Manager or designee.
- C. Resignation, in Lieu of an Involuntary Termination, Agreement. The City Manager or designee, may conclude that an employee should be involuntarily terminated for no reason (for introductory employees and Department Directors) or for cause. If Involuntary Termination proceedings have begun, but have not been completed and an employee suggests they would like to voluntarily resign, the City Manager may agree to a Resignation In Lieu Of an Involuntary Termination Agreement.
- D. Involuntary Termination. The City Manager or designee, may conclude that an employee should be involuntarily terminated for no reason (for introductory employees and Department Directors) or for cause.
- E. Reductions in Force/Layoffs. Whenever it is necessary to reduce the number of employees in South Ogden City because of lack of work or lack of funds, South Ogden City may attempt to minimize layoffs by readjustment of personnel through reassignment of duties in other work areas.
- F. Medical. The American's with Disabilities Act (ADA) prohibits illegal discrimination by an employer against an otherwise qualified individual with a disability. An employee should not be terminated for medical reasons without prior consultation with legal counsel.
- G. Death. If an employee of South Ogden City dies, their estate receives all pay due and any earned and payable benefits (such as payment for compensation time, annual leave, and/or sick leave) as of the date of death.

Employees in the merit or classified service also have specific rights to a [Predetermination Hearing Section 13.025](#) to hear and answer charges and reasons brought against them by management regarding to covered actions that result in discharge.

All other employees can be terminated at will, with or without notice, consistent with applicable law. Likewise, employees have the right to terminate employment with the City, with or without notice.

Employee benefits are affected by employment termination in the following manner. All accrued, vested benefits that are due at termination will be paid under applicable policies and City ordinance, State or federal law. Some benefits may be continued at the employee's expense, if the employee chooses. The employee, spouse and any dependents will be notified in writing of the benefits that may be continued and of the terms, conditions, and limitations of such continuance. See also Benefits Continuation policy (COBRA). This policy and its provisions are not intended to interfere with, nor shall they be construed or interpreted to any extent to interfere with, the proper adherence to the procedures and protocols established in appeals and grievance policies. It is the employee's responsibility to notify the City of a qualifying event that will affect benefit

coverage, such as when the employee divorces, or upon the birth or death of a family member, or when a covered dependent marries or attains an age and educational status that precludes continued insurance coverage.

015.015 Medical Termination

A question may arise about the medical ability of a merit or classified service employee to continue to fulfill and carry out the duties and essential functions of their job. Such a question can arise whenever evidence, information, or observation exists which forms a reasonable suspicion about whether the employee can perform his/her job duties.

Whenever a question arises about a merit or classified service employee's medical ability to meet the expected performance standards and/or qualifications required in his/her job, the City reserves the right to request a medical health examination be conducted by a licensed medical practitioner of the City's choosing and at the City's expense.

The employee shall be notified in writing of any question about the employee's medical health and the need for a medical examination. Medical examinations shall be scheduled within a reasonable period of time. The City-selected medical practitioner shall certify the results of the examination in writing and will file a written copy of those results with Assistant City Manager, who will distribute copies to the employee and the employee's Department Director.

If the results of the examination affirm and support a conclusion that the medical health of the employee is not adequate to meet the requirements and qualifications of the job, the employee may be placed on a leave of absence. The terms and conditions of any leave will be subject to the Family and Medical Leave Policy of the City.

If an employee cannot perform the essential functions of the job due to a health condition or disability, the City will send a written notice to the employee. The notice shall inform the employee that, should the employee not be able to return to duty in the job with acceptable medical verification within 90 calendar days from the notice, medical termination from employment in the position will occur. The 90-day notice may be given at any time that the City believes the employee is not medically fit.

If the employee cannot return to full job duty, the employee may apply for any available job for which they are qualified and medically able (by written medical evidence), subject to the established hiring procedures and applicable policies of the City.

If the employee is dissatisfied with the medical determination obtained from the above procedures, the employee may file an appeal of the medical determination and his/her termination of employment through the applicable established appeals procedures of the City. The cost of any medical evaluations obtained by the employee shall be paid by the employee. See Appeals Procedures policy.

015.020 Termination Procedures

- A. A Notice of Voluntary Resignation, signed by the employee and the Department Director or designee, may be utilized in Voluntary Resignations.

- B. Involuntary Terminations/Separations for Cause require South Ogden City to provide their terminating employees with written notification of due process. At-Will Involuntary Terminations (for introductory employees and Department Directors) do not require South Ogden City to provide their terminating employees with written notification of due process.
- C. A Resignation in Lieu of an Involuntary Termination Agreement, signed by the employee and the City Manager, or designee, may be utilized in negotiated terminations. A Resignation in Lieu of an Involuntary Termination Agreement does not require South Ogden City to provide their terminating employees with written notification of due process.
- D. The following steps should be taken for Voluntary Retirements:
 - (1) Employees who desire retirement should notify South Ogden City three (3) months in advance or as soon as practicable.
 - (2) South Ogden City should communicate the status of each employee's retirement benefits. Upon request for retirement benefits, South Ogden City should notify the administrator of the retirement program and the appropriate state and federal regulatory agencies.
 - (3) South Ogden City should carefully explain to the employee what the options are (such as Cobra and Retirement Plan Options).
 - (4) South Ogden City should give the employee ample time to review the retirement plan.
 - (5) South Ogden City should have the employee sign a release, or at least a declaration statement, to the effect they are electing retirement of their own free will.
- E. The following steps should be taken for Reductions in Force/Layoffs:
 - (1) Determine whether South Ogden City must follow statutory guidelines related to the reduction in force/layoff. If South Ogden City must follow statutory guidelines; policy, procedure and actual practice must comply with said guidelines.
 - (2) If South Ogden City is facing a possible reduction in labor force, South Ogden City should explain the situation to its employees, advising them of the possibility that reductions in force/ layoffs may become an economic necessity for South Ogden City.
 - (3) In the selection of employees for South Ogden City's reduction in force/layoff,

the following guidelines should be considered:

- a. Selection should be based upon the employee's ability to perform the work assignments within the affected department.
- b. Seniority should govern the selection when ability is equal.
- c. Emergency, temporary, and introductory employees should be laid off first.
- d. Full time employees should be the last to be laid off, when possible, in inverse order of their length of service.
- e. Before any reduction in force/layoff, South Ogden City should determine whether it is subject to the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101, et seq.
- f. South Ogden City should carefully explain to the employee what the options are (such as Cobra and Retirement Plan Options).
- g. If South Ogden City cannot give advanced notice of a reduction in force/layoff to the employee, two weeks' severance pay may be given in lieu of notice for a bona fide reduction in force/layoff.

F. Written reductions in force/layoffs notices should contain the following information:

- a. Statement that separation from employment is based on reduction in force/layoff.
- b. Anticipated date of layoff.
- c. Any options regarding employee placement in another position.

G. Outstanding Pay.

- (1) Arrange for distribution of any paychecks which may be due the employee, including pay for any hours worked but not paid; pay for unused, accrued vacation leave (if applicable); or pay for vested sick leave (if applicable).
- (2) Under Utah State law, the required timing of the final payment at termination is:
 - a. A Voluntary Resignation. On the normally scheduled payday occurring in that pay period.
 - b. An Involuntary Termination/Separation for Cause. Within one (1) workday of last day worked.

- c. The terminating employee will return any supplies or equipment, which are the property of South Ogden City, to South Ogden City at termination.

H. All terminating employees should complete an Exit Interview Form with the Assistant City Manager, or designee.

015.025 Lay-Off and Reduction-In-Force Procedures

In this policy, the City has established specific procedures by which layoffs, or reductions-in-force, will occur. The City intends these procedures serve as guidelines that will be followed whenever a department, division or Citywide reduction in the employment work force may occur.

The City retains the right to modify these guidelines and procedures, and to establish others, in order to direct and control the work force to provide the best possible service to the public.

Only full-time merit and full-time classified employees are eligible for protection under this lay-off policy. Employees under disciplinary suspension or probation are not protected under this policy.

To interpret and enforce this policy, time in service shall be determined as beginning with the employee's appointment to a full-time position, and includes only such actual service time in the employee's present job family (e.g., clerical, maintenance worker). Service time includes all service time, including periods of approved leave.

A job family is defined as a group of jobs in different departments requiring similar skills. The most common example of a job family is the clerical job family. A person having the requisite skills to perform a clerical job in one department would be expected to learn and perform a clerical job in another department.

015.030 Cobra

Any employee, who is eligible for benefits, that is separated from South Ogden City is entitled to a continuation of insurance coverage per the mandates of the Consolidated Omnibus Budget Reconciliation Act of 1985 or COBRA plan as stated in the South Ogden City's COBRA Notification.

- A. Federal Public Law 99-272 (which became effective July 1, 1986 and is known as COBRA) requires that all employers of twenty (20) or more full time employees offer a continuation of group insurance coverage to individuals who fall under one (1) of the following qualifying events:
 - (1) Termination of employment (other than for gross misconduct), for a maximum continuation period of eighteen (18) months.
 - (2) Reduction of work hours below eligibility requirement, for a maximum continuation period of eighteen (18) months.

- (3) Dependent coverage terminated due to death of employee, for a maximum continuation period of thirty-six (36) months.
 - (4) Divorce or legal separation from employee, for a maximum continuation period of thirty-six (36) months.
 - (5) Spouse or dependent of Medicare eligible employee, for a maximum continuation period of thirty-six (36) months.
 - (6) Dependent child who ceases to be a dependent under the applicable requirements of the group plan, for a maximum continuation period of thirty-six (36) months.
- B. Under the Act, a qualifying individual is entitled to continued group insurance coverage identical to that which is provided to similarly situated beneficiaries to whom a qualifying event has not occurred. Individuals entitled to continued benefits under COBRA guidelines must pay the entire premium required under the policy during the entire period of the continued coverage. The premium a qualifying individual will be required to pay may not exceed one hundred and two percent (102%) of the premium, for any period of continued coverage. Failure to pay the monthly premium will cause a cancellation of the insurance.
- C. The insurance benefits offered under the COBRA guidelines will be terminated if and when any of the following occur:
- (1) A qualifying individual fails to pay the premium when it is required.
 - (2) A qualifying individual becomes eligible for coverage under any other group insurance plan due to employment or remarriage.
 - (3) At the expiration of a qualifying individual's maximum continuation period.
- D. The offer of continued insurance coverage under COBRA is made independent of any other offer to continue insurance that may be required under any state law.
- E. A qualifying individual has sixty (60) days from the termination date of their current coverage to decide whether to continue their insurance coverage under this plan. If they for the continued coverage, all due and owing premiums must be paid before coverage will be granted. If they fail to apply for coverage within the sixty (60) days, they will have waived their rights to continuation of coverage under the COBRA guidelines. They are not required to apply for or accept coverage under COBRA.

015.035 Return of Property

Employees are responsible for City property issued to them by the City or in their possession or control, such as:

Credit cards	Insurance cards	Tools
Equipment	Keys	Uniforms

Employee handbook	Manuals	Vehicles
Gas cards	Protective equipment	*Written materials
Identification badges	Security passes	

*Written materials include those produced or developed as a consequence of work performed for, or otherwise directly for the City.

The above list is not intended to be all-inclusive, and other City property, material(s) or equipment may also be issued to employees and/or within their control and possession.

Employees must return all City property immediately upon request or upon termination of employment. Where permitted by applicable laws, the City may withhold from the employee's final paycheck the cost of any items not returned when required.

Employees sign an acknowledgement and agree to specific values for any City-owned equipment, property, and accessories checked out to them and entrusted to them for conducting business. Upon request and when separation occurs, employees must return all City-owned equipment, property and accessories checked out to them and which they agree to return in good condition. The agreed-upon value of such items owned by the City not returned promptly when requested and will be deducted from any pay otherwise due the employee, to the extent agreed upon with the employee and allowed under applicable state and federal law.

The City reserves the right to protect its property and interests and take whatever action it deems necessary, including legal action, to protect its property and compel the return or payment for City-owned items not returned as agreed.

SECTION 16: INFORMATION SECURITY

16.005 Conditions of South Ogden City IT Access

South Ogden City places a high value on privacy and recognizes its critical importance. Sometimes, following carefully prescribed processes, South Ogden City may determine that certain broad concerns outweigh the value of a user's expectation of privacy and warrant City access to IT Systems without the consent of the users. Those circumstances are discussed below, with the procedural safeguards established to ensure access is gained only when appropriate.

- A. **Conditions.** Under state and federal law, South Ogden City may access all aspects of IT Systems, without the consent of the user, in the following circumstances:
 - 1) When necessary to identify or diagnose systems or security vulnerabilities and problems, or otherwise to preserve the integrity of the IT Systems; or
 - 2) When required by federal, state, or local law or administrative rules; or

- 3) When reasonable grounds exist to believe that a violation of law or a significant breach of City policy may have taken place an access and inspection or monitoring may produce evidence related to the misconduct; or
 - 4) When such access to IT Systems is required to carry out essential business functions of the City; or
 - 5) When required to preserve public health and safety.
- B. **Process.** Consistent with the privacy interests of users, City access without the consent of the user will occur only with the approval of the I.T. Director, City Manager, and the appropriate direct supervisor, except when an emergency entry is necessary to preserve the integrity of facilities or to preserve public health and safety. South Ogden City, through the Systems Administrators, will log all instances of access without consent. Systems Administrators will also log any emergency entry within their control for subsequent review by the Mayor, City Manager, and I.T. Director. A user will be notified of City access to IT Systems without consent depending on the circumstances, such notification will occur, before, during, or after the access, at the City's discretion.
- C. **User access deactivations.** Besides accessing the IT Systems, South Ogden City, through the appropriate Systems Administrator, may deactivate a user's IT privileges, whether the user is suspected of any violation of this Policy, when necessary to preserve the integrity of facilities, user services, or data. The Systems Administrator will attempt to notify the user of any such action.
- D. **Use of security scanning systems.** By attaching privately owned personal computers or other IT resources to South Ogden City's network, users consent to City use of scanning programs for security on these resources while attached to the network.
- E. **Logs.** Most IT systems routinely log user actions to facilitate recovery from systems malfunctions and for other management purposes. Server logs shall be kept for a minimum of 365 days.
- F. **Encrypted Material.** Encrypted files, documents, and messages may be accessed by the City under the above guidelines.
- G. **Unsecured systems with CJIS Access.** Any mobile computer that has access to Utah Criminal Bureau of Information System (UCJIS) must have full hard drive encryption installed.
- H. **Criminal Justice Information Services (CJIS) Security Policy.** South Ogden City recognizes the U.S. Department Federal Bureau of Investigations Criminal Justice Information Services (CJIS) Security Policy as the minimum policy to follow to secure access to all computer systems.
- I. **Criminal Justice Information Services (CJIS) Security Addendum.** All contractors that have access to City computer networks must agree to and sign the CJIS Security Addendum.

Contractors with access to city networks must also agree to a required background check and sign the non-user agreement and security statement.

- J. **Installation of software/hardware on computer systems.** Employees shall not install any software or hardware that has not been approved by the Information Technology Department. Installation of such software and device shall be done in conjunction with the Information Technology Department.

16.010 Password Standards

General Password Standards. All supervisor-level passwords (i.e. root, enable, Windows administration, and privileged accounts) should be changed regularly or, at minimum every 45 days, or, when someone with administrative privileges or a possible knowledge of those passwords leaves the organization, or is no longer performing duties that require supervisor-level permissions.

- A. All user level passwords should be changed at least every 90 days.
- B. Employees no longer employed or on contract must be removed from all systems and their user ID and password changed, revoked, or eliminated, as soon as possible.
- C. Screen savers with passwords should be used on all computers (servers, laptops, workstations) and activated after no more than 15 minutes of activity.
- D. Employees should password lock their screens when leaving workstations unattended.
- E. All user accounts that have system-level privileges granted through group memberships should use passwords unique from all other accounts held by that user.
- F. All passwords must be strong and possess at least (8) alphanumeric characters. Passwords must have at least (1) upper case letter, (1) lower case letter, (1) number, and (1) special character.
- G. Passwords should not be words that can be found in a common dictionary.
- H. Passwords should never be stored in unsecured places, such as written down on a post-it, or saved unprotected on-line.
- I. User ID's and passwords should never be shared with anyone, including administrative assistants, coworkers, family members, or supervisors.
- J. All passwords should be treated as sensitive, confidential South Ogden City information.

16.015 Electronic Tablet, Smart Phones, and Internet of Things (IoT) Devices

South Ogden City recognizes the convenience of Electronic Tablets and Smart Phone use in the work place. This section covers the acceptable uses of such devices.

- A. All City owned Electronic Tablets and Smart Phones will have management software installed. This software will allow for troubleshooting, support, inventory, and loss prevention.
- B. Electronic Tablets and Smart Phones assigned to an individual may be used for personal use with discretion. All use must follow the Acceptable Use policy found in Section 5 of this policy manual.
- C. Electronic Tablets and Smart Phones assigned exclusively to a department will be locked down with software and resources needed to complete the job they are intended for.
- D. All City owned Electronic Tablets and Smart Phone devices are owned by South Ogden City and are subject to inspection, as determined by the City Manager.
- E. If a device is lost or stolen, the user must notify his/her supervisor immediately upon learning of the loss. The supervisor and/or Department Director, upon learning of the lost or stolen item, shall immediately contact the Information Technology Department. The user of the device shall also report a stolen device to law enforcement with jurisdiction and cooperate with any criminal investigation.
- F. Any data stored on a City owned electronic device shall not be of a confidential nature.
- G. If it becomes necessary for a City owned device to store confidential information, the user of the device shall work with the Information Technology Department to be sure the information is securely stored on the device.
- H. The useful life of most Electronic Devices is approximately two years. Devices that are older than that should be considered for replacement.
- I. Electronic Tablets that are purchased for use by the City Council may be offered to them at the end of the Council Members' four-year term. The cost of the Electronic Tablet shall be determined by the remaining useful life and market value, as determined by the Information Technology Department and the City Manager, of the tablet at the time the City Council member completes his/her term of office.
- J. City employees may purchase their Smart Phone off the city's contract, for the cost that the city paid for the device.
- K. No City owned Electronic Tablet or Smart Phones will be used to access the Utah Criminal Justice Information System (UCJIS) unless the device has the security protection enabled as define in the Federal Bureau of Identification Criminal Justice Information Services Security Policy. This includes having a Mobile Device Management (MDM) software installed; and using a Virtual Private Network (VPN) connection while connecting to servers/services that use UCJIS data. Personally owned information system shall not be authorized to access, process, store or transmit Utah Criminal Justice Information System (UCJIS).

- L. All City owned Electronic Tablets and Smart Phones must be kept in an approved case. Case shall be approved by the Information Technology Department or the City Manager. If the device is not in an approved case and is damaged, it may be the individual's responsibility to pay for repairs or for replacement of the device.

16.020 Cyber Security Incident Response

Ensure the City is prepared to respond to cyber security incidents, to protect City systems and data, and prevent disruption of government services by providing the required controls for incident handling, reporting, and monitoring, as well as incident response training, testing, and assistance.

Information Services Division:

Provide incident response support resources that offer advice and assistance with handling and reporting of security incidents for users of ISD information systems. Incident response support resources may include, for example, the ISD Help Desk, a response team (described below), and access to forensics services.

Establish a Cyber Security Incident Response Team (CSIRT) to ensure appropriate response to cyber security incidents. The CSIRT shall consist of members of the State IT Security Council and key personnel from other agencies as required. CSIRT responsibilities shall be defined in the Cyber Security Incident Reporting Procedures.

Agency Management, Information Technology Organization:

Develop organization and system-level cyber security incident response procedures to ensure management and key personnel are notified of cyber security incidents as required. Organizations that support information systems shall develop incident response plans and/or procedures that:

- Provides the organization with a roadmap for implementing its incident response capability
- Describes the structure and organization of the incident response capability
- Provides a high-level approach for how the incident response capability fits into the overall organization
- Meets the unique requirements of the organization, which relate to mission, size, structure, and functions
- Defines reportable incidents
- Provides metrics for measuring the incident response capability within the organization
- Defines the resources and management support needed to effectively maintain and mature an incident response capability
- Is reviewed and approved by designated officials within the organization Review incident response plans and procedures at least annually.

Revise the incident response plan/procedures to address system/organizational changes or problems encountered during implementation, execution, or testing.

Distribute copies of the incident response plan/procedures to incident response personnel.

Communicate incident response plan/procedure changes to incident response personnel and other organizational elements as needed.

Provide incident response training to information system users consistent with assigned roles and

responsibilities before authorizing access to the information system or performing assigned duties, when required by information system changes; and annually thereafter.

Organizations shall test the incident response capability for the information systems they support at least annually. Use organization-defined tests and/or exercises to determine incident response effectiveness. Document the results.

Organizations that support information systems shall implement an incident handling capability for cyber security incidents that includes preparation, detection and analysis, containment, eradication, and recovery.

Coordinate incident-handling activities with contingency planning activities.

Incorporate the lessons learned from prior and ongoing incident handling activities into incident response procedures, training, and testing/exercises.

Track and document information system security incidents. Retain and safeguard cyber security incident documentation as evidence for investigation, corrective actions, potential disciplinary actions, and/or prosecution.

Promptly report cyber security incident information to appropriate authorities in accordance with State and/or City incident reporting procedures.

Organizations that support information systems shall provide an incident response support resource integral to the organizational incident response capability that offers advice and assistance to users of the information system for the handling and reporting of security incidents. Possible implementations of incident response support resources in an organization include a help desk or an assistance group and, when required, access to forensics services.

16.025 Cyber Security Incident Reporting

Ensure effective response to cyber security incidents, protect City data from loss, and prevent disruption of government operations.

PROCEDURES:

Incident Identification

A cyber security incident is an assessed occurrence having actual or potentially adverse effects on an information system. It is important to distinguish between problems that stem from mistakes or miscommunications and true cyber security incidents that involve either malicious intent or intent to circumvent security measures including policies, standards, and procedures.

The first step in incident reporting is determining if the event is a cyber security incident.

In general, an incident is a violation of computer security policies, acceptable use policies, or standard computer security practices. Cyber-security incidents may include, but are not limited to, the following events (regardless of platform or computing environment):

- Unauthorized access to a network, system, and/or data
- Repeated attempts at unauthorized access (from either internal or external sources)
- System changes not authorized by or known to the system owner
- Denial of Service (DoS) attack or other disruptions to service
- Evidence of tampering with, removal of, or loss of data
- Web site defacement

- Social engineering incidents
- Theft of, or non-accidental physical damage to, information systems
- Malware attacks adversely affecting servers or workstations
- Evidence of inappropriate use or other noncompliance with policies or standards
- Other incidents that could compromise the integrity of the state's information systems

Report only incidents that have a real impact (such as when damage is done, access is achieved by an attacker, loss occurs, web pages are defaced, malicious code is implanted, or policies violated) or when detecting something noteworthy or unusual (new traffic pattern, new type of malicious code, a source of persistent attacks, or evidence of inappropriate use). Do not report routine events such as periodic probes, ping sweeps, port scans, or other common events. The following tables, derived from National Institute of Standards and Technology (NIST) Special Publication 800-61: Computer Security Incident Handling Guide, list several common malicious actions that would be considered cyber security incidents and the possible indicators of such actions. User need to be familiar with these indicators.

Table 1: Denial of Service Indicators

Malicious Action	Possible Indicators
Network-based DoS against a particular host	<ul style="list-style-type: none"> • User reports of system unavailability • Unexplained connection loses • Network intrusion detection alerts • Host intrusion detection alerts (until the host is overwhelmed) • Increased network bandwidth utilization • Large number of connections to a single host • Asymmetric network traffic pattern (large amount of traffic going to the host, little traffic coming from the host) • Firewall and router log entries • Packets with unusual source addresses
Network-based DoS against a network	<ul style="list-style-type: none"> • User reports of system and network unavailability • Unexplained connection losses • Network intrusion detection alerts • Increased network bandwidth utilization • Asymmetric network traffic pattern (large amount of traffic entering the network, little traffic leaving the network) • Firewall and router log entries • Packets with nonexistent destination addresses
DoS against the operating system of a particular host	<ul style="list-style-type: none"> • User reports of system and application unavailability • Network and host intrusion detection alerts • Operating system log entries • Packets with unusual source addresses
DoS against an application on a particular host	<ul style="list-style-type: none"> • User reports of application unavailability • Network and host intrusion detection alerts • Application log entries • Packets with unusual source addresses

Table 2: Malicious Code Indicators

Malicious Action	Possible Indicators
A virus that spread through email infects a host	<ul style="list-style-type: none"> • Antivirus software alerts of infected files • Sudden increase in the amount of e-mail being sent and received • Changes to templates for word processing documents, spreadsheets, etc. • Deleted, corrupted, or inaccessible files • Unusual items on the screen, such as odd messages and graphics • Programs start slowly, run slowly, or do not run at all • System instability and crashes • If the virus achieves root-level access, see the indicators for “Root compromise of a host” listed below under Unauthorized Access Indicators
A worm that spreads through a vulnerable service infects a host	<ul style="list-style-type: none"> • Antivirus software alerts of infected files • Port scans and failed connection attempts targeted at the vulnerable service (e.g., open Windows shares, HTTP) • Increased network usage • Programs start slowly, run slowly, or do not run at all • System instability and crashes • If the worm achieves root-level access, see the indicators for “Root compromise of a host” listed below under Unauthorized Access Indicators
A Trojan horse is installed and running on a host	<ul style="list-style-type: none"> • Antivirus software alerts of Trojan horse versions of files • Network intrusion detection alerts of Trojan horse client-server communications • Firewall and router log entries for Trojan horse client-server communications • Network connections between the host and unknown remote systems • Unusual and unexpected ports open • Unknown processes running • High amounts of network traffic generated by the host, particularly if directed at external host(s) • Programs start slowly, run slowly, or do not run at all • System instability and crashes • If the Trojan horse achieves root-level access, see the indicators for “Root compromise of a host” listed below under Unauthorized Access Indicators
Malicious mobile code on a Web site use to infect a host with a virus, worm, or Trojan horse	<ul style="list-style-type: none"> • Indications listed above for the pertinent type of malicious code • Unexpected dialog boxes, requesting permission to do something • Unusual graphics, such as overlapping or overlaid message boxes
Malicious mobile code on a Web site exploits vulnerabilities on a host	<ul style="list-style-type: none"> • Unexpected dialog boxes, requesting permission to do something • Unusual graphics, such as overlapping or overlaid message boxes • Sudden increase in the amount of e-mail being sent and received • Network connections between the host and unknown remote systems • If the mobile code achieves root-level access, see the indicators for “Root compromise of a host” listed below under Unauthorized Access Indicators
A user receives a virus hoax message	<ul style="list-style-type: none"> • Original source of the message is not an authoritative computer security group, but a government agency or an important official person • No links to outside sources • Tone and terminology attempt to invoke panic or a sense of urgency

	<ul style="list-style-type: none"> • Urges recipients to delete certain files and forward the message to others
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Malicious Action	Possible Indicators
Root compromises of a host	<ul style="list-style-type: none"> • Existence of unauthorized security-related tools or exploits • Unusual traffic to and from the host (e.g., attacker may use the host to attack other systems) • System configuration changes, including: <ul style="list-style-type: none"> ◦ Process/service modifications or additions ◦ Unexpected open ports ◦ System status changes (restarts, shutdowns) ◦ Changes to log and audit policies and data ◦ Network interface card set to promiscuous mode (packet sniffing) ◦ New administrative-level user account or group • Modifications of critical files, timestamps and privileges, including executable programs, OS kernels, system libraries, and configuration and data files • Unexplained account usage (e.g., idle account in use, account in use from multiple locations at once, unexpected commands from a particular user, large number of locked-out accounts) • Significant changes in expected resource usage (e.g., CPU, network activity, full logs, or file systems) • User reports of system unavailability • Network and host intrusion detection alerts • New files or directories with unusual names (e.g., binary characters, leading spaces, leading dots) • Highly unusual operating system and application log messages • Attacker contacts the organization to say that he or she has compromised a host
Unauthorized data modification (e.g., Web server defacement, FTP warez server)	<ul style="list-style-type: none"> • Network and host intrusion detection alerts • Increased resource utilization • User reports of the data modification (e.g., defaced Web site) • Modifications to critical files (e.g., Web pages) • New files or directories with unusual names (e.g., binary characters, leading spaces, leading dots) • Significant changes in expected resource usage (e.g., CPU, network activity, full logs or file systems)
Unauthorized usage of standard user account	<ul style="list-style-type: none"> • Access attempts to critical files (e.g., password files) • Unexplained account usage (e.g., idle account in use, account in use from multiple locations at once, commands that are unexpected from a particular user, large number of locked-out accounts) • Web proxy log entries showing the download of attacker tools
Physical intruder	<ul style="list-style-type: none"> • User reports of network or system unavailability • System status changes (restarts, shutdowns) • Hardware is completely or partially missing (i.e., a system was opened, and a particular component removed) • Unauthorized new hardware (e.g., attacker connects a packet sniffing laptop to a network or a modem to a host)
Unauthorized data access (e.g., database of customer information, password files)	<ul style="list-style-type: none"> • Intrusion detection alerts of attempts to gain access to the data through FTP, HTTP, and other protocols • Host-recorded access attempts to critical files

Table 4: Inappropriate Usage Indicators

Malicious Action	Possible Indicators
Unauthorized service usage	<ul style="list-style-type: none"> • Network intrusion detection and network behavior analysis software alerts • Unusual traffic to and from the host • New process/software installed and running on a host • New files or directories with unusual names • Increased resource utilization (e.g., CPU, file storage, network activity) • User reports • Application log entries (e.g., Web proxies, FTP servers, e-mail servers)
Access to inappropriate materials (e.g., downloading pornography, sending spam)	<ul style="list-style-type: none"> • Network intrusion detection alerts • User reports • Application log entries (e.g., Web proxies, FTP servers, e-mail servers) • Inappropriate files on workstations, servers, or removable media
Attack against external party	<ul style="list-style-type: none"> • Network intrusion detection alerts • Outside party reports • Network, host, and application log entries

Incident Response Assistance

Organizations that support information systems are required to provide an incident response support resource integral to the organizational incident response capability to offer information system users advice and assistance in handling and reporting security incidents.

Help Desk:

Help Desk personnel are the first line of defense for many types of incidents. Often, the first indication of an incident is a user reporting a problem to the help desk. The Help Desk is the primary point of contact for all suspected cyber security incidents.

Cyber Security Incident Response Team (CSIRT):

The primary purpose of the CSIRT is to enable the City to continue critical business functions while providing rapid response to cyber security incidents. CSIRT responsibilities include incident analysis, containment, eradication, recovery, and reporting.

CSIRT Membership:

Members of the City IT and other personnel as required, such as state and local, as well as third party personnel, are subject to being called to serve on a CSIRT.

Information Security Officers:

The Local Agency Security Officer (LASO) normally serves as the City CSIRT Leader. The CSIRT Leader notifies the personnel needed to support incident response and coordinates response team communications and reporting.

Network Manager/System and Network Administrators:

System Administrators are in the best position to detect and deter cyber security incidents. Minor incidents, such as limited-impact malware infections, may be handled by the system administrator rather than activating the CSIRT.

Law Enforcement:

Law enforcement agencies may be able to provide assistance in cases of computer trespass, theft, threats, and other suspected criminal activities. In cases such as child pornography and other crimes against children, appropriate law enforcement agencies must be notified.

Contact local law enforcement agencies before an incident occurs to get contact information and understand the types of incidents they can assist with and what their notification requirements are. They may also be able to help with local, state, and national requirements for handling evidence. Include this information in local incident response procedures.

Incident Response Assistance

Promptly report cyber security incident information to appropriate authorities in accordance with State or organization incident reporting procedures.

Initial Incident Reporting:

The single point of contact for all suspected cyber security incidents is the City Help Desk. When notified of a suspected cyber security incident Help Desk personnel shall immediately notify the Local Agency Security Officer.

Persons reporting incidents should be prepared to provide the following information:

- Systems or sites involved
- Incident description
- Date, time, and method of incident discovery
- Category of potentially compromised data (public, internal, sensitive, or confidential)
- Actions already taken to secure or restore the system and/or data

CAUTION: Any action taken to secure or restore a system may also compromise important data that could be necessary for incident recovery and/or forensics.

On-going Communications Guidelines:

The City may suffer loss of business or reputation if public communication aspects of an incident are improperly handled, therefore, the CSIRT Leader will communicate with all parties that need to be made aware of a cyber security incident and its progress in accordance with City

information dissemination policies.

It is essential that agencies establish and follow a single channel of communication. Multiple sources of information while the incident is underway creates confusion, interrupts the work of the response team, and increases vulnerability if an attacker is monitoring communications within the agency.

Determine what quantity and type of information you should communicate and whom you need to inform. Information dissemination procedures may include contacting users affected by an intrusion, security personnel, law enforcement agencies, vendors, and other business partners. Contact managers and users affected by an incident, security personnel, law enforcement agencies, vendors, and other response teams external to the organization, which may include:

United States Computer Emergency Readiness Team (US-CERT; <http://www.us-cert.gov/>). Reporting incidents to US-CERT is mandatory for federal agencies and for systems operating on behalf of the federal government.

Information Analysis Infrastructure Protection (IAIP). Because IAIP is part of the Department of Homeland Security (DHS), it is interested in any threats to critical U.S. infrastructures (e.g., IT and telecommunications, transportation systems, energy and utilities, agriculture, finance, healthcare, etc.). Organizations can report incidents to IAIP by contacting the National Infrastructure Coordinating Center (NICC) at nicc@dhs.gov or 202-282-9201.

CERT® Coordination Center (CERT®/CC; <http://www.cert.org/>). CERT®/CC is located at Carnegie Mellon University. This nongovernmental entity is interested in any computer security incidents involving the Internet.

Utah Statewide Information & Analysis Center (SIAC; <http://www.siac.utah.gov>). SIAC is a public safety partnership designed to collect, analyze, & disseminate intelligence to protect Utahans. SIAC can be reached at (801) 256-2360.

Communicating with Law Enforcement:

If it appears a crime may have been committed, the CSIRT Leader (or an individual designated by the leader) shall coordinate with senior management and legal counsel before contacting law enforcement. Only personnel designated by management will communicate with law enforcement personnel.

Protect Communications:

Share all information on a need-to-know basis and sanitize sensitive information, if required.

Be aware that communication may tip off an intruder. Communication can be overheard or picked up by an intruder so all communication relevant to an intrusion should be done in a secure manner.

Use communications that do not involve affected systems or networks such as phone and fax. Do not send e-mail over compromised systems or networks.

Communicate Upstream and Down:

Inform upstream and downstream sites of attacks and intrusions. Upstream sites are those that were involved in an intrusion prior to your system becoming involved. Downstream sites are those that were involved after your site experienced an intrusion.

In the process of analyzing an intrusion, information may be discovered about other systems that were:

- Used by an intruder to attack your systems
- Attacked by an intruder from your systems
- Used by an intruder to access your systems
- Accessed by an intruder from your systems

Such information is usually obtained from logs about connections attributed to an intruder or from remnant files left behind by an intruder. Remnant files may include scripts with the IP addresses of the attacked hosts or the output files of attack scripts an intruder neglected to delete.

Inform the administrators of all other organizations about the involvement of their systems so that they can take the necessary steps to respond to an intrusion. This includes any ISPs that may have been involved in transmitting and receiving intruder messages.

Keep accurate and detailed records of all contacts made and of the information exchanged.

Post-Incident Reporting:

Closure provides an opportunity to learn from the experience of responding to an incident. Every successful intrusion or other incident indicates potential weaknesses in systems, networks, operations, or staff preparedness. These weaknesses provide

opportunities for improvement. Identify and implement lessons learned. Steps include:

- If further notification/communication is required, execute this notification. Follow up with any agencies previously contacted.
- Revise security plans and procedures and conduct user and administrator training to prevent future incidents. Include any new, improved methods resulting from lessons learned.
- Determine whether or not to perform a new risk analysis based on the severity and impact of an intrusion or based on the extent of corrective action taken to restore or secure the system.
- Take a new inventory of system and network assets.
- Participate in investigation and prosecution, if applicable.

Post Mortem:

Hold a post mortem analysis and review meeting with all involved parties. Do this within three to five working days of completing the investigation of an incident.

Make a monetary estimate of the costs associated with an incident to support the business case for the level of investment in security improvement. This should include the estimated value of information assets that may have been compromised.

Develop Report:

The CSIRT Leader shall prepare an after-action report no later than 10 days after the incident has been certified resolved and all pertinent documentation has been received.

Reports shall be presented to senior management.

16.030 Cyber Security Incident Handling

Ensure effective response to cyber security incidents, protect City data from loss, and prevent disruption of government operations. These procedures implement the incident reporting and incident response assistance requirements of City Policy 16.020: Cyber Security Incident Response. Use these procedures as a starting point for developing the incident handling capability required for specific systems or organizational need.

PROCEDURES:

The incident response process as defined in NIST Special Publication 800-61 (Revision 2): *Computer Security Incident Handling Guide* has four phases:

- Preparation

- Detection and Analysis
- Containment, Eradication and Recovery
- Post-Incident Activity

The recommended and required activities of each phase are described herein.

PREPARATION

This section provides basic advice on preparing to handle incidents and on preventing incidents.

Prevention:

The following text provides a brief overview of some of the main recommended practices for preventing incidents by securing networks, systems, and applications:

Risk Assessments. Periodic risk assessments of systems and applications should determine what risks are posed by combinations of threats and vulnerabilities. Each risk should be prioritized, and the risks can be mitigated, transferred, or accepted until a reasonable overall level of risk is reached. Another benefit of conducting risk assessments regularly is that critical resources are identified, allowing staff to emphasize monitoring and response activities for those resources.

Host Security. All hosts should be hardened appropriately. In addition to keeping each host properly patched, hosts should be configured to follow the principle of least privilege. Hosts should have auditing enabled and should log significant security-related events. The security of hosts and their configurations should be continuously monitored.

Network Security. The network perimeter should be configured to deny all activity that is not expressly permitted. This includes securing all connection points, such as virtual private networks (VPNs) and dedicated connections to other organizations.

Malware Prevention. Software to detect and stop malware should be deployed throughout the organization. Malware protection should be deployed at the host level (e.g., server and workstation operating systems), the application server level (e.g., email server, web proxies), and the application client level (e.g., email clients, instant messaging clients).

User Awareness and Training. Users should be aware of policies and procedures regarding appropriate use of networks, systems, and applications. Applicable lessons learned from previous incidents should also be shared with users, so they can see how their actions could affect the organization. Improving user awareness regarding incidents should reduce the frequency of incidents. IT staff should be trained so that they can maintain their networks, systems, and applications in accordance with the organization's security standards.

Preparation:

Establish an incident response capability so that the organization is ready to respond to incidents.

The following tools and resources may be of value during incident handling:

- Contact information for team members and others within and outside the organization (primary and backup contacts), such as law enforcement and other incident response teams
- On-call information for other teams within the organization, including escalation information
- Incident reporting mechanisms, such as phone numbers, email addresses, online forms, and secure instant messaging systems that users can use to report suspected incidents
- Issue tracking system for tracking incident information, status, etc.
- Smartphones to be carried by response team members for off-hour support and on-site communications
- Encryption software to be used for communications among team members, within the organization and with external parties; software must use a FIPS-validated encryption algorithm
- War room for central communication and coordination
- Secure storage facility for securing evidence and other sensitive materials
- Digital forensic workstations and/or backup devices to create disk images, preserve log files, and save other relevant incident data
- Laptops for activities such as analyzing data, sniffing packets, and writing reports
- Spare workstations, servers, and networking equipment, or the virtualized equivalents, which may be used for many purposes, such as restoring backups and trying out malware
- Blank removable media
- Portable printer to print copies of log files and other evidence from non-networked systems
- Packet sniffers and protocol analyzers to capture and analyze network traffic
- Digital forensic software to analyze disk images
- Removable media with trusted versions of programs to be used to gather evidence from systems

- Evidence gathering accessories, including hard-bound notebooks, digital cameras, audio recorders, chain of custody forms, evidence storage bags and tags, and evidence tape, to preserve evidence for possible legal actions
- Port lists, including commonly used ports and Trojan horse ports
- Documentation for OSs, applications, protocols, and intrusion detection and antivirus products
- Network diagrams and lists of critical assets, such as database servers
- Current baselines of expected network, system and application activity
- Cryptographic hashes of critical files to speed incident analysis, verification, and eradication
- Access to images of clean OS and application installations for restoration and recovery purposes

INCIDENT DETECTION AND ANALYSIS

Incident Categories:

Organizations should prepare generally to handle any type of incident and more specifically to handle common incident types. The incident categories listed below represent common methods of attack:

- Attrition (a denial of service or brute-force attack)
- E-mail (messages with malicious attachments or links)
- External/Removable Media (an attack executed from removable media)
- Improper Usage (violation of acceptable use policies by an authorized user)
- Loss or theft of equipment
- Web (e.g., cross-site scripting, browser hijacking)
- Other (an attack that does not fit into any of the above categories)

Incident Precursors:

Many incidents, particularly attack-type incidents, can be detected through particular precursors and indicators. Precursors and indicators are identified using many different sources, the most

common being computer security software alerts, logs, publicly available information, and people.

The following table lists possible precursors to various types of incidents and provides recommended response actions to minimize the impact of the incident or to potentially prevent a related incident from occurring.

Table 1: Incident Precursors

Precursor	Response
Unauthorized access incidents are often preceded by reconnaissance activity to map hosts and services and to identify vulnerabilities. Activity may include port scans, host scans, vulnerability scans, pings, traceroutes, DNS zone transfers, OS fingerprinting, and banner grabbing. Such activity is detected primarily through IDS software, secondarily through log analysis.	Incident handlers should look for distinct changes in reconnaissance patterns—for example, a sudden interest in a particular port number or host. If this activity points out a vulnerability that could be exploited, the organization may have time to block future attacks by mitigating the vulnerability (e.g., patching a host, disabling an unused service, modifying firewall rules).
A new exploit for gaining unauthorized access is released publicly, and it poses a significant threat to the organization.	The organization should investigate the new exploit and, if possible, alter security controls to minimize the potential impact of the exploit for the organization.
Users report possible social engineering attempts—attackers trying to trick them into revealing sensitive information, such as passwords, or encouraging them to download or run programs and file attachments.	The incident response team should send a bulletin to users with guidance on handling the social engineering attempts. The team should determine what resources the attacker was interested in and look for corresponding log-based precursors because it is likely that the social engineering is only part of the reconnaissance.
A person or system may observe a failed physical access attempt (e.g., outsider attempting to open a locked wiring closet door, unknown individual using a cancelled ID badge).	The purpose of the activity should be determined, and it should be verified that the physical and computer security controls are strong enough to block the apparent threat. (An attacker who cannot gain physical access may perform remote computing-based attacks instead.) Physical and computer security controls should be strengthened if necessary. If possible, security should detain the person. <i>Note: only trained security or law enforcement personnel should attempt to detain anyone.</i>
An alert warns of new malicious code that targets software that the organization uses.	Research the new virus to determine whether it is real or a hoax. This can be done through antivirus vendor Web sites and virus hoax sites. If the malicious code is confirmed as authentic, ensure that antivirus software is updated with virus signatures for the new malicious code. If a virus signature is not yet available, and the threat is serious and imminent, the activity might be blocked through other means, such as configuring e-mail servers or clients to block e-mail matching characteristics of the new malicious code. The team might also want to notify antivirus vendors of the new virus.
Antivirus software detects and successfully disinfects or quarantines a newly received infected file.	Determine how the malicious code entered the system and what vulnerability or weakness it was attempting to exploit. If the malicious code might pose a significant risk to other users and hosts, mitigate the weaknesses that the malicious code used to reach the system and would have used to infect the target host.

DoS attacks are often preceded by reconnaissance activity—generally, a low volume of the traffic that will be used in the actual attack—to determine which attacks may be effective.	If handlers detect unusual activity that appears to be preparation for a DoS attack, the organization may be able to block the attack by quickly altering its security posture—for example, altering firewall rulesets to block a particular protocol from being used or protect a vulnerable host.
A newly released DoS tool could pose a significant threat to the organization.	Investigate the new tool and, if possible, alter security controls so that the tool should not be effective against the organization.

Incident Analysis:

The incident response team should work quickly to analyze and validate each incident, documenting each step taken. When the team believes that an incident has occurred, the team should rapidly perform an initial analysis to determine the incident’s scope, such as which networks, systems, or applications are affected; who or what originated the incident; and how the incident is occurring (e.g., what tools or attack methods are being used, what vulnerabilities are being exploited). The initial analysis should provide enough information for the team to prioritize subsequent activities, such as containment of the incident and deeper analysis of the effects of the incident.

Detection and analysis for most types of incidents follows a very similar process; the steps, derived from NIST Special Publication 800-61: *Computer Security Incident Handling Guide*, are outlined in table 2 below.

Table 2: General Incident Handling Checklist

Detection and Analysis	
1.	Determine whether an incident has occurred
1.1	Analyze the precursors and indicators
1.2	Look for correlating information
1.3	Perform research (e.g., search engines, knowledge base)
1.4	As soon as the handler believes an incident has occurred, begin documenting the investigation and gathering evidence
2.	Prioritize handling the incident based on the relevant factors (functional impact, information impact, recoverability effort, etc.)
3.	Report the incident to the appropriate internal personnel and external organizations
Containment, Eradication, and Recovery	
4.	Acquire, preserve, secure, and document evidence
5.	Contain the Incident
6.	Eradicate the incident
6.1	Identify and mitigate all vulnerabilities that were exploited
6.2	Remove malware, inappropriate materials, and other components
6.3	If more affected hosts are discovered, repeat the Detection & Analysis steps (1.1, 1.2) to identify all other affected hosts, then contain (5) and eradicate (6) the incident for them
7.	Recover from the incident
7.1	Return affected systems to an operationally ready state

7.2	Confirm that the affected systems are functioning normally
7.3	If necessary, implement additional monitoring to look for future related activity
Post-Incident Activity	
8.	Create a follow-up report
9.	Hold a “lessons learned” meeting

INCIDENT CONTAINMENT, ERADICATION AND RECOVERY

Incident containment, eradication, and recovery steps vary based on the incident type; however, the initial containment steps are very similar. In most cases, the affected system should be isolated from the rest of the network to prevent further contamination. To preserve evidence, leave the affected system powered on. Some evidence may be lost if the system is powered off and restarted. Seek assistance as early as possible to determine the most appropriate initial incident response actions.

The remainder of this section presents containment, eradication, and recovery strategies for common incident categories.

Unauthorized Access Incidents:

Response time is critical when attempting to contain an unauthorized access incident. Extensive analysis may be required to determine exactly what has happened; and in the case of an active attack, the state of things may be changing rapidly. In most cases, it is advisable to perform an initial analysis of the incident, prioritize the incident, implement initial containment measures, and then perform further analysis to determine if the containment measures were sufficient. An appropriate combination of the following actions should be effective in the initial or final containment of an unauthorized access incident:

- Isolate the affected systems
- Disable the affected service
- Eliminate the attacker’s route into the environment
- Disable user accounts that may have been used in the attack
- Enhance physical security measures

Table 3: Unauthorized access Incident Handling Checklist

Containment, Eradication, and Recovery	
1.	Perform an initial containment of the incident
2.	Acquire, preserve, secure, and document evidence
3.	Confirm containment of the Incident
3.1	Further analyze the incident and determine if containment was sufficient
3.2	Check other systems for signs of intrusion
3.3	Implement additional containment measures if necessary
4.	Eradicate the incident
4.1	Identify and mitigate all vulnerabilities that were exploited
4.2	Remove components of the incident from systems
5.	Recover from the incident
5.1	Return affected systems to an operationally ready state
5.2	Confirm that the affected systems are functioning normally
5.3	If necessary, implement additional monitoring to look for future related activity

Malicious Code Incidents:

The checklist in Table 4 (below) provides the major steps to be performed in handling a malicious code incident. The exact sequence of steps may vary based on the nature of individual incidents and the strategies chosen by the organization for containing them.

Table 4: Malicious Code Incident Handling Checklist

Containment, Eradication, and Recovery	
1.	Acquire, preserve, secure, and document evidence
2.	Contain the Incident
2.1	Identify infected systems
2.2	Disconnect infected systems from the network
2.3	Mitigate vulnerabilities that were exploited by the malicious code
2.4	If necessary, block the transmission mechanisms for the malicious code
3.	Eradicate the incident
3.1	Disinfect, quarantine, delete, and replace infected files
3.2	Mitigate the exploited vulnerabilities for other hosts within the organization
4	Recover from the incident
4.1	Return affected systems to an operationally ready state
4.2	Confirm that the affected systems are functioning normally
4.3	If necessary, implement additional monitoring to look for future related activity

Denial of Service Incidents:

A denial of service (DoS) is an action that prevents or impairs the authorized use of networks, systems, or applications by exhausting resources such as central processing units (CPU), memory, bandwidth, or disk space. Common types of DoS attacks include reflector attacks, amplifier attacks, and floods. The exact sequence of steps may vary based on the nature of

individual incidents and on the strategies chosen by the organization for halting DoS attacks that are in progress.

Table 5: Denial of Service Incident Handling Checklist

Containment, Eradication, and Recovery	
1.	Acquire, preserve, secure, and document evidence
2.	Contain the Incident—halt the Denial of Service if it has not already stopped
2.1	Identify and mitigate all vulnerabilities that were used
2.2	If not yet contained, implement filtering based on the characteristics of the attack, if feasible
2.3	If not yet contained, contact the ISP for assistance in filtering the attack
2.4	If not yet contained, relocate the target
3.	Eradicate the incident: identify and mitigate all vulnerabilities that were used.
4	Recover from the incident
4.1	Return affected systems to an operationally ready state
4.2	Confirm that the affected systems are functioning normally
4.3	If necessary and feasible, implement additional monitoring to look for future related activity

Improper Usage Incidents:

Improper usage is the use of computer or network resources in a manner that violates policies, standards, or the law. For most improper usage incidents, evidence acquisition is important. Evidence storage is also an important consideration; handling improper usage incident evidence requires discretion and confidentiality. Address the threat of having evidence altered or destroyed.

Table 6: Inappropriate Usage Incident Handling Checklist

Containment, Eradication, and Recovery	
1.	Acquire, preserve, secure, and document evidence
2.	Assess the incident
2.1	Determine whether the activity seems criminal in nature, and if necessary notify law enforcement
2.2	Discuss incident indicators and possible actions with Assistant City Manager
2.3	Discuss liability issues with legal counsel
2.4	Keep the investigative team small and maintain strict confidentiality
3.	If necessary, contain and eradicate the incident (e.g., remove inappropriate materials)
4	Recover from the incident
4.1	Return affected systems to an operationally ready state
4.2	Destroy investigative materials when directed by legal counsel or law enforcement

Data Loss Incidents:

Data loss incidents may be hardware or software related, may be the result of hardware failure or destruction, software corruption, malware, human error, or theft, and may occur along with other incident types.

Table 7: Data Loss Incident Handling Checklist

Containment, Eradication, and Recovery	
1.	Acquire, preserve, secure, and document evidence
1.1	Verify authenticity and origin of data loss
1.2	Identify the data that was inappropriately disclosed, used, or lost
1.3	Identify how the data was inappropriately disclosed, used, or lost
2.	Assess the potential damage caused by data loss
2.1	Identify the individuals potentially affected by the loss of personally identifiable information (PII)
2.2	Estimate the current and potential technical effect of the incident
2.3	Estimate the potential economic damage caused by the data loss
3.	Contain the incident
3.1	Identify data distribution and protection mechanisms
3.2	Verify that data distribution and protection mechanisms are functioning properly
4.	Eradicate the incident
4.1	Review and update detection schemes and data management processes
4.2	Review and update if necessary data protection policies and standards
4.3	Regularly check previously exploited vulnerabilities and systems
5.	Recover from the incident
5.1	Restore the data from trusted backup media
5.2	Confirm that data distribution and protection mechanisms are functioning properly
5.3	Implement additional monitoring to watch for future data loss

Uncategorized Incidents:

If the incident type does not fit any particular category, follow the generic incident-handling checklist (Table 2).

Multiple Component Incident Handling:

Every incident that is detected could be a multiple component incident, but it is generally better to contain the initial incident and then search for signs of other components. When an incident contains multiple component types, follow the containment, eradication, and recovery steps for each incident component and prioritize accordingly.

Evidence Gathering and Handling:

Before the analyst begins to collect any data, a decision should be made by the analyst or management (in accordance with the organization's policies and legal advisors) on the need to collect and preserve evidence in a way that supports its use in future legal or internal disciplinary proceedings. In such situations, a clearly defined chain of custody should be followed to avoid allegations of mishandling or tampering of evidence. This involves keeping a log of every person who had physical custody of the evidence, documenting the actions that they performed on the evidence and at what time, storing the evidence in a secure location when it is not being used, making a copy of the evidence and performing examination and analysis using only the copied evidence, and verifying the integrity of the original and copied evidence. If it is unclear whether or not evidence needs to be preserved, by default it generally should be preserved.

Forensics:

There are many models for the forensic process. Organizations should choose the specific forensic model that is most appropriate for their needs. Regardless of the situation, the basic forensic process is comprised of the following four phases:

Collection:

The first phase in the process is to identify, label, record, and acquire data from the possible sources of relevant data (files, operating systems, network traffic, and applications).

Collection must be performed in a timely manner because of the risk of losing dynamic data, but care must be taken to preserve the integrity of the data.

Examination:

Examinations involve forensically processing large amounts of collected data using a combination of automated and manual methods to assess and extract data of particular interest, while preserving the integrity of the data. Examine copies of files, not the original files.

Analysis:

Analyze the results of the examination, using legally justifiable methods and techniques, to derive useful information that addresses the questions that were the impetus for performing the collection and examination. Have a forensics toolkit for data examination and analysis.

Reporting:

The final phase is reporting the results of the analysis, which may include describing the actions used, explaining how tools and procedures were selected, determining what other actions need to be performed (e.g., forensic examination of additional data sources, securing identified vulnerabilities, improving existing security controls), and providing recommendations for improvement to policies, procedures, tools, and other aspects of the incident response and forensic processes.

POST-INCIDENT ACTIVITY

Incident Records:

Before collecting any data, a decision shall be made by management and legal counsel on the need to collect and preserve evidence in a way that supports its use in future legal or internal disciplinary proceedings. In such situations, a clearly defined chain of custody shall be followed to avoid allegations of mishandling or tampering of evidence. This involves keeping a log of every person who had physical custody of the evidence, documenting the actions they performed on the evidence and at what time, storing the evidence in a secure location when it is not being used, making a copy of the evidence and performing examination and analysis using only the copied evidence, and verifying the integrity of the original and copied evidence. If it is unclear whether or not evidence needs to be preserved, by default it generally should be preserved.

Records pertaining to cyber security incidents are confidential and shall be protected in accordance with applicable State standards.

Cyber security incident handling, reporting and follow-up records may be destroyed three years after all necessary follow-up actions have been completed unless otherwise directed by legal counsel or law enforcement personnel.

Incident Data/Metrics:

Organizations should decide what incident data to collect (for reporting/metrics purposes) based on reporting requirements and on the expected return on investment from the data (e.g., identifying a new threat and mitigating the related vulnerabilities before they can be exploited.) Focus on collecting data that is actionable.

Possible metrics for incident-related data include:

- Number of incidents handled
- Time per incident
- Objective and subjective assessments of each incident

Follow-up Report:

Create a follow-up report for each incident. The report provides a reference that can be used to assist in handling similar incidents. Include a formal chronology of events with time-stamped information such as log data from systems (important for legal reasons), Include a monetary estimate of the amount of damage the incident caused (this estimate may become the basis for subsequent prosecution activity).

Lessons Learned:

Lessons learned meetings are extremely helpful in improving security measures and the incident handling process itself. Reports from these meetings are good material for training new team members. Updating incident response policies and procedures is another important part of the lessons learned process. Post-mortem analysis of the way an incident was handled often provides impetus for change.

16.035 Security Alerts

A designee from the IT division will be tasked with subscribing to United States Computer Emergency Readiness Team US-CERT emails and/or RSS feeds. US-CERT provides security alerts and advisories for known malicious software and exploits.

- A. A member of the IT department will subscribe to US-CERT related emails.
- B. Upon receiving emails, the IT department will determine which alert(s) or advisory(s) are related to the City infrastructure. Once determined, the recommended actions listed in the US-CERT related emails shall be implemented. If user level action is required, the IT department will notify all users through city email accounts.

16.040 Creation / Removal of Employee IT Access

Requests for the creation of new employee access must be made after either an offer or conditional offer of employment has been made. All request shall be made at the Cities helpdesk web site of <https://support.southogdencity.com>. The following information will be required when making the request:

- A. Name
- B. Department
- C. Access Rights

All users will be given least access privileges. This means that the employee will only be given network privileges that are sufficient to properly complete the tasks assigned to them.

Request for the removal of employee access must be given as soon as the department knows that the employee will be separating. Requests will be taken through the City's helpdesk web site of <https://support.southogdencity.com>. If an employee is being terminated by the City, the request should be filled out immediately.

16.045 Secure Information Areas

Secured areas are defined as areas that workers may at any time have sensitive material either on their computer screens or their desk. The locations that are considered secure are:

- A. Municipal Building
 - 1) City Administration 2nd floor
 - 2) Court clerk area 1st floor (this does not include the hallway behind the court/council room).
 - 3) The entire police department first and second floor.

Entrance to a secure area requires that an individual be finger printed and a background check confirmed through Utah Bureau of Criminal Justice (UCJIS). Individuals that have not been cleared through UCJIS must be escorted in any area listed as secure.

Logs

Logbooks shall be kept at the front desk of the City Administration, Court Clerk, and Police Records. Logbooks shall keep the following record:

- A. Name and government issued ID verification and ID#
- B. Reason for Visit
- C. Time of Arrival
- D. Time of Departure

Any non-verified employee or non-employee must be signed in and given a red visitor badge that should be displayed prominently on their person. Persons with red visitor badges are must be escorted in secure areas.

Individuals that have been verified through UCJIS, such as contract employees, employees of other criminal justice agencies must be signed in and given a green visitor badge that should be displayed prominently on their person. Persons with green visitor badges are not required to be escorted in secure areas.

16.050 Access to Protected Information

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, South Ogden Police Department policy or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

808.4.1 PENALTIES FOR MISUSE OF RECORDS

Misuse of access to criminal history record information is a class B misdemeanor (Utah Code 53-10-108(11)(a)).

16.055 Release or Dissemination of Protected Information

Protected information may be released only to authorized recipients who have both a right to know and a need to know (Utah Code 53-10-108).

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Records Manager for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Records Department to ensure proper documentation of the release (see the Records Maintenance and Release).

Protected information, such as Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should generally not be transmitted by radio, cellular telephone or any other type of wireless transmission to members in the field or in vehicles through any computer or electronic device, except in cases where there is an immediate need for the information to further an investigation or where circumstances reasonably indicate that the immediate safety of officers, other department members or the public is at risk.

16.060 Security of Protected Information

The Chief of Police will select a member of the Department to oversee the security of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Developing and maintaining security practices, procedures and training.
- (b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- (c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.
- (d) Tracking, documenting and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

MEMBER RESPONSIBILITIES

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

Members are restricted from storing criminal history information on portable electronic media, such as USB flash drives and CD-R's, etc.

Members will follow the CJIS Security Policy requirements as well as any state and local criminal history records system policies.

Media, digital media and printed documents containing protected information will be stored within secure locations or controlled areas. Only authorized employees will transport media, digital media and printed documents, when necessary.

Physical media, (printed documents, printed imagery, etc.), shall be securely disposed of when no longer required, by shredding or incineration, by personnel authorized to handle criminal justice information, (C.J.I.), data, or witnessed by authorized personnel.

Digital Media sanitization and disposal will be handled by authorized IT personnel. IT will ensure media is overwritten at least three times or degauss digital media prior to disposal or release for reuse by unauthorized individuals. Inoperable digital media shall be destroyed, (cut up, shredded, etc.). IT personnel shall maintain written documentation of the steps taken to sanitize or destroy electronic media.

16.065 Training

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination.

16.070 Voice Over Internet Protocol (VoIP)

Voice over Internet Protocol (VoIP) is a replacement for traditional PBX telephone systems. VoIP connects the city's telephone system to the computer network system.

- (a) VoIP connections between the phone handset and server shall be encrypted so that traffic may not be intercepted with programs such as Wireshark.
- (b) Quality of Service shall be implemented so that telephone data traffic shall have priority over regular network data. This ensures a positive call quality for users on both ends of the call.
- (c) All VoIP traffic shall utilize its own Virtual Local Area Network (VLAN) to segment out voice traffic.

POLICY STATEMENT AND ACKNOWLEDGMENT FORM

1. I have received my copy of the Personnel Manual, which outlines the policies, practices and benefits of South Ogden City. I accept responsibility for informing myself about these policies by reading them and, by asking they be explained.
2. Since the information in this Personnel Manual is subject to change, the information I have received may be changed or replaced by other policies and procedures, which South Ogden City may adopt in the future. I understand and acknowledge that no one has promised me that South Ogden City will not change these policies, and understand that South Ogden City has reserved the right to change these policies in the future.
3. For Introductory Employees and Department Directors, I understand and agree that my employment with South Ogden City may be terminable at-will, meaning that either South Ogden City or I may terminate the employment relationship at any time for any reason. Neither South Ogden City nor I has any obligation to base a termination decision on anything other than intent not to continue the employment relationship. No one has promised me my employment will only be terminated for cause, or only for any reason, or will only be terminated through some particular process or procedure above, beyond, or besides such due process as required by Federal or State constitutional and statutory requirements.
4. I understand and agree that no one at South Ogden City has authority to offer me employment on terms different from what is stated in this manual, and I understand and agree that no one in South Ogden City is authorized by South Ogden City to promise in the future that my employment will be different from what is stated in this manual.

Employee (Print Name)

Employee Signature

Date

Resolution No. 22-05

**RESOLUTION OF SOUTH OGDEN CITY AUTHORIZING AND
APPROVING A FRANCHISE AGREEMENT WITH CONNEXT
NETWORKS LLC FOR WORK IN CITY'S RIGHTS-OF-WAY, AND
PROVIDING THAT THIS RESOLUTION SHALL BECOME
EFFECTIVE IMMEDIATELY UPON POSTING AND FINAL PASSAGE.**

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

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

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

WHEREAS, the City Council finds that the city staff has reviewed and studied this matter and recommends that to best address these additional communications service needs within the city, the city council authorize and approve a Franchise Agreement with Connex Networks LLC for work in the City's rights-of-way, including not limited to installation of service lines, and additional communications services; and,

WHEREAS, the City Council finds that Connex Networks LLC has demonstrated the professional ability to provide for these services to meet the additional communications services needs of the city and its residents while preserving the infrastructure of the city; and,

WHEREAS, the City Council finds that City now desires to achieve these ends by authorizing and approving a franchise agreement with Connex Networks LLC for work in the City's rights-of-way; and,

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

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

SECTION II - CONTRACT AUTHORIZED

The **"Franchise Agreement"** Between South Ogden City And Connex Networks LLC, Attached Hereto As **Attachment "A"** and by This Reference Fully Incorporated Herein, Is Approved And Adopted With The Condition That The City Manager, With The Concurrence Of The City Attorney, Is Authorized To More Fully Negotiate And Resolve Any Remaining Details, Or Changes, Under The Agreement On Behalf Of The City And Then To Sign, And The City Recorder Is Authorized To Attest, Any And All Documents Necessary To Effect This Authorization And Approval. If The City Manager Is Unable To Successfully Resolve Any Remaining Details, Or Changes, This Authorization And Approval Shall Be Void And The City Manager Shall So Notify The Council.

That the foregoing recitals are incorporated herein.

SECTION III - PRIOR ORDINANCES AND RESOLUTIONS

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

SECTION IV - REPEALER OF CONFLICTING ENACTMENTS

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

SECTION V - SAVINGS CLAUSE

If any provision of this Resolution shall be held or deemed or shall be invalid, inoperative or unenforceable such shall render no other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Resolution being deemed the separate independent and severable act of the City Council of South Ogden City.

SECTION VI - DATE OF EFFECT

This Resolution shall be effective on the 15th day of March, 2022, and after publication or posting as required by law.

PASSED AND ADOPTED BY THE CITY COUNCIL OF SOUTH OGDEN CITY, STATE OF UTAH, on this 15th day of March, 2022.

SOUTH OGDEN CITY

Russell Porter, Mayor

ATTEST:

Leesa Kapetanov, CMC
City Recorder

ATTACHMENT "A"

Resolution No. 12-05

Resolution Of South Ogden City Authorizing And Approving A Franchise Agreement With Connex Networks LLC For Work In City's Rights-Of-Way, And Providing That This Resolution Shall Become Effective Immediately Upon Posting And Final Passage.

15 Mar 22

FRANCHISE AGREEMENT
SOUTH OGDEN CITY, UTAH

THIS FRANCHISE AGREEMENT (hereinafter "Agreement") is entered into by and between SOUTH OGDEN CITY, Utah (hereinafter "CITY"), a municipal corporation and political subdivision of the State of Utah, with principal offices at 3950 Adams Ave., South Ogden, Utah, 84403, and Connex Networks LLC (hereinafter "Franchisee"), a Limited Liability Company with its principal offices at 2655 G Avenue, Ogden, Utah, 84401.

WITNESSETH:

WHEREAS, FRANCHISEE desires to provide telecommunications services, as more particularly defined in the "Municipal Telecommunications License Tax Act," (the "Act"), Utah Code Ann. §§10-1-401, et seq., as amended, and establish a telecommunications network, system and/or facilities in, under, along, over and across present and future rights-of-way of the CITY; and

WHEREAS, the CITY has enacted Title 11 of the Revised Ordinances of South Ogden City (hereinafter the "Telecommunications Ordinance" or "ordinance") which governs the application and review process for Telecommunication Franchises in the CITY; and

WHEREAS, the CITY, in the exercise of its management of public Rights-of-Way, believes that it is in the best interest of the public to provide FRANCHISEE a nonexclusive franchise to operate a telecommunications network in the CITY.

NOW, THEREFORE, In consideration of the mutual covenants and agreements of the parties contained herein, and for other good and valuable consideration, the CITY and FRANCHISEE agree as follows:

AGREEMENT

ARTICLE 1. FRANCHISE AGREEMENT AND ORDINANCE

1.1 Agreement. Upon execution by the parties, this Agreement shall be deemed to constitute a contract by and between CITY and FRANCHISEE.

1.2 Ordinance. The CITY has adopted the Telecommunications Ordinance which is attached to this Agreement as Exhibit "A" and incorporated herein by reference. FRANCHISEE acknowledges that it has had an opportunity to read and become familiar with the Telecommunications Ordinance. The parties agree that the provisions and requirements of the Ordinance are material terms of this Agreement, and that each party hereby agrees to be contractually bound to comply with the terms of the Ordinance. The definitions in the Ordinance shall apply herein unless a different meaning is set forth in the Act or is otherwise indicated. Nothing in this Section shall be deemed to require FRANCHISEE to comply with any provision of the Telecommunications Ordinance which is determined to be unlawful or beyond the CITY's authority.

1.3 Ordinance Amendments. The CITY reserves the right to amend the Ordinance at any time. Provided, however, CITY shall not enact any amendments to the Ordinance that will adversely impact FRANCHISEE without allowing FRANCHISEE 30 days, or such longer time as is necessary if 30 days is insufficient, in which to comply with the amendment. The CITY shall give FRANCHISEE notice and an opportunity to be heard concerning any proposed amendment. If there is any Inconsistency between FRANCHISEE's rights and obligations under the Ordinance as amended and this Agreement, the provisions of this Agreement shall govern during its term. Otherwise, FRANCHISEE agrees to comply with any such amendments.

1.4 Franchise Description. The Telecommunications Franchise provided hereby shall confer upon FRANCHISEE the nonexclusive right, privilege, and franchise to construct and maintain a telecommunications network in, under, above and across the present and future public Rights-of-Way in the City. The franchise does not grant to FRANCHISEE the right, privilege or authority to engage in community antenna (or cable) television business; although, nothing contained herein shall preclude FRANCHISEE from: (1) permitting those with a cable franchise who are lawfully engaged in such business to utilize FRANCHISEE's System within the CITY for such purposes; or (2) from providing such service in the future if an appropriate franchise is obtained from the City and all other legal requirements have been satisfied.

1.5 Licenses. FRANCHISEE acknowledges that it has obtained the necessary approvals, licenses or permits required by federal and state law to provide telecommunication services consistent with the provisions of this Agreement and with the Ordinance.

1.6 Relationship. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties and neither party is authorized to, nor shall either party act toward third persons or the public in any manner that would indicate any such relationship with each other.

ARTICLE 2, FRANCHISE FEE

2.1 Franchise Fee. For the Franchise granted herein, FRANCHISEE shall pay to the CITY a tax in accordance with the Municipal Telecommunications License Tax Act (Utah Code Ann. 10-1-401 to 10-1-410 as amended from time to time), less any business license fee or business license tax enacted by the CITY. All payments shall be made to the Utah State Tax Commission, and sent as follows:

Utah State Tax Commission
210 North 1950 West
Salt Lake City, Utah 84134

2.2 Equal Treatment. CITY agrees any fees or taxes charged to FRANCHISEE under this Agreement shall be of the same nature and calculation of fees or tax currently charged or charged in the future to other similarly situated entities.

ARTICLE 3. TERM AND RENEWAL

3.1 Term and Renewal. The franchise granted to FRANCHISEE shall be for a period of ten (10) years commencing on the first day of the month following this Agreement, unless this Franchise be sooner terminated as herein provided. At the end of the initial ten (10) year term of this Agreement, the franchise granted herein may be renewed by FRANCHISEE upon the same terms and conditions as contained in this Agreement for an additional five (5) year term, by providing to the CITY's representative designated herein written notice of FRANCHISEE's intent to renew not less than ninety (90) calendar days before the expiration of the initial franchise term.

3.2 Rights of FRANCHISEE Upon Expiration or Revocation. Upon expiration of the franchise granted herein, whether by lapse of time, by agreement between FRANCHISEE and the CITY, or by revocation or forfeiture, FRANCHISEE shall have the right to remove from the Rights-of-Way any and all of its System, but in such event, it shall be the duty of FRANCHISEE, Immediately upon such removal, to restore the Rights-of-Way from which such System is removed to as good condition as the same was before the removal was effected.

ARTICLE 4. POLICE POWERS

The CITY expressly reserves, and FRANCHISEE expressly recognizes, the CITY's right and duty to adopt, from time to time, in addition to provisions herein contained, such ordinances and rules and regulations as the CITY may deem necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties.

ARTICLE 5. CHANGING CONDITIONS AND SEVERABILITY

5.1 Meet to Confer. FRANCHISEE and the CITY recognize that many aspects of the telecommunication business are currently the subject of discussion, examination and inquiry by different segments of the industry and affected regulatory authorities and that these activities may ultimately result in fundamental changes in the way FRANCHISEE conducts its business and the way the CITY regulates the business. In recognition of the present state of uncertainty respecting these matters, FRANCHISEE and the CITY each agree, upon request of the other during the term of this Agreement, to meet with the other and discuss in good faith whether it would be appropriate, in view of developments of the kind referred to above during the term of this Agreement, to amend this Agreement or enter into separate, mutually satisfactory arrangements to effect a proper accommodation of any such developments.

5.2 Severability. If any section, sentence, paragraph, term or provision of this Agreement or the Ordinance is for any reason determined to be or rendered illegal, invalid, or superseded by other lawful authority, including any state or federal, legislative, regulatory or administrative authority having jurisdiction thereof, or is determined to be unconstitutional, illegal or invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision, all of which shall remain In full force and effect for the term of this Agreement or any renewal or renewals thereof. If the invalidated portion is

considered a material consideration for entering into this Agreement, the parties will negotiate, in good faith, an amendment to this Agreement. As used herein, "material consideration" for the CITY is its ability to collect the Franchise Fee during the term of this Agreement and its ability to manage the Rights-of-Way in a manner similar to that provided in this Agreement, the Ordinance, and the City's Excavation Permit Policy. For FRANCHISEE, "material consideration" is its ability to use the Rights-of-Way for telecommunication purposes in a manner similar to that provided in this Agreement, the Ordinance, and the CITY's Excavation Permit Policy.

ARTICLE 6. EARLY TERMINATION, REVOCATION OF FRANCHISE AND OTHER REMEDIES

6.1 Grounds for Termination. The CITY may terminate or revoke this Agreement and all rights and privileges herein provided, upon ninety (90) days prior notice, for any of the following reasons:

(a) FRANCHISEE fails to make timely payments of the franchise fee as required under Article 2 of this Agreement and does not correct such failure within sixty (60) calendar days after written notice by the CITY of such failure;

(b) FRANCHISEE, by actor omission, materially violates a material duty herein set forth in any particular provision within FRANCHISEE's control, and with respect to which redress is not otherwise herein provided. In such event, the CITY, acting by or through its CITY Council, may determine, after hearing, that such failure is of a material nature, and thereupon, after written notice giving FRANCHISEE notice of such determination; FRANCHISEE, within sixty (60) calendar days of such notice, shall commence efforts to remedy the conditions identified in the notice and shall have ninety (90) calendar days from the date it receives notice to remedy the conditions. After the expiration of such 90-day period and failure to correct such conditions, the CITY may declare the franchise forfeited and this Agreement terminated, and thereupon, FRANCHISEE shall have no further rights or authority hereunder; provided, however, that any such declaration of forfeiture and termination shall be subject to judicial review as provided by law, and provided further, that in the event such failure is of such nature that it cannot be reasonably corrected within the 90-day time period provided above, the CITY shall provide additional time for the reasonable correction of such alleged failure if the reason for the noncompliance was not the intentional or negligent act or omission of FRANCHISEE; or

(c) FRANCHISEE becomes insolvent, unable or unwilling to pay its debts, is adjudged bankrupt, or all or part of its facilities should be sold under an instrument to secure a debt and is not redeemed by FRANCHISEE within sixty (60) days.

6.2 Reserved Rights. Nothing contained herein shall be deemed to preclude FRANCHISEE from pursuing any legal or equitable rights or remedies it may have to challenge the action of the CITY.

6.3 Remedies at Law. In the event FRANCHISEE or the CITY fails to fulfill any of its respective obligations under this Agreement, the CITY or FRANCHISEE, whichever the case

may be, may assert a breach of contract claim and remedy against the other, in addition to any other remedy provided herein or by law; provided, however, that no remedy that would have the effect of amending the specific provisions of this Agreement shall become effective without such action that would be necessary to formally amend the Agreement. In the event of any controversy, claim or action being filed or instituted between the CITY and FRANCHISEE relating to or arising out of this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees and costs through all levels of action incurred by the prevailing party.

6.4 Third Party Beneficiaries. The benefits and protection provided by this Agreement shall inure solely to the benefit of the CITY and FRANCHISEE. This Agreement shall not be deemed to create any right in any person who is not a party and shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party (other than the permitted successors and assigns of a party hereto).

6.5 Assignment. This Agreement may not be assigned by FRANCHISEE except to a wholly owned subsidiary of FRANCHISEE without the prior written consent of the CITY, which consent shall not be unreasonably withheld.

ARTICLE 7. PARTIES' DESIGNEES

7.1 CITY Designee and Address. The City Manager or his or her designee(s) shall serve as the CITY's representative regarding administration of this Agreement. Unless otherwise specified herein or in the Ordinance, all notices from FRANCHISEE to the CITY pursuant to or concerning this Agreement, shall be delivered to the CITY's representative at:

South Ogden City
Attn: City Manager
3950 Adams Ave.
South Ogden, Utah 84403

or such other officer and address as the CITY may designate by written notice to FRANCHISEE.

7.2 FRANCHISEE Designee and Address. FRANCHISEE's Executive Director or his or her designee(s) shall serve as FRANCHISEE'S representative regarding administration of this Agreement. Unless otherwise specified herein or in the Telecommunications Ordinance, all notices from the CITY to FRANCHISEE pursuant to or concerning this Agreement, shall be delivered to FRANCHISEE's offices at:

David Brown
Member Manager
2655 G Avenue
Ogden, Utah 84401

or such other officer and address as FRANCHISEE may designate by written notice to the CITY.

7.3 Failure of Designee. The failure or omission of the CITY's or FRANCHISEE's representative to act shall not constitute any waiver or estoppels by the CITY or FRANCHISEE.

ARTICLE 8. INSURANCE AND INDEMNIFICATION

8.1 Insurance. Prior to commencing operations in the CITY pursuant to this Agreement, FRANCHISEE shall furnish to the CITY evidence that it has adequate general liability and property damage insurance. The evidence may consist of a statement that FRANCHISEE is effectively self-insured if FRANCHISEE has substantial financial resources, as evidenced by its current certified financial statements and established credit rating, or substantial assets located in the State of Utah. Any and all insurance, whether purchased by FRANCHISEE from a commercial carrier, whether provided through a self-insured program, or whether provided in some other form or other program, shall be in a form, in an amount and of a scope of coverage acceptable to the CITY.

8.2 Indemnification. FRANCHISEE agrees to indemnify, defend and hold the CITY harmless from and against any and all claims, demands, liens, and all liability or damage of whatsoever kind on account of or arising from FRANCHISEE's acts or omissions pursuant to or related to this Agreement, and to pay any and all costs, including reasonable attorneys' fees, incurred by the CITY in defense of such claims. The CITY shall promptly give written notice to FRANCHISEE of any claim, demand, lien, liability, or damage, with respect to which the CITY seeks indemnification and, unless in the CITY's judgment a conflict of interest may exist between the parties with respect to the claim, demand, lien, liability, or damage, the CITY shall permit FRANCHISEE to assume the defense of such with counsel of FRANCHISEE'S choosing, unless the CITY reasonably objects to such counsel. Notwithstanding any provision of this Section to the contrary, FRANCHISEE shall not be obligated to indemnify, defend or hold the CITY harmless to the extent any claim, demand, lien, damage, or liability arises out of or in connection with negligent acts or omissions of the CITY.

ARTICLE 9. INSTALLATION

9.1 Coordinated Installation. In order to prevent and/or minimize the number of cuts to and excavations within the CITY Rights-of-Way, FRANCHISEE shall coordinate with the CITY and other providers or users of the CITY Rights-of-Way, when such cuts and excavations will be made. Unless otherwise permitted, installation, repairs, or maintenance of lines and facilities within the CITY Rights-of-Way shall be made at the same time other installations, repairs or maintenance of facilities are conducted within the CITY Rights-of-Way.

9.2 Underground Installation. Notwithstanding the provisions of Article 1.3 of this Agreement, FRANCHISEE expressly agrees to install and maintain all of its underground facilities in accordance with CITY Ordinances regarding the undergrounding of utility lines, in effect at the time this Agreement Is entered into and as subsequently amended during the term of this Agreement.

9.3 Aerial Installation: Notwithstanding the provisions of Article 1.3 of this Agreement,

FRANCHISEE expressly agrees to install and maintain all of its aerial facilities in accordance with CITY Ordinances regarding the installation of aerial utility lines and pole attachment agreement terms, In effect at the time this Agreement is entered into and as subsequently amended during the term of this Agreement. Nothing herein shall require FRANCHISEE to convert existing overhead facilities to underground facilities until and unless other similarly situated providers in the same location are required to do so.

9.4 Prior Approval. FRANCHISEE shall not perform any work within CITY Rights-of-Way without having first obtained a written permit from the CITY authorizing such work.

ARTICLE 10. GENERAL PROVISIONS

10.1 Binding Agreement. The parties represent that: (a) when executed by their respective representatives, this Agreement shall constitute legal and binding obligations of the parties; and (b) each party has complied with all relevant statutes, ordinances, resolutions, by-laws and other legal requirements applicable to its operation in entering into this Agreement. This Agreement shall be binding upon the heirs, successors, administrators and assigns of each of the parties.

10.2 Governing Law. This Agreement shall be interpreted pursuant to Utah law and jurisdiction and venue for any legal action pertaining to this Agreement shall be in the District Court of Weber County State of Utah.

10.3 Time of Essence. Time shall be of the essence of this Agreement.

10.4 Interpretation of Agreement. The invalidity of any portion of this Agreement shall not prevent the remainder from being carried into effect. Whenever the context of any provision shall require it, the singular number shall be held in include the plural number and vice versa, and the use of any gender shall include the other gender. The paragraphs and section headings in this Agreement are for convenience only and do not constitute a part of the provisions hereof.

10.5 No Presumption. Both parties have participated in preparing this Agreement. Therefore, the parties stipulate that any court interpreting or construing this Agreement shall not apply the rule of construction that the Agreement should be more strictly construed against the drafting party.

10.6 Entire Agreement and Amendments. This Agreement and all attachments hereto constitute the entire agreement and understanding between the parties and replaces any previous agreement, understanding or negotiation between the parties with respect to its subject matter, and may be modified or amended, supplemented, or changed only by the written agreement of the parties, including the formal approval of the City Council. No oral modifications or amendments shall be effective.

SIGNED AND ENTERED INTO On the _____ day of _____, 20__.

"CITY"
SOUTH OGDEN CITY

By _____
Matthew J. Dixon, City Manager

ATTEST

Leesa Kapetanov,
City Recorder

STATE OF UTAH)
 : ss,
COUNTY OF DAVIS)

On the _____ day of _____, 20__, personally appeared before me MATTHEW J. DIXON, and LEESA KAPETANOV, who being by me duly sworn did say, each for himself that he, the said MATTHEW J. DIXON, is the City Manager of South Ogden City, Weber County, State of Utah and that she, the said LEESA KAPETANOV, is the City Recorder of South Ogden City, and that the within and foregoing instrument was signed on behalf of the said South Ogden City by authority of the City Council of South Ogden City and said MATTHEW J. DIXON, and LEESA KAPETANOV, each duly acknowledged to me that the said South Ogden City executed the same and that the seal affixed is the seal of the said South Ogden City.

NOTARY PUBLIC

FRANCHISEE

Connex Networks

Signature

David Brown

Printed Name

Member Manager

Title

STATE OF Utah

:ss

COUNTY OF Weber)

On this 1st day of _____, 2022, David Brown personally appeared before me _____ who being by me duly sworn did say that he/she is the Member Manager of Connex Networks, a LLC corporation/partnership, and that Connex Networks is the legal property owner of record of the property subject to this Agreement and that the foregoing Agreement was signed in behalf of said corporation/partnership by authority of its Board of Directors/by-laws, and he/she acknowledged to me that said corporation/partnership executed the same.

NOTARY PUBLIC

Exhibit “A”

South Ogden City Telecommunications Ordinance

CHAPTER 4 TELECOMMUNICATIONS; USE OF RIGHTS-OF-WAY

[7-4-1: Findings And Intent; Authority](#)

[7-4-2: Definitions](#)

[7-4-3: Administration; General Provisions](#)

[7-4-4: Applicability; Exceptions](#)

[7-4-5: Franchise Required](#)

[7-4-6: Application For Franchise](#)

[7-4-7: Compensation, Fees And Payments](#)

[7-4-8: Insurance, Record Requirements](#)

[7-4-9: Construction, Technical Requirements](#)

[7-4-10: Private Property; Obligation To Notify](#)

[7-4-11: Transfer Of Franchise And License](#)

[7-4-12: Enforcement; Rights Of City](#)

[7-4-13: Small Wireless Facilities Deployment](#)

[7-4-14: Severability](#)

7-4-1: Findings And Intent; Authority

A. Rights-Of-Way: The City finds that the rights-of-way within the City:

1. Are critical to the travel and transport of persons and property in the business and social life of the City;
2. Are intended for public uses and must be managed and controlled consistent with that intent;
3. Can be partially occupied by the facilities of utilities and other public service entities delivering utility and public services rendered for profit, to the enhancement of the health, welfare and general economic well-being of the City and its citizens; and
4. Are a unique and physically limited resource requiring proper management to maximize the efficiency and to minimize the costs to the taxpayers of the foregoing uses and to minimize the inconvenience to and negative effects upon the public from such facilities' construction, placement, relocation and maintenance in the rights-of-way.

B. Compensation: The City finds that the City should receive fair and reasonable compensation for use of the rights-of-way.

C. Local Concern: The City finds that while telecommunications systems are in part an extension of interstate commerce, their operations also involve rights-of-way, Municipal franchising and vital business and community service, which are of local concern.

D. Promotion Of Telecommunications Services: The City finds that it is in the best interests of its taxpayers and citizens to promote the rapid development of telecommunications services, on a nondiscrimination basis, responsive to community and public interest, and to assure availability for Municipal, educational and community services.

E. Franchise Standards: The City finds that it is in the interests of the public to franchise and to establish standards for franchising providers in a manner that:

1. Fairly and reasonably compensates the City on a competitively neutral and

nondiscriminatory basis as provided herein;

2. Encourages competition by establishing terms and conditions under which providers may use the rights-of-way to serve the public;
3. Fully protects the public interests and the City from any harm that may flow from such commercial use of rights-of-way;
4. Protects the police powers and rights-of-way management authority of the City, in a manner consistent with Federal and State law;
5. Otherwise protects the public interests in the development and use of the City infrastructure;
6. Protects the public's investment in improvements in the rights-of-way; and
7. Ensures that no barriers to entry of telecommunications providers are created and that such franchising is accomplished in a manner that does not prohibit or have the effect of prohibiting telecommunication services, within the meaning of the telecommunications act of 1996 (P.L. No. 104-104) (hereafter, the "act").

F. Power To Manage Rights Of Way: The city adopts this telecommunications chapter pursuant to its power to manage the rights of way, pursuant to common law, the Utah constitution and statutory authority, and receive fair and reasonable compensation for the use of rights of way by providers as expressly set forth by section 253 of the act. (Ord. 989, 11-17-1998, eff. 11-17-1998)

7-4-2: Definitions

For purposes of this chapter, the following terms, phrases, words and their derivatives shall have the meanings set forth in this section, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future tense, words in the single number include the plural number, words in the plural number include the singular. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

APPLICATION: The process by which a provider submits a request and indicates a desire to be granted a franchise to utilize the rights of way of all, or a part, of the city. An application includes all written documentation, verbal statements and representations, in whatever form or forum, made by a provider to the city concerning: the construction of a telecommunications system over, under, on or through the rights of way; the telecommunications services proposed to be provided in the city by a provider; and any other matter pertaining to a proposed system or service.

CITY: South Ogden City, Utah.

COMPLETION DATE: The date that a provider begins providing services to customers in the city.

CONSTRUCTION COSTS: All costs of constructing a system, including make-ready costs, other than engineering fees, attorney or accountant fees, or other consulting fees.

CONTROL OR CONTROLLING INTEREST: Actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments or negative control, as the case may be, of the system or of a provider. A rebuttable presumption of the existence of control or a controlling interest shall arise from the beneficial ownership, directly or

indirectly, by any person or group of persons acting in concert, of more than twenty five percent (25%) of any provider (which person or group of persons is hereinafter referred to as "controlling person"). Control or controlling interest, as used herein, may be held simultaneously by more than one person or group of persons.

FCC: The federal communications commission or any successor thereto.

FRANCHISE: The rights and obligations extended by the city to a provider to own, lease, construct, maintain, use or operate a system in the rights of way within the boundaries of the city. Any such authorization, in whatever form granted, shall not mean or include:

- A. Any other permit or authorization required for the privilege of transacting and carrying on a business within the city required by the ordinances and laws of the city;
- B. Any other permit, agreement or authorization required in connection with operations on rights of way or public property, including, without limitation, permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the City or a private entity, or for excavating or performing other work in or along the rights of way.

FRANCHISE AGREEMENT: A contract entered into in accordance with the provisions of this chapter between the city and a franchisee that sets forth, subject to this chapter, the terms and conditions under which a franchise will be exercised.

GROSS REVENUE: Includes all revenues of a provider that may be included as gross revenue within the meaning of Utah Code Annotated title 11, chapter 26, as amended.

INFRASTRUCTURE PROVIDER: A person providing to another, for the purpose of providing telecommunication services to customers, all or part of the necessary system which uses the rights of way.

OPEN VIDEO SERVICE: Any video programming services provided to any person through the use of rights of way by a provider that is certified by the FCC to operate an open video system pursuant to section 651 et seq., of the telecommunications act (to be codified at 47 USC title VI, part V), regardless of the system used.

OPEN VIDEO SYSTEM: The system of cables, wires, lines, towers, wave guides, optic fiber, microwave, laser beams and any associated converters, equipment, or facilities designed and constructed for the purpose of producing, receiving, amplifying or distributing open video services to or from subscribers or locations within the city.

OPERATOR: Any person who provides service over a telecommunications system and directly or through one or more persons owns a controlling interest in such system, or who otherwise controls or is responsible for the operation of such a system.

ORDINANCE OR TELECOMMUNICATIONS ORDINANCE: This telecommunications chapter concerning the granting of franchises in and by the city for the construction, ownership, operation, use or maintenance of a telecommunications system.

PSC: The public service commission or any successor thereto.

PERSON: Includes any individual, corporation, partnership, association, joint stock company, trust or any other legal entity, but not the city.

PERSONAL WIRELESS SERVICES FACILITIES: Has the same meaning as provided in section 704 of the act (47 USC 332(c)(7)(c)), which includes what is commonly known as cellular and PSC services that do not install any system or portion of a system in the rights of way.

PROVIDER: An operator, infrastructure provider, resaler or system lessee.

RESELLER: Refers to any person that provides local exchange service over a system for which a separate charge is made, where that person does not own or lease the underlying system used for the transmission.

RIGHTS OF WAY: The surface of and the space above and below any public street, sidewalk, alley or other public way of any type whatsoever, now or hereafter existing as such within the city.

SIGNAL: Any transmission or reception of electronic, electrical, light or laser or radio frequency energy or optical information, in either analog or digital format.

SYSTEM LESSEE: Refers to any person that leases a system or a specific portion of a system to provide services.

TELECOMMUNICATIONS: The transmission, between or among points specified by the user, of information of the user's choosing (e.g., data, video and voice), without change in the form or content of the information sent and received.

TELECOMMUNICATIONS SERVICE OR SERVICES: Any telecommunications services provided by a provider within the city that the provider is authorized to provide under federal, state and local law, and any equipment and/or facilities required for and integrated with the services provided within the city, except that these terms do not include "cable service," as defined in the cable communications policy act of 1984, as amended by the cable television consumer protection and competition act of 1992 (47 USC 521 et seq.) and the telecommunications act of 1996. Telecommunications service or services also includes an open video service.

TELECOMMUNICATIONS SYSTEM OR SYSTEM: All conduits, manholes, poles, antennas, transceivers, amplifiers and all other electronic devices, equipment, wire and appurtenances owned, leased or used by a provider, located in the rights of way and utilized in the provision of services, including fully digital or analog, voice, data and video imaging and other enhanced telecommunications services. Telecommunications system or systems also includes an open video system.

WIRE: Fiber optic telecommunications cable, wire, coaxial cable or other transmission medium that may be used in lieu thereof for similar purposes. (Ord. 989, 11-17-1998, eff. 11-17-1998; amd. 2001 Code)

7-4-3: Administration; General Provisions

- A. Conflicts: In the event of a conflict between any provision of this chapter and a franchise entered pursuant to it, the provisions of this chapter in effect at the time the franchise is entered into shall control.
- B. New Developments: It shall be the policy of the city to liberally amend this chapter, upon application of a provider, when necessary to enable the provider to take advantage of any developments in the field of telecommunications which will afford the provider an opportunity to more effectively, efficiently or economically serve itself or the public. (Ord. 989, 11-17-1998,

eff. 11-17-1998)

- C. Notices: All notices from a provider to the city required under this chapter or pursuant to a franchise granted pursuant to this chapter shall be directed to the officer as designated by the city manager. A provider shall provide in any application for a franchise the identity, address and phone number of the person designated to receive notices from the city. A provider shall immediately notify the city of any change in its name, address or telephone number. (Ord. 989, 11-17-1998, eff. 11-17-1998; amd. 2001 Code)
- D. Exercise Of Police Power: To the full extent permitted by applicable law either now or in the future, the city reserves the right to adopt or issue such rules, regulations, orders or other directives that it finds necessary or appropriate in the lawful exercise of its police powers.
- E. Construction:
 - 1. Federal And State Statutes: This chapter shall be construed in a manner consistent with all applicable federal and state statutes.
 - 2. Applicability: This chapter shall apply to all franchises granted or renewed after the effective date hereof. This chapter shall further apply, to the extent permitted by applicable federal or state law, to all existing franchises granted prior to the effective date hereof and to a provider providing services, without a franchise, prior to the effective date hereof.
 - 3. Other Applicable Ordinances: A provider's rights are subject to the police powers of the city to adopt and enforce ordinances necessary to the health, safety and welfare of the public. A provider shall comply with all applicable general laws and ordinances enacted by the city pursuant to its police powers. In particular, all providers shall comply with the city zoning and other land use requirements.
 - 4. City Failure To Enforce: A provider shall not be relieved of its obligation to comply with any of the provisions of this chapter or any franchise granted pursuant to this chapter by reason of any failure of the city to enforce prompt compliance.
 - 5. Construed According To Utah Law: This chapter and any franchise granted pursuant to this chapter shall be construed and enforced in accordance with the substantive laws of the state. (Ord. 989, 11-17-1998, eff. 11-17-1998)

7-4-4: Applicability; Exceptions

- A. Providers: This chapter shall provide the basic local scheme for providers of telecommunications services and systems that require the use of the rights of way, including providers of both the system and service, those providers of the system only and those providers who do not build the system but who only provide services. This chapter shall apply to all future providers and to all providers in the city prior to the effective date hereof, whether operating with or without a franchise as set forth in subsection 7-4-3E2 of this chapter.
- B. Excluded Activities:
 - 1. Cable Television Operators: This chapter shall not apply to cable television operators otherwise regulated by ordinances 650, 656 and 675, and their progeny (the cable television ordinance).
 - 2. Wireless Service Facilities: This chapter shall not apply to personal wireless service

facilities.

- C. Excluded Providers; Provisions Applicable: Providers excused by other law that prohibits the city from requiring a franchise shall not be required to obtain a franchise, but all of the requirements imposed by this chapter through the exercise of the city's police power and not preempted by other law shall be applicable. (Ord. 989, 11-17-1998, eff. 11-17-1998)

7-4-5: Franchise Required

- A. Nonexclusive Franchise; Authority: The city is empowered and authorized to issue nonexclusive franchises governing the installation, construction and maintenance of systems in the city's rights of way, in accordance with the provisions of this chapter. The franchise is granted through a franchise agreement entered into between the city and provider.
- B. Provider Required To Obtain: Except to the extent preempted by federal or state law, as ultimately interpreted by a court of competent jurisdiction, including any appeals, every provider must obtain a franchise prior to constructing a telecommunications system or providing telecommunications services using the rights of way, and every provider must obtain a franchise before constructing an open video system or providing open video services via an open video system. Any open video system or service shall be subject to the customer service and consumer protection provisions applicable to the cable TV companies to the extent the city is not preempted or permitted as ultimately interpreted by a court of competent jurisdiction, including any appeals. The fact that particular telecommunications systems may be used for multiple purposes does not obviate the need to obtain a franchise for other purposes. By way of illustration and not limitation, a cable operator of a cable system must obtain a cable franchise, and, should it intend to provide telecommunications services over the same system, must also obtain a telecommunications franchise.
- C. Nature Of Grant: A franchise shall not convey title, equitable or legal, in the rights of way. A franchise is only the right to occupy rights of way on a nonexclusive basis for the limited purposes and for the limited period stated in the franchise; the right may not be subdivided, assigned or subleased. A franchise does not excuse a provider from obtaining appropriate access or pole attachment agreements before collocating its system on the property of others, including the city's property. This subsection shall not be construed to prohibit a provider from leasing conduit to another provider, so long as the lessee has obtained a franchise.
- D. Current Providers; Time Limit To Request: Except to the extent exempted by federal or state law, any provider acting without a franchise on the effective date hereof shall request issuance of a franchise from the city within ninety (90) days of the effective date hereof. If such request is made, the provider may continue providing service during the course of negotiations. If a timely request is not made, or if negotiations cease and a franchise is not granted, the provider shall comply with the provisions of subsection 7-4-12D of this chapter.
- E. Nature Of Franchise: The franchise granted by the city under the provisions of this chapter shall be a nonexclusive franchise providing the right and consent to install, repair, maintain, remove and replace its system on, over and under the rights of way in order to provide services.
- F. Regulatory Approval Needed: Before offering or providing any services pursuant to the franchise, a provider shall obtain any and all regulatory approvals, permits, authorizations or licenses for the offering or provision of such services from the appropriate federal, state and local authorities, if required, and shall submit to the city, upon the written request of the city,

evidence of all such approvals, permits, authorizations or licenses.

- G. Term: No franchise issued pursuant to this chapter shall have a term of less than five (5) years or greater than fifteen (15) years. Each franchise shall be granted in a nondiscriminatory manner. (Ord. 989, 11-17-1998, eff. 11-17-1998)

7-4-6: Application For Franchise

- A. Required; Form: To obtain a franchise to construct, own, maintain or provide services through any system within the city, to obtain a renewal of a franchise granted pursuant to this chapter or to obtain the city approval of a transfer of a franchise, as provided in subsection 7-4-11A2 of this chapter, granted pursuant to this chapter, an application must be filed with city on the form attached to the ordinance codified herein as exhibit A, which is hereby incorporated by reference. The application form may be changed by the mayor or city manager so long as such changes request information that is consistent with this chapter. Such application form, as amended, is incorporated by reference.
- B. Criteria: In making a determination as to an application filed pursuant to this chapter, the city may, but shall not be limited to, request the following from the provider:
1. A copy of the order from the PSC granting a certificate of convenience and necessity.
 2. Certification of the provider's financial ability to compensate the city for provider's intrusion, maintenance and use of the rights of way during the franchise term proposed by the provider.
 3. Provider's agreement to comply with the requirements of section 7-4-9 of this chapter.
- C. Determination By City: The city, in its discretion, shall determine the award of any franchise on the basis of these and other considerations relevant to the use of the rights of way, without competitive bidding. (Ord. 989, 11-17-1998, eff. 11-17-1998)

7-4-7: Compensation, Fees And Payments

- A. Compensation; Provider Obligations: As fair and reasonable compensation for any franchise granted pursuant to this chapter, a provider shall have the following obligations:
1. Application Fee: In order to offset the cost to the city to review an application for a franchise and in addition to all other fees, permits or charges, a provider shall pay to the city, at the time of application, five hundred dollars (\$500.00) as a nonrefundable application fee.
 2. Franchise Fee: The franchise fee, if any, shall be set forth in the franchise agreement. The obligation to pay a franchise fee shall commence on the completion date. The franchise fee is offset by any business license fee or business license tax enacted by the city.
 3. Excavation Permits: The provider shall also pay fees required for an excavation permit as provided in chapter 3 of this title.
- B. Due Monthly: Unless otherwise agreed to in the franchise agreement, all franchise fees shall be paid on a monthly basis within forty five (45) days of the close of each calendar month.
- C. Statement Of Calculation; Certification: Unless a franchise agreement provides otherwise,

each fee payment shall be accompanied by a statement showing the manner in which the fee was calculated and shall be certified as to its accuracy.

- D. Future Costs: A provider shall pay to the city or to third parties, at the direction of the city, an amount equal to the reasonable costs and reasonable expenses that the city incurs for the services of third parties (including, but not limited to, attorneys and other consultants) in connection with any renewal or provider-initiated renegotiation, or amendment of this chapter or a franchise; provided, however, that the parties shall agree upon a reasonable financial cap at the outset of negotiations. In the event the parties are unable to agree, either party may submit the issue to binding arbitration in accordance with the rules and procedures of the American arbitration association. Additionally, any costs associated with any work to be done by the power and public works department to provide space on city-owned poles, if any, shall be borne by the provider.
- E. Taxes, Assessments: To the extent taxes or other assessments are imposed by taxing authorities, other than the city, on the use of the city property as a result of a provider's use or occupation of the rights of way, the provider shall be responsible for payment of its pro rata share of such taxes, payable annually unless otherwise required by the taxing authority. Such payments shall be in addition to any other fees payable pursuant to this chapter.
- F. Interest On Late Payments: In the event that any payment is not actually received by the city on or before the applicable date fixed in the franchise, interest thereon shall accrue from such date until received at the rate charged for delinquent state taxes.
- G. Acceptance Of Fee; Not Construed Satisfaction: No acceptance by the city of any fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such fee payment be construed as a release of any claim the city may have for additional sums payable.
- H. Additional Taxes Or Fees Still Applicable: The fee payment is not a payment in lieu of any tax, fee or other assessment, except as specifically provided in this chapter or as required by applicable law. By way of example, and not limitation, excavation permit fees and fees to obtain space on the city-owned poles are not waived and remain applicable.
- I. Operation After Term; Continuing Obligation And Holdover: In the event a provider continues to operate all or any part of the system after the term of the franchise, such operator shall continue to comply with all applicable provisions of this chapter and the franchise, including, without limitation, all compensation and other payment provisions throughout the period of such continued operation; provided, that any such continued operation shall in no way be construed as a renewal or other extension of the franchise, nor as a limitation on the remedies, if any, available to the city as a result of such continued operation after the term, including, but not limited to, damages and restitution.
- J. Publication Costs: A provider shall assume any publication costs associated with its franchise that may be required by law. (Ord. 989, 11-17-1998, eff. 11-17-1998)

7-4-8: Insurance, Record Requirements

- A. Insurance Required: Prior to the execution of a franchise, a provider will deposit with the city an irrevocable, unconditional letter of credit or surety bond as required by the terms of the franchise, and shall obtain and provide proof of the insurance coverage required by the franchise. A provider shall also indemnify the city as set forth in the franchise.
- B. Oversight: The city shall have the right to oversee, regulate and inspect periodically the

construction, maintenance and upgrade of the system, and any part thereof, in accordance with the provisions of the franchise and applicable law. A provider shall establish and maintain managerial and operational records, standards, procedures and controls to enable a provider to prove, in reasonable detail, to the satisfaction of the city at all times throughout the term, that a provider is in compliance with the franchise. A provider shall retain such records for not less than the applicable statute of limitations. The provider shall, in a timely manner, notify the city prior to the construction, maintenance and upgrade of the system to allow the city to exercise the oversight rights conferred herein.

C. Records Maintenance: A provider shall at all times maintain:

1. On file with the city, a full and complete set of plans, records and as-built hard copy maps and, to the extent the maps are placed in an electronic format, they shall be made in electronic format compatible with the city's existing GIS system, of all existing and proposed installations and the types of equipment and systems installed or constructed in the rights of way, properly identified and described as to the types of equipment and facility by appropriate symbols and marks, which shall include annotations of all rights of ways where work will be undertaken. As used herein, as-built maps include file construction prints. Maps shall be drawn to scale. As-built maps, including the compatible electronic format, as provided above, shall be submitted within thirty (30) days of completion of work or within thirty (30) days after completion of modification and repairs. As-built maps are not required of the provider who is the incumbent local exchange carrier for the existing system to the extent they do not exist.
2. Throughout the term of the franchise, a provider shall maintain complete and accurate books of account and records of the business, ownership and operations of a provider with respect to the system in a manner that allows the city at all times to determine whether a provider is in compliance with the franchise. Should the city reasonably determine that the records are not being maintained in such a manner, a provider shall alter the manner in which the books and/or records are maintained so that a provider comes into compliance with this section. All financial books and records which are maintained in accordance with the regulations of the FCC and any governmental entity that regulates utilities in the state and generally accepted accounting principles shall be deemed to be acceptable under this section.

- D. Confidentiality: If the information required to be submitted is proprietary in nature or must be kept confidential by federal, state or local law, upon proper request by a provider, such information shall be classified as a protected record within the meaning of the Utah government records access and management act (GRAMA), making it available only to those who must have access to perform their duties on behalf of the city; provided, that a provider notifies the city of, and clearly labels the information which a provider deems to be confidential, proprietary information. Such notification and labeling shall be the sole responsibility of the provider.
- E. Provider's Expense: All reports and records required under this chapter shall be furnished at the sole expense of a provider, except as otherwise provided in this chapter or a franchise.
- F. Right Of Inspection: For the purpose of verifying the correct amount of the franchise fee, the books and records of the provider pertaining thereto shall be open to inspection or audit by duly authorized representatives of the city at all reasonable times, upon giving reasonable notice of the intention to inspect or audit the books and records; provided, that the city shall not audit the books and records of the provider more often than annually. The provider agrees

to reimburse the city the reasonable costs of an audit if the audit discloses that the provider has paid ninety five percent (95%) or less of the compensation due the city for the period of such audit. In the event the accounting rendered to the city by the provider herein is found to be incorrect, then payment shall be made on the corrected amount within thirty (30) calendar days of written notice, it being agreed that the city may accept any amount offered by the provider, but the acceptance thereof by the city shall not be deemed a settlement of such item if the amount is in dispute or is later found to be incorrect. (Ord. 989, 11-17-1998, eff. 11-17-1998)

7-4-9: Construction, Technical Requirements

- A. Compliance Required; Excavation Permit: No provider shall receive a franchise unless it agrees to comply with each of the terms set forth in this section governing construction and technical requirements for its system, in addition to any other reasonable requirements or procedures specified by the city or the franchise, including requirements regarding locating and sharing in the cost of locating portions of the system with other systems or with city utilities. A provider shall obtain an excavation permit, pursuant to chapter 3 of this title, before commencing any work in the rights of way.
- B. Quality And Performance Of Work: All work involved in the construction, maintenance, repair, upgrade and removal of the system shall be performed in a safe, thorough and reliable manner, using materials of good and durable quality. If, at any time, it is determined by the FCC or any other agency granted authority by federal law or the FCC to make such determination, that any part of the system, including, without limitation, any means used to distribute signals over or within the system, is harmful to the public health, safety or welfare, or quality of service or reliability, then a provider shall, at its own cost and expense, promptly correct all such conditions.
- C. Licenses And Permits: A provider shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses or other forms of approval or authorization necessary to construct, maintain, upgrade or repair the system, including, but not limited to, any necessary approvals from persons and/or the city to use private property, easements, poles and conduits. A provider shall obtain any required permit, license, approval or authorization, including, but not limited to, excavation permits, pole attachment agreements, etc., prior to the commencement of the activity for which the permit, license, approval or authorization is required.
- D. Relocation Of System:
 - 1. New Grades Or Lines; Excavation Requirements: If the grades or lines of any rights of way are changed at any time in a manner affecting the system, then a provider shall comply with the requirements of chapter 3 of this title.
 - 2. Emergency; City Authority To Move System: The city may, at any time, in case of fire, disaster or other emergency, as determined by the city in its reasonable discretion, cut or move any parts of the system and appurtenances on, over or under the rights of way of the city, in which event the city shall not be liable therefor to a provider. The city shall notify a provider in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this section. Notice shall be given as provided in subsection 7-4-3C of this chapter.

3. Temporary Move For Third Party: A provider shall, upon prior reasonable written notice by the city or any person holding a permit to move any structure, and within the time that is reasonable under the circumstances, temporarily move any part of its system to permit the moving of said structure. A provider may impose a reasonable charge on any person other than the city for any such movement of its systems.
 4. Change In Rights Of Way; Obligation To Move System: When the city is changing a right of way and makes a written request, a provider is required to move or remove its system from the right of way, without cost to the city, to the extent provided in the excavation ordinance, as provided in chapter 3 of this title. This obligation does not apply to systems originally located on private property pursuant to a private easement, which property was later incorporated into the rights of way, if that private easement grants a superior vested right. This obligation exists whether or not the provider has obtained an excavation permit.
- E. Protection Of Structures, Landmarks: In connection with the construction, maintenance, repair, upgrade or removal of the system, a provider shall, at its own cost and expense, protect any and all existing structures belonging to the city and all designated landmarks, as well as all other structures within any designated landmark district. A provider shall obtain the prior written consent of the city to alter any water main, power facility, sewerage or drainage system, or any other city structure on, over or under the rights of way of the city required because of the presence of the system. Any such alteration shall be made by the city or its designee on a reimbursable basis. A provider agrees that it shall be liable for the costs incurred by the city to replace or repair and restore to its prior condition in a manner as may be reasonably specified by the city, any municipal structure or any other rights of way of the city involved in the construction, maintenance, repair, upgrade or removal of the system that may become disturbed or damaged as a result of any work thereon by or on behalf of a provider pursuant to the franchise.
- F. Obstructions Prohibited: In connection with the construction, maintenance, upgrade, repair or removal of the system, a provider shall not unreasonably obstruct the rights of way of fixed guideway systems, railways, passenger travel or other traffic to, from or within the city without the prior consent of the appropriate authorities.
- G. Safety Precautions: A provider shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, security personnel and suitable and sufficient lighting, and such other requirements prescribed by OSHA and Utah OSHA. A provider shall comply with all applicable federal, state and local requirements, including, but not limited to, the national electrical safety code.
- H. Repair Of Rights Of Way: After written reasonable notice to the provider, unless, in the sole determination of the city, an eminent danger exists, any rights of way within the city which are disturbed or damaged during the construction, maintenance or reconstruction by a provider of its system may be repaired by the city at the provider's expense, to a condition as good as that prevailing before such work was commenced. Upon doing so, the city shall submit to such a provider an itemized statement of the cost for repairing and restoring the rights of ways intruded upon. The provider shall, within thirty (30) days after receipt of the statement, pay to the city the entire amount thereof.
- I. Maintenance Of System: A provider shall:

1. Install and maintain all parts of its system in a nondangerous condition throughout the entire period of its franchise.
2. Install and maintain its system in accordance with standard prudent engineering practices and shall conform, when applicable, with the national electrical safety code and all applicable other federal, state and local laws or regulations.
3. At all reasonable times, permit examination by any duly authorized representative of the city of the system and its effect on the rights of way.

J. Trimming Trees; Authority: A provider shall have the authority to trim trees, in accordance with all applicable utility restrictions, ordinance and easement restrictions, upon and hanging over rights of way so as to prevent the branches of such trees from coming in contact with its system. (Ord. 989, 11-17-1998, eff. 11-17-1998)

7-4-10: Private Property; Obligation To Notify.

Before entering onto any private property, a provider shall make a good faith attempt to contact the property owners in advance and describe the work to be performed. (Ord. 989, 11-17-1998, eff. 11-17-1998)

7-4-11: Transfer Of Franchise And License

A. Notification Of Sale:

1. PSC Approval: When a provider is the subject of a sale, transfer, lease, assignment, sublease or disposal, in whole or in part, either by force or involuntary sale, or by ordinary sale, consolidation or otherwise, such that it or its successor entity is obligated to inform or seek the approval of the PSC, the provider or its successor entity shall promptly notify the city of the nature of the transaction. The notification shall include either:
 - a. The successor entity's certification that the successor entity unequivocally agrees to all of the terms of the original provider's franchise agreement; or
 - b. The successor entity's application, in compliance with section 7-4-6 of this chapter.
2. Transfer Of Franchise: Upon receipt of a notification and certification in accordance with subsection A1a of this section, the city designee, as provided in subsection 7-4-12A1 of this chapter, shall send notice affirming the transfer of the franchise to the successor entity. If the city has good cause to believe that the successor entity may not comply with this chapter or the franchise agreement, it may require an application for the transfer. The application shall comply with section 7-4-6 of this chapter.
3. PSC Approval No Longer Required: If the PSC no longer exists or if its regulations or state law no longer require approval of transactions described in subsection A of this section, and the city has good cause to believe that the successor entity may not comply with this chapter or the franchise agreement, it may require an application. The application shall comply with section 7-4-6 of this chapter.

B. Events Of Sale: The following events shall be deemed to be a sale, assignment or other

transfer of the franchise requiring compliance with subsection A of this section:

1. The sale, assignment or other transfer of all or a majority of a provider's assets to another person;
2. The sale, assignment or other transfer of capital stock or partnership, membership or other equity interests in a provider by one or more of its existing shareholders, partners, members or other equity owners so as to create a new controlling interest in a provider;
3. The issuance of additional capital stock or partnership, membership or other equity interest by a provider so as to create a new controlling interest in such a provider; or
4. The entry by a provider into an agreement with respect to the management or operation of such provider or its system. (Ord. 989, 11-17-1998, eff. 11-17-1998)

7-4-12: Enforcement; Rights Of City.

A. Enforcement; Remedies:

1. City Designee: The city is responsible for enforcing and administering this chapter and the city or its designee, as appointed by the city manager, is authorized to give any notice required by law or under any franchise agreement.
2. Enforcement Provisions: Any franchise granted pursuant to this chapter shall contain appropriate provisions for enforcement, compensation and protection of the public, consistent with the other provisions of this chapter, including, but not limited to, defining events of default, procedures for accessing the bond/security fund and rights of termination or revocation.

B. Force Majeure: In the event a provider's performance of any of the terms, conditions or obligations required by this chapter or a franchise is prevented by a cause or event not within a provider's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof. For the purpose of this subsection, causes or events not within the control of a provider shall include, without limitation, acts of God, strikes, sabotage, riots or civil disturbances, failure or loss of utilities, explosions, acts of public enemies and natural disasters such as floods, earthquakes, landslides and fires.

C. Extended Operation; Continuity Of Services:

1. Continuation After Expiration: Upon either expiration or revocation of a franchise granted pursuant to this chapter, the city shall have discretion to permit a provider to continue to operate its system or provide services for an extended period of time not to exceed six (6) months from the date of such expiration or revocation. A provider shall continue to operate its system under the terms and conditions of this chapter and the franchise granted pursuant to this chapter.
2. Incumbent Local Exchange Carrier; Negotiate Renewal: If the provider is the incumbent local exchange carrier, it shall be permitted to continue to operate its system and provide services without regard to revocation or expiration, but shall be obligated to negotiate a renewal in good faith.

D. Removal Or Abandonment Of Franchise Property:

1. **Abandoned System:** In the event that: a) the use of any portion of the system is discontinued for a continuous period of twelve (12) months, and thirty (30) days after no response to written notice from the City to the last known address of provider; b) any system has been installed in the rights-of-way without complying with the requirements of this chapter or franchise; or c) the provisions of subsection 7-4-5E of this chapter are applicable and no franchise is granted, a provider, except the provider who is an incumbent local exchange carrier, shall be deemed to have abandoned such system.
2. **Removal Of Abandoned System:** The City, upon such terms as it may impose, may give a provider written permission to abandon, without removing, any system, or portion thereof, directly constructed, operated or maintained under a franchise. Unless such permission is granted or unless otherwise provided in this chapter, a provider shall remove within a reasonable time the abandoned system and shall restore, using prudent construction standards, any affected rights-of-way to their former state at the time such system was installed, so as not to impair their usefulness. In removing its plant, structures and equipment, a provider shall refill, at its own expense, any excavation necessarily made by it and shall leave all rights-of-way in as good condition as that prevailing prior to such removal without materially interfering with any electrical or telephone cable or other utility wires, poles or attachments. The City shall have the right to inspect and approve the condition of the rights-of-way cables, wires, attachments and poles prior to and after removal. The liability, indemnity and insurance provisions of this chapter and any Security Fund provided in a franchise shall continue in full force and effect during the period of removal and until full compliance by a provider with the terms and conditions of this section.
3. **Transfer Of Abandoned System To City:** Upon abandonment of any system in place, a provider, if required by the City, shall submit to the City a written instrument, satisfactory in form to the City, transferring to the City the ownership of the abandoned system.
4. **Removal Of Aboveground System:** At the expiration of the term for which a franchise is granted, or upon its revocation or earlier expiration, as provided for by this chapter, in any such case without renewal, extension or transfer, the City shall have the right to require a provider to remove, at its expense, all aboveground portions of a system from the rights-of-way within a reasonable period of time, which shall not be less than one hundred eighty (180) days. If the provider is the incumbent local exchange carrier, it shall not be required to remove its system, but shall negotiate a renewal in good faith.
5. **Leaving Underground System:** Notwithstanding anything to the contrary set forth in this chapter, a provider may abandon any underground system in place so long as it does not materially interfere with the use of the rights-of-way or with the use thereof by any public utility, cable operator or other person. (Ord. 989, 11-17-1998, eff. 11-17-1998)

7-4-13: Small Wireless Facilities Deployment

Notwithstanding anything in this chapter to the contrary, the requirements of Utah Code section 54-21-101 et seq., shall control the regulation of small wireless facilities deployment in the event there is a conflict between the City's regulations and requirements and the requirements of Utah Code section 54-21-101 et seq. (Ord. 18-15, 11-20-2018, eff. 11-20-2018)

7-4-14: Severability

If any provision of this chapter is held by any Federal, State or local court of competent jurisdiction to be invalid as conflicting with any Federal or State Statute, or is ordered by a court to be modified in any way in order to conform to the requirements of any such law and all appellate remedies with regard to the validity of the ordinance provisions in question are exhausted, such provision shall be considered a separate, distinct and independent part of this chapter, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law is subsequently repealed, rescinded, amended or otherwise changed, so that the provision which had been held invalid or modified is no longer in conflict with such law, the provision in question shall return to full force and effect and shall again be binding on the City and the provider; provided, that the City shall give the provider thirty (30) days', or a longer period of time as may be reasonably required for a provider to comply with such a rejuvenated provision, written notice of the change before requiring compliance with such provision. (Ord. 18-15, 11-20-2018, eff. 11-20-2018)

STAFF REPORT



SUBJECT: Amended Agreement with WFRC
AUTHOR: Doug Gailey
DEPARTMENT: Administration
DATE: 3-15-2022

RECOMMENDATION

Approve amended agreement with Wasatch Front Regional Council for the General Plan update.

BACKGROUND

In October of 2019, WFRC put out an RFP for the general plan update for South Ogden City. WFRC had previously awarded South Ogden City a grant for the General Plan update. The bid for the update was awarded to FFKR as they were the only company to submit a bid. The contract amount was for \$80,000 and South Ogden City's portion of that was \$30,000. The original schedule called for completion by the end of 2020. The work was not completed by FFKR in a timely manner. For a multitude of reasons, which included a failure of FFKR to communicate with South Ogden and WFRC, in December of 2021 it was decided that WFRC would terminate their contract with FFKR. It was also decided that WFRC to try to contract with Landscape Design to finish the work that had been started by FFKR.

ANALYSIS

The original contract from WFRC still had about \$27,000 of unexpended funds. In January of 2022, Landmark Design submitted a scope of work to finish the project. The original price submitted by Landmark Design was an additional amount of \$54,450. After working to pare down the cost, Landmark submitted a bid of \$43,600. WFRC was able to contribute an additional \$11,825, which left South Ogden with an additional \$5,000 to finish the project. This additional amount will result in a comprehensive General Plan that will meet the long-term needs and vision of the city.

SIGNIFICANT IMPACTS

\$5,000 dollars is being added to the original agreement with WFRC

ATTACHMENTS

Copy of the contract between WFRC and Landmark Design.

Resolution No. 22-06

RESOLUTION OF SOUTH OGDEN CITY AMENDING A MATCH AGREEMENT WITH WASATCH FRONT REGIONAL COUNCIL AND APPROVING A LETTER OF CONCURRENCE, AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AND FINAL PASSAGE.

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

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

WHEREAS, the City Council found it necessary to address comprehensive general plan development and documentation dealing with land use, transportation, sustainable development and economics, economic development and market analysis, moderate income housing, urban form, place making and community design, neighborhoods, environmental conditions and sensitive lands, and parks, recreation, trails, and open space needs within the city; and,

WHEREAS, the City Council found that the city staff worked with the Wasatch Front Regional Council through their Transportation and Land Use Connection Program and succeeded in obtaining a matching grant for partial funding of an update and renewal of the city's comprehensive general plan; and,

WHEREAS, the City Council then signed a "Letter of Concurrence and Match Agreement" with the Wasatch Front Regional Council for utilization, and accounting for these matching funds; and,

WHEREAS, the City Council found that through a request for proposals for an update and renewal of the City's Comprehensive General Plan only one eligible firm applied and was then chosen to create a Comprehensive General Plan for South Ogden City; and,

WHEREAS, the City Council found that the comprehensive general plan created did not meet the level of expertise expected; and,

WHEREAS, the City Council now finds that staff has worked with the Wasatch Front Regional Council through their Transportation and Land Use Connection Program to secure another firm to create a more acceptable Comprehensive General Plan; and,

WHEREAS, the City Council finds the Wasatch Front Regional Council now desires to

amend the original "Letter of Concurrence and Match Agreement" executed by the parties to finalize the receipt, utilization, and accounting for matching funds; and,

WHEREAS, the City Council finds that the City now desires to approve the amended Letter of Concurrence and Match Agreement as requested by the Wasatch Front Regional Council; and,

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

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

SECTION II - CONTRACT AUTHORIZED

That The Amended "Letter Of Concurrence And Match Agreement" For Comprehensive General Plan Development, Attached Hereto As **Attachment "A"** And By This Reference Fully Incorporated Herein, Is Hereby Approved And Adopted; And The City Manager Is Authorized To More Fully Negotiate Any Remaining Details Under The Agreement On Behalf Of The City And Then To Sign, And The City Recorder Authorized To Attest, Any And All Documents Necessary To Effect This Authorization And Approval.

SECTION III - PRIOR ORDINANCES AND RESOLUTIONS

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

SECTION IV - REPEALER OF CONFLICTING ENACTMENTS

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

SECTION V - SAVINGS CLAUSE

If any provision of this Resolution shall be held or deemed or shall be invalid, inoperative or unenforceable such shall render no other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Resolution being deemed the separate independent and severable act of the City Council of South Ogden City.

SECTION VI - DATE OF EFFECT

This Resolution shall be effective on the 15th day of March, 2022, and after publication or posting as required by law.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF SOUTH OGDEN CITY,
STATE OF UTAH, on this 15th day of March, 2022.**

SOUTH OGDEN CITY

Russell Porter, Mayor

ATTEST:

Leesa Kapetanov, CMC
City Recorder

ATTACHMENT "A"

Resolution No. 22-06

Resolution Of South Ogden City Amending A Match Agreement With Wasatch
Front Regional Council And Approving A Letter Of Concurrence, And
Providing That This Resolution Shall Become Effective Immediately Upon
Posting And Final Passage.

15 Mar 22



LETTER OF CONCURRENCE AND MATCH AGREEMENT

This Letter of Concurrence represents a formal agreement between the Wasatch Front Regional Council and South Ogden for the information below, consistent with the application submitted by the city of South Ogden to WFRC for assistance through Transportation and Land Use Connection.

PROJECT INFORMATION

Project Title: South Ogden City Comprehensive General Plan

Project Manager: Doug Gailey

City Address: 3950 Adams Ave., South Ogden UT 84403

Manager Email: dgailey@southogdencity.gov

Manager Phone: 801.622.2727

LOCAL GOVERNMENT MATCH AGREEMENT

Cash Amount: \$35,000 (\$30,000 has been paid, \$5,000 is being added March of 2022)

Note: There is a minimum expectation that local government representatives are responsive to WFRC staff, participate and help to coordinate all project meetings, fulfill local government obligations in consultant advertisement and selection, accomplish necessary public noticing, and guide the project to a product that is to awarded community's satisfaction within scope limits, and ultimately support the adoption process if eligible.

TRANSPORTATION AND LAND USE CONNECTION RESOURCES

Financial Contributions: \$61,825 (\$11,825 added to remaining budget, March 2022)

Consultant Budget Total: \$96,825

GENERAL TIMELINE

Start Date: 7/1/19

End Date: 12/31/22 (amended from 12/31/2020)

SUMMARY OF DELIVERABLES

A Comprehensive General Plan document including the following elements/chapters: Land Use, Transportation, Sustainable Development & Economics, Economic Development and Market Analysis, Moderate Income Housing, Urban Form, Placemaking and Community Design, Neighborhoods, Environmental Conditions and Sensitive Lands, and Parks, Recreation, Trails, & Open Space.

As part of this agreement, it is understood that the governing body of the City of South Ogden will in earnest consider the final work products for adoption.

Date

Mayor/Approved Appointee

Resolution No. 22-07

RESOLUTION OF SOUTH OGDEN CITY DECLARING RESOLUTION 22-03 AS NULL AND VOID AND RE-APPROVING AN AGREEMENT WITH THE UTAH DEPARTMENT OF TRANSPORTATION FOR USE OF FEDERAL FUNDS FOR THE 40th STREET/CHIMES VIEW DRIVE ROAD IMPROVEMENT PROJECT, AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AND FINAL PASSAGE.

SECTION I-RECITALS

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

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

WHEREAS, the City Council found it necessary to address certain Road Improvement Projects needs within the city; and,

WHEREAS, the City Council found that the city staff recommended the City contract with the Utah Department of Transportation for funding assistance for the installation and completion of the 40th Street/Chimes View Drive Road Improvement Project; and,

WHEREAS, the City Council found that the Utah Department of Transportation agreed to provide financial assistance for this project to meet the city's needs; and,

WHEREAS, the City Council voted on March 1, 2022 to enter into an agreement with the Utah Department of Transportation for use of Federal Funds for completion of the 40th Street/Chimes View Drive Road Improvement Project, with the condition that if the City's matching portion of the funds would exceed 6.77% of the total as laid out in the agreement, the City Manager would again bring the agreement before the City Council for re-consideration and re-vote; and,

WHEREAS, the City Council now finds that the City Manager has again brought the agreement before them for re-consideration and re-vote because the City's matching portion will exceed the before mentioned 6.77%;

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

SECTION II – PREVIOUS RESOLUTION DECLARED NULL AND VOID

That Resolution 22-03, A Resolution Of South Ogden City Approving An Agreement With State Of Utah Department Of Transportation For The 40th Street/Chimes View Drive Road Improvement Project, Is Now Declared Null And Void.

SECTION III - CONTRACT AUTHORIZED

That The "**Agreement**" For The 40th Street/Chimes View Drive Road Improvement Project, Federal Aid Agreement for Local Agency Project, Project Number F-3354(4)0, Administered by the Utah Department of Transportation, Attached Hereto As **Attachment "A"** And By This Reference Fully Incorporated Herein, Has Been Re-Considered and Hereby Approved And Adopted; And That The City Manager Is Authorized To More Fully Negotiate Any Remaining Details Under The Agreement On Behalf Of The City And Then To Sign, And The City Recorder Authorized To Attest, Any And All Documents Necessary To Effect This Authorization And Approval.

That the foregoing recitals are incorporated herein.

SECTION IV - PRIOR ORDINANCES AND RESOLUTIONS

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

SECTION V - REPEALER OF CONFLICTING ENACTMENTS

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

SECTION VI - SAVINGS CLAUSE

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

SECTION VII - DATE OF EFFECT

This Resolution shall be effective on the 1st day of March, 2022, and after publication or posting as required by law.

PASSED AND ADOPTED BY THE CITY COUNCIL OF SOUTH OGDEN CITY, STATE OF UTAH, on this 1st day of March, 2022.

SOUTH OGDEN CITY

Russell Porter, Mayor

ATTEST:

Leesa Kapetanov, CMC
City Recorder

ATTACHMENT "A"

Resolution No. 22-07

Resolution Of South Ogden City Declaring Resolution 22-03 As Null And Void
And Re-Approving An Agreement With The Utah Department Of
Transportation For Use Of Federal Funds For The 40th Street/Chimes View
Drive Road Improvement Project, And Providing That This Resolution Shall
Become Effective Immediately Upon Posting And Final Passage.

01 Mar 22

**State of Utah
Department of Transportation**

Federal Aid Agreement for Local Agency Project CFDA No. 20.205 Highway Planning and Construction	City of South Ogden - Matthew Dixon	Maximum Project Value Authorized \$4,745,200
PIN Number 16936 FINET Number 55337 FMIS Number F014164 DUNS Number 079579145	Project Number F-3354(4)0 PIN Description 40th St & Chimes View - Riverdale to Washington	Agreement Number (Assigned By Comptrollers) <hr/> Date Executed

This Agreement is entered into this _____ by and between the Utah Department of Transportation ("UDOT") and **City of South Ogden "Local Agency"**, a political subdivision(s) of the State of Utah.

The (City/County) has a project that will receive financing from federal-aid highway funds. The Project consists of **40th St & Chimes View - Riverdale to Washington**, located at **City of South Ogden** and identified as project number **F-3354(4)0**;

Pursuant to 23 CFR Section 635.105, UDOT has the responsibility to oversee the federal aid projects to ensure adequate supervision and inspection so the projects are completed in conformance with the approved plans and specifications, including compliance with all federal requirements; and

This Agreement describes the respective roles and requirements of UDOT and the City/County to ensure compliance with the federal requirements for the receipt of federal funding for the Project.

State Wide Transportation Improvement Program STIP 2022 - 2025

Fund*	Prior	2022	2023	2024	2025	Total	Fed Aid	State	Other	Pct
LOCAL GOVT	\$0	\$0	\$0	\$0	\$454,735	\$454,735	\$0	\$0	\$454,735	100.00%
STP_URB_O/L	\$0	\$10,000	\$1,062,616	\$1,608,924	\$1,608,925	\$4,290,465	\$4,000,001	\$0	\$290,464	6.77%
Total:	\$0	\$10,000	\$1,062,616	\$1,608,924	\$2,063,660	\$4,745,200	\$4,000,001	\$0	\$745,199	15.70%

AGREEMENT

Now, therefore, the parties agree as follows:

I. Description of the Project.

II. UDOT's Roles and Responsibilities on a Federally Funded Local Government Project as follows:

- A. Oversee compliance with federal and state regulations.
- B. Ensure transportation project oversight as outlined in 23 CFR 635.105.
- C. Assign a UDOT Project Manager to:
 - 1. Assist the Local Government Project Manager to monitor scope, schedule, budget, and help track expenditures during all phases of the project.
 - 2. Assist in project risk monitoring by reviewing and discussing identified risks and mitigation efforts.
 - 3. For projects approved through the Wasatch Front Regional Council (WFRC), assist in early coordination with UDOT's Environmental staff during preparation of the environmental document.
 - 4. Prepare and process the federal aid agreement before project initiation.
 - 5. Help administer consultant qualifications-based selection, negotiation of contract, and contracting process for all phases of the Project using the UDOT Consultant Services selection process.
 - 6. Assist the local agency to process and approve Consultant Pay Requests.
 - 7. Coordinate and participate in design review meetings to ensure the federally-approved, UDOT design process is followed.
 - 8. Coordinate to ensure ongoing communication with the local project sponsor.
 - 9. Notify the Local Government that the match, betterment or other funding to UDOT is due.
 - 10. Assist the Local Agency in preparing and executing UDOT Standard Utility Reimbursement Agreements as required.
 - 11. Coordinate betterment items and finalize agreements prior to construction advertising.
 - 12. Assist with the federally-approved construction advertising and award processes through the UDOT construction advertising and award process.
 - 13. Coordinate with the Local Project Manager to review and recommend change orders for approval.
 - 14. Coordinate the UDOT project closeout process.

III. Local Agency Roles and Responsibilities on a Federally Funded Local Government Project.

The Local Agency shall manage the Project in compliance with federal and state laws and regulations. The Local Agency shall monitor the quality of work being performed on the Project and daily activities and issues with the consultants.

- A. The Local Agency shall assign a representative to serve as the Local Project Manager to:
 - 1. Research, understand, and take responsibility for federal requirements by its acceptance of federal funds.
 - 2. Coordinate with the UDOT Project Manager concerning the funding.
 - 3. Work with organizations (MPO's, etc.) for funding and expenditure time-frames, scope issues and delivery schedule.
 - 4. Manage the day-to-day activities of the Project as follows:
 - a. Consultant and professional services used on the Project.
 - b. The Local Agency shall recommend and approve consultant pay requests.
 - c. Project scope, schedule, budget, and quality.
 - d. Coordination of details, decisions and impacts with the local jurisdiction's community councils, commissions, legal counsel, department heads, political leads, engineering and public works departments, etc.
 - e. Coordination with the assigned UDOT Project Manager.
 - f. Project risk monitoring by reviewing and discussing identified risks and mitigation efforts.
 - g. Monitor project schedule and progress of all project tasks- to ensure a timely delivery of the project.
 - h. Schedule discussion should be held in all preconstruction and construction project progress meeting.
 - i. Oversee project compliance with federal and state transportation project processes. These responsibilities include (but are not limited to):

- 1) Participate in the federally approved UDOT consultant qualifications-based selection, negotiation of contract, and contracting process for all phases of the project.
 - 2) Participate as the active lead in project team meetings as well as all field and plan reviews.
 - 3) Ensure NEPA Environmental clearances and approvals are obtained.
 - 4) Ensure current AASHTO, MUTCD, and UDOT design standards are met, or if not, ensure all design exceptions, waivers or deviations are obtained from UDOT and have the necessary signatures in place.
 - 5) Ensure and certify that right of way acquisitions follow the federal Uniform Act and comply with state right of way acquisition policy, including rules, and meet all Project right of way commitments.
 - 6) Ensure construction standards and specifications are met.
 - 7) Oversee project construction management operations, progress, documentation and quality inspection to meet state and federal contract administration requirements.
- j. Coordinate with utilities to minimize project impacts and ensure needed relocations have the proper documentation, easements and agreements in place. The Local Agency shall provide to UDOT Region Utility Coordinator the Project utility certification prior to construction advertising. All utility agreements must follow the UDOT standard Utility agreement format and process.
 - k. Provide right of way certification verifying all required right of way has been purchased prior to advertising.
 - l. Ensure required documentation is in place before submitting the advertising package to UDOT for advertising through its federally-approved process.
 - m. Coordinate with the UDOT Project Manager and Comptroller's Office to deposit the local match and betterment funds as outlined below in Section IV.
 - n. Approve the final advertising package and obtain local signature approval advertisement.
 - o. Review the abstract of bids and recommend to the UDOT Project Manager award of the project. The Local Agency may decline to recommend award for the following reasons: Lack of funding to cover project costs as bid, or cancelling the project.
 - p. Attend Construction Coordination meetings and coordinate with the Consultant Resident Engineer (RE).
 - q. Review all construction change orders for approval and submit them to UDOT Project Manager for review and processing.
 - r. Review the project budget for changes related to change orders, quantity overruns, incentives, fuel and asphalt adjustments, etc.
 - s. Ensure materials comply with the current UDOT Materials Testing and Acceptance Manual and the UDOT Minimum Sampling and Testing Requirements.
 - t. Assist to provide all documentation needed for construction project close out including Buy America certification.
 - u. Coordinate the project close out process by timely closing all open contracts and agreements.

This list of roles and responsibilities is not comprehensive but describes the general roles of the Local Agency.

IV. Funding. Upon signing this agreement, the Local Agency agrees to pay its estimated matching share in phases when requested by UDOT within 30 days. Phases typically include environmental, design, right of way and construction. The local match for this project is represented by the percentages of the Total Project Value shown below. In addition, the Local Agency agrees to pay 100% of the overruns that exceed **\$4,745,200** and any ineligible costs to UDOT.

The Local Agency shall be responsible for all costs associated with the project which are not reimbursed by the federal government. For a Joint Highway Committee project, the federal participation for construction engineering costs is limited to 20 percent of the construction contract costs. No costs are eligible for federal aid reimbursement until authorized by the FHWA through Form R-709, Request for Federal Aid Project Approval, separate from this Local Agency Agreement.

Local Agency betterments are ineligible for Federal Funding. The Federal Aid Agreement must be modified to incorporate the additional funding for the betterments that are included after the execution of this Agreement. The Local Agency will advance the funds for the betterments to UDOT prior to the construction award.

Flexible match (soft match) will only be utilized on this project if the flexible match is approved by the UDOT Local Government Programs Engineer and the flexible match is included in this agreement prior to execution. Flexible match will not be added to the project after this agreement has been executed.

For the specific funding for the project, see page 1, Statewide Transportation Improvement Program (STIP).

UDOT will request payment of matching shares and overruns through an email that will be sent to [Matthew Dixon at MDIXON@SOUTHOGDENCITY.COM](mailto:MDIXON@SOUTHOGDENCITY.COM), the Local Agency Contact. The Local Agency shall pay within 30 days after each payment request. The Local Agency shall make the check payable to the Utah Department of Transportation referencing the project number above and mail to UDOT Comptroller's Office, 4501 South 2700 West, Box 1415010, Salt Lake City, Utah 84114-1510.

Funds requested beyond the amount described in this Agreement will require execution of a Federal Aid Agreement Modification by the parties.

If the project has cost overruns, the Local Agency shall pay the additional amount to UDOT within 30 days of receiving the invoice. Should the Local Agency fail to reimburse UDOT for costs that exceed the federal reimbursement, federal funding for other Local Agency projects or B&C road funds may be withheld until payment is made in addition to any other remedies available.

If the Local Agency's advanced amount exceeds its share of project cost, UDOT will return the amount of overpayment to the Local Agency upon financial closure of the project.

If there are any unexpended Federal Funds remaining on the project, the funds will be returned to the funding source that they originated (MPO, etc) and reprogrammed.

UDOT Comptroller shall provide the Local Agency with a quarterly statement reflecting a cost summary for the project.

V. Local Agency's Reimbursement Claims. The Local Agency shall bill UDOT for eligible federal aid project cost incurred after FHWA phased approval for authorization to proceed (form R709) and in conformity with applicable federal and state laws. Authorized Local Agency reimbursement claims should be submitted to UDOT Project Manager within 30 days of cost incurrence. Reimbursements to the Local Agency for right of way claims are classified as a pass-through of Federal funds from UDOT to the Local Agency. Expenditures by the Local Agency for general administration, supervision, and other overhead shall not be eligible for federal participation unless an indirect cost plan has been approved annually by the Federal government. The Local Agency shall certify to UDOT that it has conformed to all the requirements of applicable state and federal law, Consultant Services Manual of Instruction, Local Public Agency Guide, and all the provisions of the contract, as a condition of and prior to receiving payment under the contract.

The Local Agency shall comply with 23 CFR Section 710.203 for FHWA reimbursement requests of real property acquisitions. A Local Agency shall not request reimbursement for excess acquisitions which are not eligible for FHWA reimbursement under 23 CFR Section 710.203. <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>

VI. Federal Aid Project Compliance. Local Agency shall comply with Title 23, USC, 23 CFR, 2 CFR Part 200, , UDOT Local Government and State Aid Project Guide, UDOT's Right of Way Operational Manual and the Federal Aid Project Agreement between UDOT and Federal Highway Administration concerning federal aid projects. They will also follow the Local Government Design and Process Manuals.

Compliance with the John S. McCain National Defense Authorization Act: The Local Agency certifies conformance and continued conformance with Public Law 115-232, § 889 and 2 CFR § 200.216.

VII. Project Authorization for Federal Aid. The Local Agency, through UDOT, must obtain an Authorization to proceed from FHWA before beginning work on any federal aid project. Federal funds shall not participate in costs incurred prior to the date of authorization. The Local Agency will work with the Project Manager to establish a project end date. Any expenses incurred after the FMIS Close Out End Date will not be eligible for Federal reimbursement and the Local Agency will be required to pay 100% of those costs. This end date can be

found on the UDOT website at the following link: [Local Government Close Out Dates](#). FHWA authorizes the funding in separate phases including environmental, design, ROW, and construction.

VIII. Indemnity clause. UDOT and Local Agency are both governmental entities subject to the Utah Governmental Immunity Act ("Act"). Each party agrees to indemnify, defend, and save harmless the other party from and against all claims, suits, and costs, including attorney's fees for injury or damage of any kind, arising out of its negligent acts, errors or omissions of its officers, agents, contractors or employees in the performance of this Agreement. Nothing in this paragraph is intended to create additional rights to third parties or to waive any of the provisions of the Act. The obligation to indemnify is limited to the dollars amounts set forth in the Act. The indemnification in this paragraph shall survive the expiration or termination of this Agreement.

IX. Single Audit Act. The Local Agency, as a sub-recipient of federal funds, shall adhere to 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. A sub-recipient who expends \$750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with 2 CFR 200. Upon conclusion of the 2 CFR 200 audit, the Local Agency shall be responsible for ensuring that a copy of the report is transmitted to the Utah Department of Transportation, Internal Audit, 4501 S 2700 W, Box 148230, Salt Lake City, Utah 84114-8230.

X. Maintenance. The Local Agency shall properly maintain and restore each type of roadway, structure and facility as nearly as possible in its original condition as constructed or improved in accordance with state and federal requirements.

XI. Utilities. The Local Agency shall notify and cooperate with utility companies having facilities in the project limits in accordance with Utah Code Section 54-3-29. The Local Agency shall follow the standard UDOT utility agreement process including signatures by UDOT, utility, and the Local Agency.

The Local Agency shall certify, in accordance with 23 CFR Section 645.107(c), that utility relocation reimbursements to be made in accordance with the provisions of 23 CFR Section 645.107(a) do not violate the terms of a use and occupancy agreement, or legal contract, between the utility and the Local Agency, or are solely for the purpose of implementing safety corrective measures to reduce the roadside hazards of utility facilities to the highway use as provided in 23 CFR Section 645.107(k).

The Local Agency shall determine reimbursement eligibility for identified relocations based on Local Agency Franchise Agreement or Ordinance. If not reimbursable, submit a written statement to UDOT that the Local Agency is "legally unable to reimburse the utilities" for relocation or protection work as part of the project. Utility relocations deemed to be reimbursable will be performed in accordance with 23 CFR Section 645, Utilities, Subpart A, and are subject to 23 CFR Section 635.410, Buy America Requirements.

In accordance with 23 CFR Section 645.209 (g), the Local Agency will provide a degree of protection to the highway that is equivalent to or more protective than Utah Administrative Rule 930-7, Utility Accommodation Rule.

XII. Availability of Records. For a period not less than three (3) years from the date of final voucher, the Local Agency accounting records pertaining to the federal aid project are to be kept available for inspection and audit by the state and federal government, or furnished upon request.

XIII. Right of Way. The Local Agency shall acquire all the required right of way for the Project in compliance with 23 CFR Section 710.309, 49 CFR Part 24 and UDOT Right of Way Operations Manual, including the procurement process for contracting with consultants. The Local Agency shall use the right of way module in ePM for acquisitions. The Local Agency shall utilize UDOT's contracting processes to hire consultants to provide Right of Way services. This requirement includes selection methods, consultants being on the approved pool, and the contracts going through UDOT Consultant Services. Noncompliance with these requirements may result in UDOT withholding federal funds. Once all the necessary right of way is acquired, the Local Agency shall obtain UDOT's certification. All the necessary right-of-way must be obtained before the project is advertised. No limitations concerning right-of-way shall be allowed. For UDOT right-of-way certifications required for advertising access the following: <https://www.udot.utah.gov/connect/business/design/project-advertising-tools/>.

For real property disposals the Local Agency shall comply with 23 CFR Sections 710.409 and 710.403. The Local Agency should have property management records, which identify inventories of real property considered excess to project needs. If a Local Agency determines that real property initially acquired as part of

the project is declared excess and disposed of the Local Agency must comply with 23 CFR Sections 710.409 and 710.403. These sections require that the Federal share of net income from the sale or lease of real property acquired with Federal assistance be used for Title 23 eligible projects. Refer to <https://www.ecfr.gov/cgi-bin/ECFR?page=browse> for additional information. The Local Agency shall deposit the net proceeds from the sale or lease with UDOT to be applied towards a Title 23 eligible project as authorized by the appropriate metropolitan planning organization or the Joint Highway Committee.

XIV. Change in Scope and Schedule. Local Agency recognizes that if a project scope changes from the original intent of the project application, the project will need to be re-evaluated by the responsible agency that programmed the project (i.e, MPO, JHC). Such a review may result in approval of the scope change, removal from the program, or adjustment in the federal aid funds programmed for the project.

Local Agency is responsible for the schedule of the project. If the project cannot progress as programmed, the responsible programming agency may advance other projects and require the project to wait for next available funding.

Any change orders required to meet the terms and conditions of the construction contract will be initiated by UDOT. UDOT will notify the Local Agency of any such change orders and obtain the Local Agency's consent if the change order increases the cost of the project. The Local Agency shall be responsible for 100% of the costs of all change orders on the Project not reimbursed by FHWA.

XV. UDOT Service Costs. UDOT may provide expertise in project management, contract preparation, design plan reviews, advertising, construction materials verification/certification, technical assistance, engineering services or other services as needed. This includes costs for auditing consultant contracts that can be up to 0.5% of the contract costs. Appropriate charges for these costs will be incurred by the project and included in the overall project costs.

XVI. Additional Contracting Party. If the Local Agency desires to be an additional contracting party and an additional bondholder or obligee on the performance bond for Class B and C roads, a signed letter on official letterhead by the governing body of the Local Agency shall be an attachment to this Federal Aid Agreement. This provision applies only to federally funded projects and only on B and C roads.

XVII. Termination. This agreement may be terminated as follows:

1. By mutual agreement of the parties, in writing.
2. By either UDOT or the Local Agency for failure of the other party to fulfill their obligations as set forth in the provisions of this agreement. Thirty day written notice to terminate the Agreement will be provided to the other party describing the noncompliance of the Agreement. If the noncompliance is not remedied within the thirty day period, the Agreement shall terminate. However, if UDOT believes that the Local Agency is violating the Agreement that may result in harm to the public, inappropriate use of federal funds or if the Federal Highway Administration requests immediate termination, UDOT may terminate the Agreement without giving the thirty day notice.
3. By UDOT for the convenience of the state upon written notice to the Local Agency.
4. By UDOT, in the event that construction of the project for which this design engineering is undertaken is not started by the close of the fifth fiscal year following the fiscal year in which this agreement is executed.

In the event of termination, the Local Agency shall pay all of UDOT's costs referenced in paragraph XV regardless of whether the Project is constructed.

XVIII. Miscellaneous.

1. This Agreement cannot be altered or amended, except pursuant to an instrument in writing signed by each of the parties.
2. If any term or provision of this Agreement or application to any person or circumstance shall, to any extent, be invalid or unenforceable, then the remainder of this Agreement shall not be affected and each term, condition and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law, so long as removing the severed portion does not materially alter the overall intent of this Agreement.
3. The failure of a party to insist upon strict performance of any provisions of this Agreement shall not be construed as a waiver for future purposes with respect to any such provision or portion. No provision of this

Agreement shall be waived unless such waiver is in writing and signed by the party alleged to have waived its rights.

4. Each undersigned represents and warrants that each has been duly authorized for all necessary action, as appropriate, to execute this Agreement for and on behalf of the respective parties
5. The parties shall not, by this Agreement nor by any act of either party, be deemed principal and agent, limited or general partners, joint ventures or to have any other similar relationship to each other in the conduct of their entities.

XIX. Content Review

Language content was reviewed and approved by the Utah AG's office on September 28, 2020.

LOCAL AGENCY

By _____

Date _____
City of South Ogden Official

Utah Department of Transportation

By _____
Region Director

Date _____

UDOT Comptroller

By _____
Comptroller's Office

Date _____



**Consultant Services
Federal Aid Agreement Review/Approval Routing Form**

**STATE OF UTAH
UTAH DEPARTMENT OF TRANSPORTATION
ENGINEERING SERVICES**

TODAY'S DATE 2/4/2022
PM REQUEST DATE 2/3/2022

**FEDERAL AID
AGREEMENT NO.**

Project No.: F-3354(4)0

PIN No.: 16936

PIN Description: 40th St & Chimes View - Riverdale to
Washington

FINET Prog Code No.: 55337

UDOT Project Manager	UDOT Contract Administrator
Nathan A Jones 166 West Southwell Street Ogden, UT 84404 (801)668-2826 nathanjones@utah.gov	Michael R. Butler (Acting as UDOT) PO Box 148490 Salt Lake City Utah 84114-8490 (801)815-4367 michaelbutler@utah.gov

Local Government
City of South Ogden 3950 ADAMS AVE STE 1 South Ogden, UT 84403-1822 Matthew Dixon, (801) 622-2702 MDIXON@SOUTHOGDENCITY.COM

Project Value	\$4,745,200
Federal Match	\$4,000,001
Local Government Match	\$745,199
State Match	\$0

This Federal Aid Agreement will follow the current Consultant Services electronic signature process. Please follow the email instructions for processing the Federal Aid Agreement. If legal reviews are required by your entity, the contract will still need to ultimately follow the electronic signature process.