



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

TUESDAY, AUGUST 15, 2023, 5PM

Notice is hereby given that the South Ogden City Council will hold their regularly scheduled work session at 5 pm Tuesday, August 15, 2023. The meeting will be located at City Hall, 3950 Adams Ave., South Ogden, Utah, 84403, in the EOC. The meeting is open to the public; anyone interested is welcome to attend. No action will be taken on any items discussed during the pre-council work session. Discussion of agenda items is for clarification only.

WORK SESSION AGENDA

I. CALL TO ORDER – Mayor Pro Tem Brent Strate

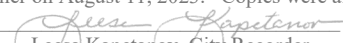
II. REVIEW OF AGENDA

III. DISCUSSION ITEMS

- A. FY2024 Budget
- B. Utility Rates

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 August 11, 2023. 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 24 hours in advance.

STAFF REPORT



SUBJECT: FY 2024 Final Budget
AUTHOR: Steve Liebersbach
DEPARTMENT: Finance
DATE: 8/15/2023

RECOMMENDATION

Staff recommends City Council to adopt Resolution 23-31 Adopting the FY 2024 Final Budget

BACKGROUND

ANALYSIS

Since the adoption of the Acting Budget on 7/18/2023 the following changes have been made to the budget:

- * 10-31-100 = to incorporate the certified tax rate of .002506
- * 10-33-600 - added \$14,000 a cyber security grant from the State of Utah - 10% City match
- * 10-44-600 - added \$9,000 the merchant services fees and electronic processing went up 7/01/2023
- * 10-44-650 - added \$3,200 - lease payments for the City's postage metering machine
- * 10-49-329 - added \$15,400 = the expense side for the cyber security grant
- * 10-49-515 - added \$500 = for possible extra amount to Bonneville PTA
- * 10-51-750 - added \$26,176 for the a/c splits in the fire department spaces
- * 10-55-247 - added \$45,000 per department request
- * 10-57-750 - decreased \$16,034 = adjust remaining balance on pre-build of \$150,000
- * 10-80-080 - decreased \$44,575 = the net of adding the above new expenses to the budget

SIGNIFICANT IMPACTS

ATTACHMENTS

The FY 2024 Final Budget is attached as part of the regular council meeting packet documents

Base fee = \$14.33 & includes 2,000 gallons & 11% increase on ladder usage

| #1 | Resident - current bill | | New base fee w/usage | |
|---------------------------------|-------------------------|---------|----------------------|---------|
| A. 2,000 gallons of water used: | Current | | Proposed | |
| | 2 x \$1.43 | \$2.86 | 2 x \$0 | \$0.00 |
| | Base fee | \$11.47 | Base fee | \$14.33 |
| | Total fee | \$14.33 | | \$14.33 |
| B. 2,000 gallons of sewer used: | | | | |
| | 2 x \$1.14 | \$2.28 | 2 x \$1.14 | \$2.28 |
| | Base fee | \$16.05 | Base fee | \$16.05 |
| | | \$18.33 | | \$18.33 |
| C. Storm drain fee: | | \$11.93 | | \$11.93 |
| D. Road Improvement Fee: | | \$5.52 | | \$5.52 |
| E. Garbage | | \$11.56 | \$11.56 | \$0.00 |
| Recycling | | \$4.09 | \$4.09 | |
| | | \$65.76 | | \$65.76 |

| #2 | Resident - current bill | | New base fee w/usage | |
|---------------------------------|-------------------------|---------|----------------------|---------|
| A. 3,000 gallons of water used: | Current | | Proposed | |
| | 3 x \$1.43 | \$4.29 | 1 x \$1.59 | \$1.59 |
| | Base fee | \$11.47 | Base fee | \$14.33 |
| | Total fee | \$15.76 | | \$15.92 |
| B. 3,000 gallons of sewer used: | | | | |
| | 3 x \$1.14 | \$3.42 | 3 x \$1.14 | \$3.42 |
| | Base fee | \$16.05 | Base fee | \$16.05 |
| | | \$19.47 | | \$19.47 |
| C. Storm drain fee: | | \$11.93 | | \$11.93 |
| D. Road Improvement Fee: | | \$5.52 | | \$5.52 |
| E. Garbage | | \$11.56 | \$11.56 | \$0.16 |
| Recycling | | \$4.09 | \$4.09 | |
| | | \$68.33 | | \$68.49 |

| #3 | Resident - current bill | | New base fee w/usage | |
|---------------------------------|-------------------------|----------|----------------------|----------|
| A. 8,500 gallons of water used: | Current | | Proposed | |
| | 3 x \$1.43 | \$4.29 | 1 x \$1.59 | \$1.59 |
| | 4 x \$3.15 | \$12.60 | 4 x \$3.50 | \$14.00 |
| | 1 x \$3.73 | \$3.73 | 1 x \$4.14 | \$4.14 |
| | 0 x \$4.29 | \$0.00 | 0 x \$4.76 | \$0.00 |
| | 0 x \$4.59 | \$0.00 | 0 x \$5.09 | \$0.00 |
| | Base fee | \$11.47 | Base fee | \$14.33 |
| | Total fee | \$32.09 | | \$34.06 |
| B. 8,500 gallons of sewer used: | | | | |
| | 3 x \$1.14 | \$3.42 | 3 x \$1.14 | \$3.42 |
| | 5 x \$4.77 | \$23.85 | 5 x \$4.77 | \$23.85 |
| | | \$0.00 | | \$0.00 |
| | Base fee | \$16.05 | Base fee | \$16.05 |
| | | \$43.32 | | \$43.32 |
| C. Storm drain fee: | | \$11.93 | | \$11.93 |
| D. Road Improvement Fee: | | \$5.52 | | \$5.52 |
| E. Garbage | | \$11.56 | \$11.56 | \$1.97 |
| Recycling | | \$4.09 | \$4.09 | |
| | | \$108.51 | | \$110.48 |

Base fee = \$14.33 & includes 2,000 gallons & 11% increase on ladder usage

| #4 Resident - current bill | | |
|---|----------------|-----------------|
| A. 16,500 gallons of water used: | | |
| | Current | |
| 3 x \$1.43 | \$4.29 | |
| 4 x \$3.15 | \$12.60 | |
| 3 x \$3.73 | \$11.19 | |
| 5 x \$4.29 | \$21.45 | |
| 1 x \$4.59 | \$4.59 | |
| Base fee | \$11.47 | |
| Total fee | \$65.59 | |
| B. 16,500 gallons of sewer used: | | |
| 3 x \$1.14 | \$3.42 | |
| 13 x \$4.77 | \$62.01 | |
| | \$0.00 | |
| Base fee | \$16.05 | |
| | \$81.48 | |
| C. Storm drain fee: | | |
| | \$11.93 | |
| D. Road Improvement Fee: | | |
| | \$5.52 | |
| E. Garbage Recycling | | |
| | \$11.56 | |
| | \$4.90 | |
| | | \$180.98 |

| New base fee w/usage | | |
|---------------------------------|-----------------|-----------------|
| | Proposed | |
| 1 x \$1.59 | \$1.59 | |
| 4 x \$3.50 | \$14.00 | |
| 3 x \$4.14 | \$12.42 | |
| 5 x \$4.76 | \$23.80 | |
| 1 x \$5.09 | \$5.09 | |
| Base fee | \$14.33 | |
| | \$71.23 | |
| 3 x \$1.14 | \$3.42 | |
| 13 x \$4.77 | \$62.01 | |
| | \$0.00 | |
| Base fee | \$16.05 | |
| | \$81.48 | |
| C. Storm drain fee: | | |
| | \$11.93 | |
| D. Road Improvement Fee: | | |
| | \$5.52 | |
| E. Garbage Recycling | | |
| | \$11.56 | \$5.64 |
| | \$4.90 | |
| | | \$186.62 |

| #5 Commercial - current bill | | |
|--|----------------|-------------------|
| A. 146,000 gallons of water used: | | |
| | Current | |
| 3 x \$1.43 | \$4.29 | |
| 4 x \$3.15 | \$12.60 | |
| 3 x \$3.73 | \$11.19 | |
| 5 x \$4.29 | \$21.45 | |
| 131 x \$4.59 | \$601.29 | |
| Base fee | \$11.47 | |
| Total fee | \$662.29 | |
| B. 146,000 gallons of sewer used: | | |
| 3 x \$1.14 | \$3.42 | |
| 143 x \$4.77 | \$682.11 | |
| | \$0.00 | |
| Base fee | \$16.05 | |
| | \$701.58 | |
| C. Storm drain fee: 20.82 ERU | | |
| | \$248.38 | |
| D. Road Improvement Fee: | | |
| | \$30.48 | |
| E. Garbage Recycling | | |
| | \$0.00 | |
| | \$0.00 | |
| | | \$1,642.73 |

| New base fee w/usage | | |
|---------------------------------|-----------------|-------------------|
| | Proposed | |
| 1 x \$1.59 | \$1.59 | |
| 4 x \$3.50 | \$14.00 | |
| 3 x \$4.14 | \$12.42 | |
| 5 x \$4.76 | \$23.80 | |
| 131 x \$5.09 | \$666.79 | |
| Base fee | \$14.33 | |
| | \$732.93 | |
| 3 x \$1.14 | \$3.42 | |
| 143 x \$4.77 | \$682.11 | |
| | \$0.00 | |
| Base fee | \$16.05 | |
| | \$701.58 | |
| C. Storm drain fee: | | |
| | \$248.38 | |
| D. Road Improvement Fee: | | |
| | \$30.48 | |
| E. Garbage Recycling | | |
| | \$0.00 | \$70.64 |
| | \$0.00 | |
| | | \$1,713.37 |

Answers to some questions from the 8/01/2023 work session and council meeting:

** water revenue bond: \$2.5 - \$3.0 million for 10 years

* interest estimated at 4.25% to 4.50%

* \$2.5 million = \$25,909.60 per month = \$310,915.20 annually

* \$3.0 million = \$31,091.52 per month = \$373,098.24 annually

** FY 2023 water sales = \$1,877,279.88

* 6% utility franchise fee = \$112,636.78

* 1/2 to roads = \$56,318.39

* 1/2 to parks = \$56,318.39

** Capital lease for vehicles & heavy equipment: \$1.8 million over 5 years

* estimated interest rate = 5% or slightly below (4.95%)

* \$33,927.00 monthly = \$407,124.00 annually

** July 2023 PTIF interest rate = 5.1762%



NOTICE AND AGENDA SOUTH OGDEN CITY COUNCIL MEETING

TUESDAY, AUGUST 15, 2023, 6 PM

Notice is hereby given that the South Ogden City Council will hold their regularly scheduled council meeting at 6 pm Tuesday, August 15, 2023. 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; anyone interested is welcome to attend. Mayor Porter will be joining 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 Smyth

II. RECOGNITION OF EMPLOYEE

Recognition of Promotion of Rick Salvinski from Firefighter to Engineer

- III. **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.

IV. RESPONSE TO PUBLIC COMMENT

V. CONSENT AGENDA

- A. Approval of July 18 and August 1, 2023 Council Minutes

VI. DISCUSSION / ACTION ITEMS

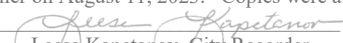
- A. Update/Direction on 40th Street Road Construction
- B. Consideration of **Resolution 23-31** – Approving the FY2024 Budget
- C. Consideration of **Resolution 23-32** – Approving an Agreement With TecServ Inc. for Information Technology Services
- D. Consideration of **Resolution 23-33** – Approving an Agreement With Data Center for Utility Billing and Newsletter Printing Services
- E. Consideration of **Resolution 23-34** – Approving an Agreement With Quadient for Lease of Mail Metering Machine
- F. Consideration of **Resolution 23-35** – Ratifying an Agreement with Royal Plumbing Heating and Air Inc. for HVAC Upgrade at City Hall
- G. Consideration of **Resolution 23-36** – Approving an Agreement With the Wasatch Front Football League for the 2023 Football Season
- H. Consideration of **Resolution 23-37** – Approving a Franchise Agreement With All West/Utah Inc. for Cable Television System

VII. REPORTS/DIRECTION TO CITY MANAGER

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

VIII. 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 August 11, 2023. 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 24 hours in advance.



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

TUESDAY, JULY 18, 2023

WORK SESSION – 5 PM IN COUNCIL ROOM

COUNCIL MEETING – 6 PM IN COUNCIL ROOM

WORK SESSION MINUTES

COUNCIL MEMBERS PRESENT

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

STAFF MEMBERS PRESENT

City Manager Matt Dixon, Assistant City Manager Doug Gailey, Parks and Public Works Director Jon Andersen, Fire Chief Cameron West, Police Chief Darin Parke, and Recorder Leesa Kapetanov

OTHERS PRESENT

No one else attended this meeting

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/2023/CC230718_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 5:00 pm and entertained a motion to begin the work session 00:00:00

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

Note: Council Member Howard was not present for this vote. He arrived at 5:02 pm.

II. REVIEW OF AGENDA

- Council Member Strate asked several questions about transfer of funds and for what the money should be used 00:00:15

- The McCool family from South Ogden surprised the Council with brownies and milk in thanks for recently repaving their street

00:03:04

- Continued discussion on money transferred from enterprise funds

00:06:07

III. DISCUSSION ITEMS

A. FY2024 Budget

- City Manager Matt Dixon led discussion on the FY2024 budget, mostly concerning utility rates. As part of the discussion, he gave each member of the Council a handout. See Attachment A.

00:11:40

IV. ADJOURN

- At 6:02 pm, Mayor Porter called for a motion to adjourn the work session

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

01:01:14

COUNCIL MEETING MINUTES

COUNCIL MEMBERS PRESENT

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

STAFF MEMBERS PRESENT

City Manager Matt Dixon, Assistant City Manager Doug Gailey, Parks and Public Works Director Jon Andersen, Fire Chief Cameron West, Communications and Events Specialist Jamie Healy, and Recorder Leesa Kapetanov

MEMBERS OF THE PUBLIC PRESENT

Ryan Johnson, Darin Ryan, Bruce & Joyce Hartman, family and friends of Chance Byer and Jonathan Giles

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/2023/CC230718_1806.mp3

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

I. OPENING CEREMONY

A. Call To Order

- Mayor Porter called the meeting to order at 6:07 pm and asked for a motion to begin
00:00:00

Council Member Howard so moved. The motion was seconded by Council Member Orr. In a voice vote Council Members Orr, 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. RECOGNITION OF NEW EMPLOYEES**

- 99 • Fire Chief Cameron West introduced Chance Byer and Jonathan Giles as the newest firefighters.
100 Photos were then taken with the Council.

101 00:01:24
102

103 **III. PUBLIC COMMENTS**

- 104 • There were no comments from those present The mayor announced he would accept online
105 comments until 6:15 pm 00:03:15
106
107

108 **IV. RESPONSE TO PUBLIC COMMENT**

- 109 • Not applicable at this time
110
111

112 **V. CONSENT AGENDA**

113 A. Approval of June 20, 2023 Council Minutes

114 B. Set Date for Public Hearing (August 1, 2023 at 6 pm) To Receive and Consider Comments on
115 the Following Items:

- 116 1. The Proposed Increase of South Ogden City's Portion of Property Taxes
117 2. The FY2024 Budget
118

- 119 • Mayor Porter read through the items on the consent agenda and asked if there were any
120 questions or comments. Council Member Stewart pointed out some errors on the minutes

121 00:03:38

- 122 • The mayor called for a motion to approve the consent agenda with the corrections

123 00:05:11
124

125 Council Member Smyth so moved, followed by a second from Council Member Strate. The
126 voice vote was unanimous in favor of the motion.
127
128

129 **VI. PUBLIC HEARINGS**

130 To Receive and Consider Comments on the Following Items:

131 A. City's Intent to Continue Not Charging Itself for Water, Sewer, and Storm Drain Used For
132 Normal City Operations During FY2024

133 B. Proposed Utility Franchise Fee Transfers from the Enterprise Funds to the General Fund

- 134 • Mayor Porter read the items for which the public hearings would be held and called for a
135 motion to open the public hearings

136 00:05:24
137

Council Member Strate so moved. The motion was seconded by Council Member Orr. All members of the Council voted aye in favor of the motion.

- Mayor Porter let those online know they could submit comments until 6:20 and then invited City Manager Dixon to give an overview of the public hearing items

00:05:49

- The mayor called for a motion to leave online comments open until the specified time, but close the public hearing in chambers

00:09:52

Council Member Howard so moved followed by a second from Council Member Smyth. The voice vote was unanimous in favor of the motion.

VII. DISCUSSION /ACTION ITEMS

A. Consideration of Previously Tabled Ordinance 23-05 – Adopting the South Ogden City General Plan

- Staff overview 00:10:03
- Discussion/questions by Council 00:12:09
- Mayor Porter called for a motion to approve Ordinance 23-05

00:32:52

Council Member Strate so moved. The motion was seconded by Council Member Howard. Mayor Porter asked if there was further discussion and seeing none, he called the vote:

| | |
|--------------------------|-----|
| Council Member Orr- | No |
| Council Member Strate- | Yes |
| Council Member Stewart - | No |
| Council Member Howard- | Yes |
| Council Member Smyth- | Yes |

The motion stood. The General Plan was adopted.

B. Consideration of Ordinance 23-15 – Amending the Consolidated Fee Schedule for Ambulance Transport Fees

00:33:44

- The mayor announced no online public comments had been submitted 00:33:55
- Staff overview 00:34:00
- Discussion There was no discussion on this item
- Mayor Porter called for a motion to approved Ordinance 23-15

00:34:50

Council Member Smyth so moved. Council Member Howard seconded the motion. After determining there was no further discussion, the mayor called the vote:

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

The new fees were approved.

C. Consideration of Resolution 23-26 – Declaring South Ogden City’s Intent to Adjust a Boundary With Ogden City

- Staff overview 00:35:05
- Discussion There was no discussion on this item
- The mayor called for a motion to approve Resolution 23-26 00:39:43

Council Member Strate so moved, followed by a second from Council Member Smyth. There was no further discussion. Mayor Porter called the vote:

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

Resolution 23-26 was adopted.

D. Consideration of Resolution 23-27 – Approving an Agreement with Staker and Parson for 2023 Street Maintenance Project

- Staff overview 00:40:01
- Discussion 00:42:19
- The mayor called for a motion to approve Resolution 23-27 00:43:40

Council Member Smyth so moved. Council Member Strate seconded the motion. After asking for further comments and hearing none, Mayor Porter made a roll call vote:

| | |
|-------------------------|-----|
| Council Member Howard - | Yes |
| Council Member Orr - | Yes |
| Council Member Smyth - | Yes |

222 Council Member Stewart - Yes
223 Council Member Strate- Yes
224

225 The agreement with Staker and Parson was approved.
226

227 E. Consideration of Resolution 23-28 – Approving the Renewal of an Agreement With Craig Call
228 for Hearing Officer Services

- 229 • Staff overview 00:43:59
230 • Discussion There was no discussion on this item
231 • The mayor called for a motion to adopt Resolution 23-28
232 00:46:10
233

234 Council Member Howard so moved after which a second was offered by Council Member
235 Strate. Mayor Porter called the vote:
236

237 Council Member Orr - Yes
238 Council Member Strate - Yes
239 Council Member Stewart - Yes
240 Council Member Howard - Yes
241 Council Member Smyth - Yes
242

243 Resolution 23-28 was adopted.
244

245 F. Consideration of Resolution 23-29 – Approving an Agreement With Overland Homes Inc. for
246 Concrete/Sidewalk Replacement

- 247 • Staff overview 00:46:28
248 • Discussion 00:48:40
249 • The mayor called for a motion to adopt Resolution 23-29
250 00:49:39
251

252 Council Member Smyth so moved. Council Member Orr seconded the motion. Mayor
253 Porter called the vote:
254

255 Council Member Smyth- Yes
256 Council Member Howard- Yes
257 Council Member Stewart- Yes
258 Council Member Strate- Yes
259 Council Member Orr- Yes
260

261 The agreement with Overland Homes was approved.
262

G. Consideration of Resolution 23-30 – Approving an Agreement With Larose Paving Inc. for Asphalt Spot Repair

- Staff overview 00:49:57
- Discussion 00:51:12
- The mayor called for a motion to adopt Resolution 23-30

00:51:59

Council Member Howard so moved followed by a second from Council Member Strate. The mayor made a roll call vote:

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

Resolution 23-30 was adopted.

VII. REPORTS/DIRECTION TO CITY MANAGER

A. City Council Members

- Council Member Stewart - 00:52:40
- Council Member Smyth - 00:53:22
- Council Member Howard - nothing to report
- Council Member Strate - 00:54:28
- Council Member Orr - 00:56:48

B. City Manager Dixon 01:02:34

C. Mayor Porter 01:09:26

VIII. RECESS INTO CLOSED EXECUTIVE SESSION

In Accordance With 52-4-205(1), to Discuss the Character, Professional Competence, or Physical or Mental Health of an Individual

- At 7:18 pm, Mayor Porter called for a motion to enter a closed executive session to discuss the character, professional competence, or physical or mental health of an individual

01:11:52

Council Member Smyth so moved. The motion was seconded by Council Member Howard. All present voted aye.

- The mayor excused everyone from the room other than council members. After a short break, the mayor and council moved to an office across from the Council Chambers to protect their conversation from any security cameras.

VI. ADJOURN

- At 7:50 pm, the mayor and council re-entered the Council Chambers and the mayor called for a motion to adjourn the closed executive session, reconvene City Council Meeting, and adjourn.

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

I hereby certify that the foregoing is a true, accurate and complete record of the South Ogden City Work Session and Council Meeting held Tuesday, July 18, 2023.


Leesa Kapetanov, City Recorder

Date Approved by the City Council

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ATTACHMENT A

Handout from City Manager Dixon

| Base Year | | 2024 | WATER CAPITAL IMPROVEMENTS PLAN | | |
|-----------|-------------|---|---------------------------------|--------------|--|
| Inflation | | 3% | | | |
| Project | Year | Description | Cost | Const. Cost | |
| | | 2024 Briar Pointe Water Replacement | \$1,120,000 | \$1,120,000 | |
| | | 2024 PRV Scada install (40th & 900 E) | \$50,000 | \$50,000 | |
| | | 2024 Benlomond & Sunset | \$1,120,000 | \$1,120,000 | |
| | | 2024 38th Grant and Kiesel Loop | \$346,610 | \$346,610 | |
| | | 2025 40th below Washington Blvd. | \$514,329 | \$529,759 | |
| | | 2025 Chimes View below Washington Blvd. | \$514,329 | \$529,759 | |
| | | 2026 Porter Ave. PRV (regulator pit) | \$750,000 | \$795,675 | |
| | | 2026 Benlomond to Sunset Dr. | \$209,728 | \$222,500 | |
| P-26 | | 2026 Future Planning Studies | \$20,000 | \$21,218 | |
| P-8 | | 2027 Replace Existing 4" Line w/lan 8" Line on Adams (3800 S & Sylvia) | \$85,140 | \$93,035 | |
| P-13 | | 2027 Replace Existing 4" Line w/lan 8" Line on Del Mar Dr (Madison Ave & 775 E) | \$89,700 | \$98,018 | |
| P-14 | | 2027 Replace Existing 4" Line w/lan 8" Line on Maple St (Madison Ave & 3600 S) & on Madison Ave(3600 S & 3700 S) | \$214,260 | \$234,128 | |
| P-16 | | 2027 Replace Existing 4" Line w/lan 8" Line on Adams (Leona & 3700 S) | \$143,256 | \$156,540 | |
| | | 2027 42nd Reconnect - WBWCD | \$813,000 | \$888,387 | |
| | | 2027 Service Line Disconnect/Reconnect | \$50,000 | \$54,636 | |
| P-6 | | 2028 Replace Existing 4" Line w/lan 8" Line on Leona Dr (Adams and 3800 S) | \$168,318 | \$189,443 | |
| | | 2028 5800 S. (1325 E. to 5850 S.) | \$180,942 | \$203,652 | |
| | | 2028 PRV (40th & Adams) | \$100,000 | \$112,551 | |
| P-9 | | 2028 Replace Existing 6" Line w/lan 8" line on 900 E (5375 S) | \$181,140 | \$203,875 | |
| P-17 | | 2028 Construct a New PRV Station at 3850 S on Orchard Ave | \$89,676 | \$100,931 | |
| P-25 | | 2028 Replace an Existing 14" Transite Line w/la 14" D.1 Water Line on Country Hills Dr (Harrison Blvd & Grammercy Ave) | \$439,320 | \$494,459 | |
| | | 2028 900 E. (4200 S. to 4400 S.) | \$504,808 | \$568,166 | |
| | | 2028 800 E. (5300 to 5600) | \$433,850 | \$488,302 | |
| | | 2028 Briar Pointe (east and west roads) | \$489,000 | \$550,374 | |
| P-10 | | 2029 Replace Existing 6" Line w/lan 8" Line on 900 E (5700 S.) | \$68,364 | \$79,253 | |
| P-2 | | 2029 Replace Existing 6" Line w/lan 8" Line on Adams Ave | \$158,610 | \$183,872 | |
| P-3 | | 2029 Replace Existing 4" Line w/lan 8" line on Madison Ave (3800 S & 3700 S, 3700) & 3700 S (Madison Ave & City Boundary) | \$235,932 | \$273,510 | |
| P-4 | | 2029 Replacing Existing 4" Line w/lan 8" line on Jefferson Ave (3600 S. & 3900 S.) | \$151,668 | \$175,825 | |
| P-11 | | 2029 Replace Existing 4" Line w/lan 8" Line on Liberty Ave (Monroe Blvd and Country Hills Dr) | \$137,580 | \$159,493 | |
| | | 2029 800 E. (5300 S. to 5600 S.) | \$259,124 | \$300,396 | |
| P-20 | | 2029 Reconstruct the Inlet Structure at Strongs Canyon | \$105,000 | \$121,724 | |
| P-21 | | 2029 Replace and Realign an Existing Water Line Between the Strongs Canyon Diversion Structure and WBWCD Treatment Plan No. 2 | \$812,430 | \$941,829 | |
| Total | | | \$12,039,921 | \$12,793,452 | |
| 2024 | \$2,636,610 | | | | |
| 2025 | \$1,059,518 | | | | |
| 2026 | \$1,039,393 | | | | |
| 2027 | \$1,524,743 | | | | |
| 2028 | \$2,911,752 | | | | |
| 2029 | \$2,235,901 | | | | |

Water

| Revenue Increase Needed | | 18% | 18% | 18% | 18% | 18% | 3% | 3% | 3% |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2035 |
| | Budget | Budget | Budget | Budget | Budget | Budget | Budget | Budget | Budget |
| Operating Revenue | | | | | | | | | |
| Charges for Service | 1,988,848 | 2,346,841 | 2,769,272 | 3,267,741 | 3,855,934 | 4,550,002 | 4,686,503 | 4,827,098 | 5,595,929 |
| Miscellaneous | 132,050 | 134,691 | 137,385 | 140,133 | 142,935 | 145,794 | 148,710 | 151,684 | 167,471 |
| Total Operating Revenue | 2,120,898 | 2,481,532 | 2,906,657 | 3,407,873 | 3,998,869 | 4,695,796 | 4,835,212 | 4,978,782 | 5,763,400 |
| Operating Expense | | | | | | | | | |
| Personnel Services | (414,886) | (431,481) | (448,741) | (466,690) | (485,358) | (504,772) | (524,963) | (545,962) | (664,246) |
| Weber Basin Exchange | (320,725) | (349,590) | (381,053) | (415,348) | (452,730) | (493,475) | (537,888) | (586,298) | (902,092) |
| Contractual Services (incl. GF Charge) | (270,256) | (281,066) | (292,309) | (304,001) | (316,161) | (328,808) | (341,960) | (355,638) | (432,689) |
| Materials and Supplies | (273,322) | (284,255) | (295,625) | (307,450) | (319,748) | (332,538) | (345,840) | (359,673) | (437,597) |
| Franchise Expense | (119,331) | (140,810) | (166,156) | (196,064) | (231,356) | (273,000) | (281,190) | (289,626) | (335,756) |
| Depreciation Expense | (194,000) | (201,760) | (209,830) | (218,224) | (226,953) | (236,031) | (245,472) | (255,291) | (310,600) |
| Total Operating Expense | (1,592,520) | (1,688,963) | (1,793,715) | (1,907,778) | (2,032,305) | (2,168,624) | (2,277,313) | (2,392,488) | (3,082,980) |
| Total Non Operating Revenue (Expense) | 65,702 | 128,074 | 115,204 | 116,469 | 120,797 | 125,017 | 123,070 | 126,408 | 146,259 |
| Net Revenues Available for DS | 594,080 | 920,642 | 1,228,146 | 1,616,564 | 2,087,361 | 2,652,189 | 2,680,970 | 2,712,702 | 2,826,680 |
| Debt Service | - | - | - | - | - | - | - | - | - |
| Initial Bond Proceeds | - | - | - | - | - | - | - | - | - |
| Carry Over of Bond Proceeds | - | - | - | - | - | - | - | - | - |
| Total Bond Proceeds | - | - | - | - | - | - | - | - | - |
| Capital Improvements | (1,886,037) | (2,636,610) | (1,059,518) | (1,039,393) | (1,524,743) | (2,911,752) | (2,235,901) | (2,235,901) | (2,235,901) |
| Change in Net Position | (1,291,957) | (1,715,968) | 168,628 | 577,171 | 562,618 | (259,563) | 445,069 | 476,801 | 590,779 |
| Restricted | - | - | - | - | - | - | - | - | - |
| Unrestricted Beginning | 3,041,381 | 1,749,424 | 33,456 | 202,084 | 779,255 | 1,341,873 | 1,082,311 | 1,527,379 | 4,174,165 |
| Unrestricted Ending | 1,749,424 | 33,456 | 202,084 | 779,255 | 1,341,873 | 1,082,311 | 1,527,379 | 2,004,180 | 4,764,943 |
| Days of Capital | 401 | 7 | 41 | 149 | 241 | 182 | 245 | 306 | 564 |
| Coverage Ratio | - | - | - | - | - | - | - | - | - |

Base Year 2024
Inflation 3%

SEWER CAPITAL IMPROVEMENTS PLAN

| Project | Year | Description | Cost | Const. Cost |
|---------|------|--|-----------|-------------|
| P-1 | 2024 | Replace 700 E./H. Guy Child | 461,700 | 461,700 |
| P-2 | 2024 | 1300 E. Manhole Drop | 25,200 | 25,200 |
| P-4 | 2024 | CDBG Project - Aging sewers reconstruction on various streets | 686,500 | 686,500 |
| P-3 | 2025 | Install Lining in Existing Sewer Pipe Along Burch Creek Between Country Club Drive and 40th Street | 163,200 | 168,096 |
| | 2025 | Install Lining in Sewer Pipe on Riverdale Road from 36th Street to 3675 Street | 55,536 | 57,202 |
| P-5 | 2026 | 40th Street Sewer Lining Project | 293,400 | 311,268 |
| P-6 | 2026 | Chimes View Sewer Lining Project | 274,200 | 290,899 |
| P-7 | 2026 | Replace Existing Sewer Pipe in Leona Drive From Adams Avenue to Jefferson Avenue | 207,210 | 219,829 |
| P-8 | 2027 | Relocate Existing Sewer Line in the area of the Intersection of Jefferson Avenue and Edgewood Drive. | 79,200 | 86,544 |
| | 2028 | Replace Existing Sewer Pipe in County Club Drive From 115 Country Club Drive to Yale Avenue | 95,652 | 107,657 |
| Total | | | 3,038,998 | 3,052,932 |

| | |
|-------|-----------|
| 2024 | 1,173,400 |
| 2025 | 225,298 |
| 2026 | 821,996 |
| 2027 | 86,544 |
| 2028 | 107,657 |
| TOTAL | 2,414,895 |

Sewer

| Base Fee Increase Needed | | 7% | 7% | 7% | 7% | 7% | 0% | 0% | 0% |
|---------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2035 |
| | Budget | | | | | | | | |
| Total Operating Revenue | 2,374,925 | 2,537,837 | 2,712,086 | 2,898,465 | 3,097,821 | 3,311,061 | 3,312,533 | 3,314,034 | 3,322,003 |
| Total Operating Expense | (2,273,638) | (2,368,758) | (2,467,954) | (2,571,429) | (2,679,376) | (2,791,997) | (2,895,907) | (3,003,973) | (3,612,708) |
| Total Non Operating Revenue (Expense) | (6,495) | 14,464 | 7,040 | 7,235 | 3,577 | 6,093 | 9,224 | 11,610 | 11,037 |
| Net Revenues Available for DS | 94,792 | 183,544 | 251,173 | 334,271 | 422,022 | 525,157 | 425,850 | 321,672 | (279,668) |
| Debt Service | - | - | - | - | - | - | - | - | - |
| Initial Bond Proceeds | - | - | - | - | - | - | - | - | - |
| Carry Over of Bond Proceeds | - | - | - | - | - | - | - | - | - |
| Total Bond Proceeds | - | - | - | - | - | - | - | - | - |
| Capital Improvements | (619,147) | (1,173,400) | (225,298) | (821,996) | (86,544) | (107,657) | (107,657) | (107,657) | (107,657) |
| Change in Net Position | (524,355) | (989,856) | 25,875 | (487,725) | 335,478 | 417,500 | 318,193 | 214,014 | (387,325) |
| Restricted | - | - | - | - | - | - | - | - | - |
| Unrestricted Beginning | 2,452,939 | 1,928,584 | 938,728 | 964,603 | 476,878 | 812,356 | 1,229,857 | 1,548,050 | 1,471,649 |
| Unrestricted Ending | 1,928,584 | 938,728 | 964,603 | 476,878 | 812,356 | 1,229,857 | 1,548,050 | 1,762,064 | 1,084,324 |
| Days of Capital Coverage Ratio | 310 | 145 | 143 | 68 | 111 | 161 | 195 | 214 | 110 |

Base Year 2024
Inflation 3% Storm Drain Utility CIP

| Project | Year | Description | Cost | Const. Cost |
|--------------|------|--|------------------|------------------|
| | 2024 | Burch Creek Hollow reline | 90,000 | 90,000 |
| P-5 | 2024 | Replace the existing storm drain system on 42nd street between Liberty Avenue and Adams Avenue and on Adams Avenue between 42nd Street and 4350 South with 30" and 36" diameter storm drain pipes. | 779,100 | 779,100 |
| P-6 | 2024 | Replace the existing storm drain system on 40th street between Washington Blvd. and Burch Creek with 21" and 24" diameter storm drain pipes. | 298,800 | 298,800 |
| | 2025 | 40th Below Washington Blvd. | 346,391 | 356,783 |
| | 2025 | Chimes View Below Washington Blvd. | 717,922 | 739,460 |
| P-5 | 2026 | Replace storm drain - Combe Rd. to 15" | 231,228 | 245,310 |
| P-10 | 2026 | Construct 15" storm drain - Village Way | 200,760 | 212,986 |
| P-11 | 2026 | Ben Lomond (875 E. to Chambers) 15" storm drain | 375,000 | 397,838 |
| | 2026 | 42nd St. - Liberty to Adams (grant) | 903,190 | 958,194 |
| P-3 | 2027 | Replace the existing storm drain system on Glassman Way between Highway 89 and Burch Creek. (completed) | - | - |
| P-12 | 2027 | Relandscape Detention Pond (38th & Grant) | 64,800 | 70,809 |
| P-7 | 2028 | Construct 15" storm drain - Madison 4050 Edgewood | 360,084 | 405,278 |
| P-4 | 2028 | Replace on 40th between Adams & Washington Blvd. | 190,436 | 214,337 |
| Total | | | 6,082,966 | 6,170,209 |

*the only 2019 that has not been budgeted for

| | |
|--------------|------------------|
| 2024 | 1,167,900 |
| 2025 | 1,096,242 |
| 2026 | 1,814,328 |
| 2027 | 70,809 |
| 2028 | 619,615 |
| TOTAL | 4,768,894 |

Storm

| Base Fee Increase Needed | | 40% | 30% | 30% | 0% | 0% | 0% | 0% | 0% |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2035 |
| | Budget | | | | | | | | |
| Operating Revenue | | | | | | | | | |
| Charges for Service | 1,258,675 | 1,762,145 | 2,290,789 | 2,978,025 | 2,978,025 | 2,978,025 | 2,978,025 | 2,978,025 | 2,978,025 |
| Miscellaneous | - | - | - | - | - | - | - | - | - |
| Total Operating Revenue | 1,258,675 | 1,762,145 | 2,290,789 | 2,978,025 | 2,978,025 | 2,978,025 | 2,978,025 | 2,978,025 | 2,978,025 |
| Total Operating Expense | (1,029,905) | (1,098,289) | (1,169,710) | (1,252,235) | (1,295,177) | (1,339,837) | (1,386,283) | (1,434,587) | (1,706,683) |
| Total Non Operating Revenue (Expense) | 56,392 | 75,084 | 71,867 | 72,592 | 72,472 | 85,106 | 93,384 | 101,375 | 136,451 |
| Net Revenues Available for DS | 285,162 | 738,940 | 1,192,945 | 1,798,382 | 1,755,320 | 1,723,294 | 1,685,126 | 1,644,813 | 1,407,793 |
| Debt Service | - | - | - | - | - | - | - | - | - |
| Initial Bond Proceeds | - | - | - | - | - | - | - | - | - |
| Carry Over of Bond Proceeds | - | - | - | - | - | - | - | - | - |
| Total Bond Proceeds | - | - | - | - | - | - | - | - | - |
| Capital Improvements | (1,000,015) | (1,167,900) | (1,096,242) | (1,814,328) | (70,809) | (619,615) | (619,615) | (619,615) | (619,615) |
| Change in Net Position | (714,853) | (428,960) | 96,703 | (15,946) | 1,684,512 | 1,103,679 | 1,065,511 | 1,025,198 | 788,178 |
| Restricted | - | - | - | - | - | - | - | - | - |
| Unrestricted Beginning | 1,574,031 | 859,178 | 430,218 | 526,921 | 510,975 | 2,195,487 | 3,299,166 | 4,364,677 | 9,041,415 |
| Unrestricted Ending | 859,178 | 430,218 | 526,921 | 510,975 | 2,195,487 | 3,299,166 | 4,364,677 | 5,389,875 | 9,829,593 |
| | 304 | 143 | 164 | 149 | 619 | 899 | 1,149 | 1,371 | 2,102 |
| Coverage Ratio | - | - | - | - | - | - | - | - | - |



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

TUESDAY, AUGUST 1, 2023

WORK SESSION – 5 PM IN COUNCIL ROOM

COUNCIL MEETING – 6 PM IN COUNCIL ROOM

WORK SESSION MINUTES

COUNCIL MEMBERS PRESENT

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

STAFF MEMBERS PRESENT

City Manager Matt Dixon, Assistant City Manager Doug Gailey, Finance Director Steve Liebersbach, Parks and Public Works Director Jon Andersen, Fire Chief Cameron West, Police Chief Darin Parke, Allison Pate, Shawn Young, and Recorder Leesa Kapetanov

OTHERS PRESENT

No one else attended this meeting

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/2023/CC230801_1704.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 5:05 pm and entertained a motion to begin
00:00:00

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

Note: Council Member Orr was not present for this vote. She arrived at 5:11 pm.

II. INTRODUCTION OF NEW EMPLOYEES

- Assistant City Manager Doug Gailey introduced Allison Pate and Shawn Young as the newest court employees
00:00:16

37 • Mayor Porter reviewed the agenda and how the meeting would proceed due to the
38 requirements of the public hearing for Truth in Taxation
39 00:01:27

44 A. FY2024 Budget

45 • City Manager Matt Dixon and Finance Director Steve Liebersbach led discussion on the

46 FY2024 budget 00:02:39

51 • At 6:02 pm, Mayor Porter called for a motion to adjourn the work session

54 Council Member Strate so moved, followed by a second from Council Member Howard. All
55 present voted aye. 00:56:49

COUNCIL MEETING MINUTES

COUNCIL MEMBERS PRESENT

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

STAFF MEMBERS PRESENT

City Manager Matt Dixon, Assistant City Manager Doug Gailey, Finance Director Steve Liebersbach, Parks and Public Works Director Jon Andersen, Fire Chief Cameron West, Communications and Events Specialist Jamie Healy, and Recorder Leesa Kapetanov

MEMBERS OF THE PUBLIC PRESENT

Robin Holley, Craig Hanni, Bruce & Joyce Hartman, Doug Stephens, Katy Hall

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/2023/CC230801_1806.mp3

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

I. OPENING CEREMONY

A. Call To Order

- Mayor Porter called the meeting to order at 6:07 pm and asked for a motion to begin
00:00:00

Council Member Howard so moved. The motion was seconded by Council Member Smyth. In a voice vote Council Members Orr, 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 Howard led everyone in the Pledge of Allegiance
- Mayor Porter gave a brief overview of the increase in South Ogden's portion of property tax
00:00:56

97 **II. PUBLIC HEARINGS**

- 98 • The mayor called for a motion open the public hearings for the proposed increase of South Ogden
99 City's portion of property taxes and the FY2024 budget

100 00:06:43

101
102 **Council Member Strate so moved. Council Member Stewart seconded the motion. All present**
103 **voted aye.**

- 104
105 • Mayor Porter invited anyone present to come forward and speak. He gave those online instructions
106 on how to comment 00:07:00

107
108 Robin Holley- 00:07:28 Spoke against a property tax increase
109 Craig Hanni- 00:09:27 Spoke against a property tax increase
110 Mayor comments- 00:11:39
111 Joyce Hartman- 00:12:25 Said the City needed to replace its flag out front
112 Robin Holley- 00:13:15 Asked about a development in the City
113 The mayor gave those online until 6:25 pm to submit their comments
114 00:13:44
115 Doug Stephens 00:13:52 Asked where he could find a copy of the budget
116 online

- 117
118 • The mayor called for a motion to close the public hearing
119 00:16:14

120
121 **Council Member Strate so moved. The motion was seconded by Council Member Howard. The**
122 **voice vote was unanimous in favor of the motion.**

123
124
125 **III. DISCUSSION ITEMS**

126 **A. Proposed Increase of South Ogden City's Portion of Property Taxes**

- 127 • Discussion 00:16:25

128
129
130 **B. FY2024 Budget**

- 131 • Discussion 00:42:35

132
133
134
135 **VI. ADJOURN**

- 136 • At 7:27 pm, the mayor and council re-entered the Council Chambers and the mayor called for a
137 motion to adjourn the closed executive session, reconvene City Council Meeting, and adjourn.

138 01:20:11

Council Member Smyth so moved. Council Member Orr seconded the motion. All present voted aye.

I hereby certify that the foregoing is a true, accurate and complete record of the South Ogden City Work Session and Council Meeting held Tuesday, August 1, 2023.


Leesa Kapetanov, City Recorder

Date Approved by the City Council



Memorandum

To: Jon Anderson, Public Works Director
South Ogden City

From: Jory Wahlen
Wasatch Civil Consulting Engineering

Date: August 10, 2023

Subject 40th Street & Chimes View Drive Funding

Background

In 2018, South Ogden City submitted a funding request to Wasatch Front Regional Council (WFRC) for the 40th Street and Chimes View Drive Project. The original funding request was for \$4,423,950 and required a city match of \$321,250 for a total project funding of **\$4,745,200**. The original funding request was allocated for fiscal year 2023.

In 2021 South Ogden City hired Project Engineering Consultants (PEC) to complete a required environmental study for the project. At that time, there began to be concerns that the costs for the proposed project would exceed the available funding. In 2022 after the environmental study and after consulting with WFRC and UDOT, South Ogden City hired Consor to provide design services for the proposed project. Proceeding with the design would allow South Ogden City to better understand the project funding needs and determine how much additional funding would be required.

Funding Deficiency

Consor has progressed the project design and has been able to better estimate the project costs. In the recent plan-in-hand review process, which requires 60% design drawings, the estimated cost for the project was **\$9,612,000**. This estimate assumes that the project will be completed over two years, starting in 2024. Based on this cost estimate, the project would be underfunded by **\$4,866,800**.

The increased costs can be attributed to several factors, including:

- Higher-than-expected Inflation
- Additional Right-of-Way
- Safety Enhancements
- Retaining Wall
- Increased Asphalt and Roadbase Thickness

Additional Funding Opportunities

After identifying the funding deficiency, South Ogden City and Consor Engineering met with WFRC to discuss potential options for additional funding. The additional funding needs exceed the amount that can be reallocated through a WFRC board modification. Therefore, additional funding will require South Ogden City to submit an application for Surface Transportation Funds programmed for fiscal year 2029. The application and approval schedule is outlined below:

- Letters of Intent – September 28, 2023
- Project Evaluation and Concept Reports – November to December 2023
- Project Review and Evaluations – January to March 2024
- Draft Projects/Draft Programs – April to May 2024
- Draft Transportation Improvement Program (TIP) – June 2024
- Public Comment – July 2024
- Review and Approve TIP – August 2024
- FHWA and FTA Review and Approve TIP – September 2024
- TIP/STIP Approved – October 2024

After a funding request is approved through WFRC, there is the potential to expedite the funding for projects that are designed and ready for construction.

In addition to seeking funding from WFRC, South Ogden can also request WACOG local transportation funds. WACOG and WFRC have jointly funded projects across Weber County. The next application cycle will begin in June of 2024, with funds being approved by the end of 2024.

Project Phasing

With the need for additional funds, South Ogden will be required to split the project into two phases. Splitting the project into two phases would allow South Ogden City to use the available money to fund a smaller portion of the project and wait to complete the next phase until additional funding is available. Splitting the project into two phases would require a WFRC board modification that will reduce the scope of the construction of the current project. Based on the available funds and maintenance needs, the proposed phasing would include construction on Chimes View Avenue from Riverdale Road to Country Club Drive during Phase 1 and construction of 40th Street from Riverdale Road to Washington Boulevard during Phase 2, as shown in Exhibit 1. The phasing would result in the following costs:

- Phase 1 – \$4,533,000 (\$306,884 City Match)
- Phase 2 – \$5,079,000 (\$343,848 City Match)
- Total – \$9,612,000 (\$650,732 City Match)

The costs assume that Phase 1 will be constructed in 2024 and Phase 2 funds will be available for construction in 2025. This timeline would be similar to the original funding request, which assumed construction would take two years to complete.



Waterline Replacement Project

As a part of the roadway construction project, South Ogden City intended to replace the culinary waterline along 40th Street and Chimes View Drive. However, with the funding deficiency and uncertainty of the timeline of the roadway project, the Public Works Department and Wasatch Civil have discussed starting construction of the waterline along 40th Street and Chimes View Drive before the roadway construction begins. The original WFRC funding request excludes utility betterments, including replacing the culinary waterline. However, South Ogden City was prepared to fund the waterline replacement as part of the WFRC-funded project.

Separating the waterline from the roadway project would allow South Ogden City to replace the aging waterline without waiting to see if the additional funding request is successful. Separating the project would eliminate certain requirements attached to federally funded projects, including Davis-Bacon Wages, UDOT review and oversight, and UDOT construction management requirements.

The estimated cost to replace the existing culinary waterline is \$1,250,000, including design fees and construction management.



-  PHASE 1 (2024 CONSTRUCTION SEASON)
-  PHASE 2 (2025 CONSTRUCTION SEASON)



CONSOR ENGINEERS, LLC.
986 West 9000 South
West Jordan, Utah 84088
Tel. 801-495-4240



| | | |
|-----------------------|-------------------------|----------|
| 40TH ST & CHIMES VIEW | | |
| PROJECT | RIVERDALE TO WASHINGTON | |
| PROJECT NUMBER | F-3354(4)0 | PN 16936 |

SHEET NO. EX-01

Recommendations

Wasatch Civil recommends:

- Requesting a WFRC board modification to split the project into two phases.
- Using the available funds to construct Phase 1 of the project in 2024.
- Submitting applications for additional funds for Phase 2 from WFRC and WACOG.
- Proceeding with the design of both Phase 1 and Phase 2 of the roadway project to encourage WFRC to reallocate funds for Phase 2 to 2025.
- Separating the culinary waterline project from the WFRC-funded roadway project.

Resolution No. 23-31

A RESOLUTION OF THE CITY OF SOUTH OGDEN CITY, UTAH, ADOPTING THE BUDGET, TOGETHER WITH ITS ASSOCIATED FORMS, SCHEDULES, AND ATTACHMENTS, FOR SOUTH OGDEN CITY FOR THE FISCAL YEAR FROM JULY 1, 2023 TO JUNE 30, 2024; AND PROVIDING THAT THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY UPON ITS ADOPTION AND DEPOSIT WITH THE CITY RECORDER.

WHEREAS, the City Council finds that at a regularly scheduled meeting of the City Council of South Ogden City, held during May 2023, under the Uniform Fiscal Procedures act for Utah Cities, Utah Code (“UC”) §10-6-101, et. seq., as amended, the Finance Director submitted to the City Council of South Ogden City the proposed Operating Budget; Capital improvements Budget; Enterprise Funds Budgets; and the Water, Sewer, and Garbage Budgets, and his budget message, all for the fiscal year of July 1, 2023 To June 30, 2024, as required by the statute; and,

WHEREAS, the City Council finds that in conformance with UC §10-3-818, upon its own motion, and as part of its budget adoption process, the City Council has reviewed and considered the compensation of each officer of the city, including but not limited to elected and appointed officials, with each salary schedule applicable to each officer of the city, to determine whether the compensation rates or schedules as existing and as proposed should be adopted, changed, or amended; and,

WHEREAS, the City Council finds that UC §10-6-118, as amended, requires that before the 22nd day of June each year, or September 1st, as is the case this year since the budget contemplates enacting a property tax increase under UC §59-2-919 through §59-2-923, the City Council shall by resolution or ordinance, adopt a budget for the ensuing fiscal year for each fund for which a budget is required; and,

WHEREAS, in compliance with law, the City Council set a time and place for a public hearing to consider the budget, including in increase in the property tax rate, at which all interested persons were given an opportunity to be heard, said hearing having been held on August 1, 2023 at 6 pm; and,

WHEREAS, the City Council finds that the notice of the time, place, and purpose of the public hearing to consider the budget, and all of its schedules, changes, and recommendations, including compliance with the state's "Truth in Taxation" notice requirements, i.e. publication once a week for the two weeks prior to the public hearing, and as otherwise required by statute, in the *Ogden Standard – Examiner*, it being a newspaper published in the county within which

the municipality is situated and circulated in the municipality; and

WHEREAS, the City Council considered for adjustment and/or adoption the Finance Director’s recommended budget, with any adjustments detailed in the South Ogden City Fiscal Year 2024 Budget, herein shown as **Attachment “A”**; and,

WHEREAS, the City Council finds that all conditions precedent to the adoption of the final budget have been accomplished;

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

SECTION 2 – BUDGET ADOPTED

The City Council finds that the budget, comprising the Operating Budget; Capital Improvements Budget; Enterprise Funds Budgets, including the determination – following the required public hearing – that the City will not charge itself for its own utility service use; Personnel Schedules identifying the classification and pay plan for employment positions for each department including certain Non-Merit Special employee positions, and elected and statutory officials’ compensations schedules, as shown in detail in **Attachment “A”**, and incorporated by this reference as if set out fully, is adopted, with all identified funds and allocations thereto created, re-created, or reaffirmed and made the official budget of South Ogden City for the fiscal year of July 1, 2023 To June 30, 2024.

SECTION 3 - 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 4 - 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 5 - 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 August, 2023, and after publication or posting as required by law.

PASSED AND ADOPTED AND ORDERED POSTED by the City Council of South Ogden City, Utah this 15th day of August, 2023.

SOUTH OGDEN CITY

Russell L. Porter, Mayor

ATTEST:

Leesa Kapetanov, MMC
City Recorder

ATTACHMENT "A"

Resolution No. 23-31

A Resolution Of The City Of South Ogden City, Utah, Adopting The Budget, Together With Its Associated Forms, Schedules, And Attachments, For South Ogden City For The Fiscal Year From July 1, 2023 To June 30, 2024; And Providing That This Resolution Shall Take Effect Immediately Upon Its Adoption And Deposit With The City Recorder.

15 Aug 23

South Ogden City

FY 2024

Final Budget

Adopted

August 15, 2023

Resolution – 23-31

| Account Number | Account Title | 2021-22 Prior year Actual | 2022-23 Current year Budget | 2022-23 Current year Actual | 2023-24 Future year Budget |
|---------------------------------------|--------------------------------|---------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| GENERAL FUND | | | | | |
| TAX REVENUE | | | | | |
| 10-31-100 | Property Tax Collections CY | 3,724,351 | 4,177,707 | 4,183,551 | 4,390,371 |
| 10-31-105 | Prop 1 Tax Increment | 425,870 | 413,638 | 401,693 | 455,073 |
| 10-31-200 | Property Tax - Delinquent | 80,570 | 63,266 | 57,553 | 44,801 |
| 10-31-250 | Motor Vehicle & Personal Prop. | 222,671 | 222,671 | 219,163 | 219,951 |
| 10-31-300 | General Sales and Use Taxes | 5,318,956 | 5,264,846 | 5,026,406 | 5,846,029 |
| 10-31-400 | Utility Franchise Fee | 379,499 | 394,104 | 384,201 | 394,104 |
| 10-31-500 | Franchise Tax | 248,036 | 243,208 | 196,861 | 242,625 |
| 10-31-550 | Municipal Energy Use Tax | 935,210 | 942,854 | 1,113,787 | 1,020,093 |
| Total TAX REVENUE: | | 11,335,163 | 11,722,294 | 11,583,216 | 12,613,047 |
| LICENSES & PERMITS | | | | | |
| 10-32-100 | Business Licenses | 137,323 | 127,000 | 146,077 | 147,180 |
| 10-32-200 | Building Permits | 280,604 | 83,313 | 240,903 | 171,080 |
| 10-32-300 | Animal Licenses | 9,560 | 9,060 | 7,929 | 10,334 |
| 10-32-325 | Micro-Chipping Fees | 1,260 | 970 | 5,270 | 100 |
| 10-32-350 | Animal Adoptions | 16,325 | 16,540 | 26,450 | 26,123 |
| 10-32-375 | Animal Shelter Fees | 4,057 | 4,808 | 605 | 653 |
| Total LICENSES & PERMITS: | | 449,129 | 241,691 | 427,233 | 355,470 |
| INTERGOVERNMENTAL REVENUE | | | | | |
| 10-33-150 | State Liquor Fund Allotment | 20,554 | 21,211 | 23,859 | 23,860 |
| 10-33-200 | ARPA - American Rescue Plan | .00 | 80,000 | .00 | .00 |
| 10-33-600 | State/Local Grants | 57,352 | 1,045,936 | 690,508 | 479,073 |
| 10-33-610 | Federal FEMA Awards | .00 | .00 | 55,737 | .00 |
| 10-33-900 | Class "C" Road Fund Allotment | 709,066 | 692,423 | 571,926 | 751,075 |
| 10-33-925 | Resource Officer Contract | 46,875 | 46,875 | 46,875 | 50,250 |
| Total INTERGOVERNMENTAL REVENUE: | | 833,847 | 1,886,445 | 1,388,904 | 1,304,258 |
| RECREATION & PLANNING FEES | | | | | |
| 10-34-200 | Baseball Revenue | 13,291 | 12,840 | 13,893 | 16,315 |
| 10-34-250 | Soccer | 5,308 | 4,722 | 6,320 | 7,400 |
| 10-34-300 | Spike/Kickball Fees | 315 | .00 | 360 | 315 |
| 10-34-350 | Basketball Fees | 17,415 | 17,315 | 19,413 | 22,945 |
| 10-34-352 | Comp Youth Basketball | 91,580 | 91,580 | 98,800 | 95,000 |
| 10-34-354 | Comp Adult Basketball | 10,800 | 11,700 | 12,620 | 13,500 |
| 10-34-375 | Flag Football | 3,043 | 3,043 | 3,235 | 4,360 |
| 10-34-450 | Volleyball Registration | 4,537 | 4,537 | 5,615 | 4,537 |
| 10-34-500 | Football | 15,597 | 3,677 | 15,821 | 18,900 |
| 10-34-505 | Football Apparel | 3,100 | 3,100 | 960 | 3,100 |
| 10-34-550 | Tennis / Pickleball | 280 | 280 | .00 | 280 |
| 10-34-700 | Plan Check Fee | 162,758 | 34,400 | 124,206 | 34,400 |
| 10-34-725 | Engineering Review Fees | 18,314 | 13,500 | 8,239 | 15,947 |
| 10-34-726 | Zoning/Subdivision Fees | 7,595 | 2,400 | 4,490 | 2,400 |
| 10-34-750 | Street Cut Fee | 4,593 | 4,400 | 5,592 | 4,400 |
| 10-34-850 | Bowery Rental | 3,275 | 1,800 | 3,100 | 1,800 |
| 10-34-875 | Sex Offender Registration Fee | 650 | 500 | 550 | 500 |
| 10-34-900 | Public Safety Reports | 19,197 | 14,100 | 21,235 | 14,100 |
| Total RECREATION & PLANNING FEES: | | 381,646 | 223,894 | 343,728 | 260,199 |

| Account Number | Account Title | 2021-22 Prior year Actual | 2022-23 Current year Budget | 2022-23 Current year Actual | 2023-24 Future year Budget |
|---|--------------------------------|---------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| FINES & FORFEITURES | | | | | |
| 10-35-200 | Fines- Regular | 374,167 | 384,000 | 397,836 | 416,960 |
| 10-35-300 | Alarm Fines/Permits | 3,750 | 5,200 | 5,000 | 3,750 |
| Total FINES & FORFEITURES: | | 377,917 | 389,200 | 402,836 | 420,710 |
| MISCELLANEOUS REVENUE | | | | | |
| 10-36-100 | Interest | 45,478 | 38,200 | 394,275 | 358,630 |
| 10-36-105 | Cash Over/Short | 94 | .00 | 45- | .00 |
| 10-36-200 | Sub 4 Santa | 20 | .00 | .00 | .00 |
| 10-36-400 | Sales of Fixed Assets | 19,853 | .00 | 56,948 | .00 |
| 10-36-500 | 75th Anniversary Sales | 20 | .00 | 40 | .00 |
| 10-36-601 | Donations to South Ogden City | 6,620 | 14,487 | 14,728 | .00 |
| 10-36-700 | Contractual Agreement Reven | 168,586 | 175,447 | 154,290 | 160,283 |
| 10-36-900 | Misc. Revenue | 90,051 | 65,169 | 190,156 | 25,000 |
| Total MISCELLANEOUS REVENUE: | | 330,723 | 293,303 | 810,392 | 543,913 |
| CHARGE FOR SERVICE & TRANSFERS | | | | | |
| 10-39-150 | Lease Financing | 524,694 | 331,275 | .00 | .00 |
| 10-39-242 | Transfer in from Sewer Fund | 11,043 | 11,595 | 5,798 | 12,059 |
| 10-39-244 | Transfer in from Storm Drain | 15,950 | 16,748 | 8,374 | 17,418 |
| 10-39-250 | Transfer in from Water Fund | 57,668 | 60,551 | 30,276 | 62,974 |
| 10-39-300 | Transfer In From CPF | .00 | 125,000 | .00 | .00 |
| 10-39-350 | Charge for Service - CDRA | 5,615 | 3,730 | 3,730 | 22,375 |
| 10-39-400 | Charge for Service - Water Fnd | 268,668 | 270,256 | 270,256 | 359,912 |
| 10-39-410 | Charge for Service - Sewer Fnd | 230,820 | 261,388 | 261,388 | 244,764 |
| 10-39-420 | Charge for Svc - Storm Drn Fnd | 188,100 | 202,251 | 202,251 | 119,630 |
| 10-39-430 | Charge for Service - Grbge Fnd | 97,704 | 109,902 | 109,902 | 88,409 |
| 10-39-440 | Charge for Service - Amb Fnd | 66,564 | 70,742 | 70,742 | 74,761 |
| 10-39-700 | Appropriated Fund Bal-Class C | .00 | 115,000 | .00 | 50,000 |
| 10-39-800 | Appropriated Fund Balance | .00 | 1,048,501 | .00 | .00 |
| Total CHARGE FOR SERVICE & TRANSFERS: | | 1,466,827 | 2,626,939 | 962,716 | 1,052,302 |
| Total Revenue: | | 15,175,251 | 17,383,766 | 15,919,025 | 16,549,899 |
| COUNCIL | | | | | |
| 10-41-110 | Salaries and Wages | 65,623 | 72,313 | 71,877 | 77,519 |
| 10-41-130 | Employee Benefits | 7,918 | 9,712 | 10,563 | 9,254 |
| 10-41-210 | Books, Subscrip. & Memberships | 11,298 | 12,484 | 12,483 | 12,484 |
| 10-41-230 | Travel & Training | 5,598 | 6,890 | 6,839 | 6,890 |
| 10-41-240 | Supplies | .00 | 530 | 214 | 530 |
| 10-41-700 | Small Equipment | .00 | 796 | 755 | 796 |
| Total COUNCIL: | | 90,437 | 102,725 | 102,731 | 107,473 |
| LEGAL DEPARTMENT | | | | | |
| 10-42-110 | Salaries and Wages | 15,083 | 24,753 | 15,381 | 37,052 |
| 10-42-130 | Employee Benefits | 1,143 | 2,528 | 1,249 | 2,835 |
| 10-42-230 | Travel & Training | .00 | 1,530 | 1,234 | 1,530 |
| 10-42-240 | Supplies | .00 | 530 | .00 | 530 |
| 10-42-310 | Outside Legal Counsel | 51,710 | 68,288 | 74,743 | 107,880 |
| 10-42-320 | Prosecutorial Fees | 30,000 | 30,000 | 27,500 | 30,000 |

| Account Number | Account Title | 2021-22 Prior year Actual | 2022-23 Current year Budget | 2022-23 Current year Actual | 2023-24 Future year Budget |
|-------------------------|--------------------------------|---------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| Total LEGAL DEPARTMENT: | | 97,936 | 127,629 | 120,106 | 179,827 |
| Court Department | | | | | |
| 10-43-110 | Salaries & Wages | 171,388 | 202,885 | 201,826 | 235,456 |
| 10-43-130 | Employee Benefits | 55,898 | 64,193 | 67,369 | 81,974 |
| 10-43-210 | Books, Subscriptions, & Mbrshp | 349 | 530 | 216 | 530 |
| 10-43-230 | Travel & Training | 818 | 1,590 | 1,374 | 1,590 |
| 10-43-240 | Office Supplies | 4,009 | 7,152 | 7,212 | 3,152 |
| 10-43-275 | State Surcharge | 97,248 | 127,031 | 89,658 | 108,368 |
| 10-43-280 | Telephone | 300 | 319 | 275 | 319 |
| 10-43-300 | Public Defender Fees | 12,400 | 15,898 | 12,000 | 15,898 |
| 10-43-305 | Wasatch Constable Contract | 3,525 | 22,556 | 12,264 | 22,556 |
| 10-43-310 | Professional & Technical | 2,096 | 2,241 | 1,590 | 3,710 |
| 10-43-329 | Computer Repairs | 50 | 265 | .00 | 265 |
| 10-43-330 | Witness Fees | .00 | 1,100 | .00 | 1,100 |
| 10-43-700 | Small Equipment | 230 | 319 | 188 | 319 |
| 10-43-750 | Capital Outlay | .00 | 7,063 | 7,126 | .00 |
| Total Court Department: | | 348,311 | 453,142 | 401,098 | 475,237 |
| ADMINISTRATION | | | | | |
| 10-44-110 | Salaries and Wages | 587,119 | 711,030 | 685,482 | 811,448 |
| 10-44-112 | Overtime | 90 | .00 | .00 | .00 |
| 10-44-130 | Employee Benefits | 224,619 | 259,230 | 263,845 | 309,409 |
| 10-44-210 | Books, Subscriptions & Member | 3,605 | 4,239 | 3,793 | 4,239 |
| 10-44-230 | Travel & Training | 16,227 | 19,608 | 15,768 | 19,608 |
| 10-44-240 | Office Supplies & Miscell | 4,077 | 6,890 | 3,404 | 6,890 |
| 10-44-247 | Car Allowance | 6,804 | 6,804 | 6,237 | 6,804 |
| 10-44-248 | Vehicle Maintenance | .00 | 530 | 246 | 530 |
| 10-44-280 | Telephone | 4,661 | 5,279 | 4,626 | 5,279 |
| 10-44-300 | Gas | 531 | 796 | 206 | 796 |
| 10-44-310 | Professional & Technical | 11,636 | 21,775 | 15,755 | 23,500 |
| 10-44-329 | Computer Repairs | .00 | 265 | .00 | 265 |
| 10-44-600 | Service Charges | 49,174 | 50,514 | 53,473 | 59,514 |
| 10-44-650 | Lease Payments | .00 | .00 | .00 | 3,200 |
| 10-44-700 | Small Equipment | 45 | 2,610 | 879 | 2,610 |
| 10-44-750 | Capital Outlay | 2,184 | 3,790 | 3,769 | 8,764 |
| Total ADMINISTRATION: | | 910,773 | 1,093,360 | 1,057,070 | 1,262,856 |
| NON-DEPARTMENTAL | | | | | |
| 10-49-130 | Retirement Benefits | 48,697 | 62,013 | 62,192 | 86,306 |
| 10-49-220 | Public Notices | 1,710 | 3,000 | 2,309 | 3,000 |
| 10-49-250 | Unemployment | 2,423 | 5,728 | 5,728 | 2,120 |
| 10-49-255 | Ogden Weber Chamber Fees | 3,000 | 3,180 | 3,000 | 3,180 |
| 10-49-260 | Workers Compensation | 88,725 | 98,221 | 84,721 | 98,221 |
| 10-49-290 | City Postage | 45,000 | 46,392 | 10,000 | 50,000 |
| 10-49-291 | Newsletter Printing | 8,004 | 8,585 | 8,112 | 8,585 |
| 10-49-310 | Auditors | 11,830 | 16,373 | 13,250 | 16,373 |
| 10-49-320 | Professional & Technical | 84,790 | 97,936 | 67,941 | 104,036 |
| 10-49-321 | I/T Supplies | 485 | 3,180 | 114 | 3,180 |
| 10-49-322 | Computer Contracts | 66,804 | 76,912 | 76,891 | 74,612 |
| 10-49-323 | City-wide Telephone | 8,440 | 9,841 | 9,741 | 9,720 |
| 10-49-324 | City-wide Internet | 6,673 | 6,741 | 6,677 | 6,741 |
| 10-49-329 | Server Repairs | .00 | 2,500 | .00 | 17,900 |

| Account Number | Account Title | 2021-22 Prior year Actual | 2022-23 Current year Budget | 2022-23 Current year Actual | 2023-24 Future year Budget |
|------------------------------|--------------------------------|---------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| 10-49-400 | Unreserved | .00 | 75,935 | .00 | 80,000 |
| 10-49-430 | Sales Tax Admin Fee | 34,643 | 28,433 | 33,019 | 37,567 |
| 10-49-450 | Homeless Shelter State Fee | 36,979 | 41,478 | 39,349 | 45,469 |
| 10-49-500 | City Safety/Wellness Program | 4,092 | 7,100 | 3,689 | 6,500 |
| 10-49-510 | Insurance | 160,970 | 196,075 | 186,077 | 196,075 |
| 10-49-515 | City Donations | 4,153 | 71,955 | 4,100 | 72,455 |
| 10-49-520 | Employee Assistance Plan | 4,080 | 4,080 | 4,080 | 4,080 |
| 10-49-550 | COVID - 19/ CARES ACT | 4,633 | .00 | .00 | .00 |
| 10-49-551 | Covid - 19/ARPA Amer Resc Plan | .00 | 80,000 | .00 | .00 |
| 10-49-596 | Holiday Dinner | 5,269 | 5,525 | 5,525 | 5,830 |
| 10-49-597 | Employee Recognition Prog | 4,571 | 7,405 | 7,548 | 8,500 |
| 10-49-598 | OFFH | 4,057 | 6,516 | 4,022 | 6,516 |
| 10-49-599 | Easter Egg Hunt | 2,067 | 3,180 | 2,750 | 3,180 |
| 10-49-600 | Community Programs | 5,318 | 6,407 | 5,165 | 6,407 |
| 10-49-601 | Community Brand | .00 | 2,000 | 2,000 | .00 |
| 10-49-605 | Continuing Education | 6,000 | 7,000 | 4,180 | 7,000 |
| 10-49-610 | Government Immunity | .00 | 6,000 | 2,975 | 6,000 |
| 10-49-700 | Small Equipment | .00 | 2,120 | .00 | 2,120 |
| 10-49-750 | Capital Outlay | 197,070 | 59,650 | 62,424 | 41,352 |
| Total NON-DEPARTMENTAL: | | 850,482 | 1,051,461 | 717,578 | 1,013,025 |
| ELECTIONS | | | | | |
| 10-50-240 | Supplies | 8,197 | .00 | .00 | 19,276 |
| Total ELECTIONS: | | 8,197 | .00 | .00 | 19,276 |
| BUILDING AND GROUNDS | | | | | |
| 10-51-263 | Fire Station #82 Utilities | 7,757 | 8,479 | 9,507 | 8,479 |
| 10-51-264 | Station #82 Maintenance | 1,930 | 7,320 | 7,005 | 2,120 |
| 10-51-265 | Cleaning Contract | 18,450 | 22,350 | 16,833 | 22,350 |
| 10-51-266 | Elevator Maintenance | 6,570 | 12,454 | 7,087 | 12,454 |
| 10-51-270 | New City Hall Maintenance | 52,434 | 104,800 | 98,072 | 88,796 |
| 10-51-275 | New City Hall Utilities | 115,943 | 121,231 | 92,121 | 122,235 |
| 10-51-280 | City Building Upgrades | .00 | .00 | .00 | 196,000 |
| 10-51-750 | Capital Outlay | 236,058 | 60,081 | 61,743 | 86,257 |
| Total BUILDING AND GROUNDS: | | 439,142 | 336,715 | 292,368 | 538,691 |
| PLANNING & ZONING | | | | | |
| 10-52-120 | Commission Allowance | 6,050 | 6,300 | 4,775 | 6,300 |
| 10-52-210 | Books, Subscrip, Memberships | 18 | 265 | 15 | 265 |
| 10-52-230 | Travel & Training | .00 | 530 | 89 | 530 |
| 10-52-310 | Professional & Technical Servi | 111,775 | 91,020 | 109,611 | 79,490 |
| 10-52-330 | General Plan Revision | .00 | 39,100 | 41,463 | 4,200 |
| Total PLANNING & ZONING: | | 117,843 | 137,215 | 155,952 | 90,785 |
| POLICE SERVICES | | | | | |
| 10-55-110 | Full time wages - Police | 1,849,475 | 2,106,337 | 2,041,135 | 2,304,708 |
| 10-55-111 | Part time wages - Police | 17,418 | 28,064 | 26,182 | 31,111 |
| 10-55-112 | Overtime wages - Police | 47,393 | 52,134 | 58,530 | 46,765 |
| 10-55-115 | Animal Control Wages | 51,102 | 56,491 | 56,408 | 61,999 |
| 10-55-116 | Crossing Guards | 12,608 | 24,330 | 12,865 | 29,031 |
| 10-55-130 | Benefits - Police | 1,081,857 | 1,251,924 | 1,251,769 | 1,305,744 |
| 10-55-131 | WTC - A/C Contract | 73,642 | 82,471 | 79,523 | 73,081 |

| Account Number | Account Title | 2021-22 Prior year Actual | 2022-23 Current year Budget | 2022-23 Current year Actual | 2023-24 Future year Budget |
|----------------------------|---------------------------------|---------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| 10-55-132 | Liquor Funds Expenditures | 23,054 | 21,211 | 22,586 | 23,860 |
| 10-55-150 | Death Benefit Ins. - Police | 310 | 400 | 311 | 400 |
| 10-55-151 | Mental Health Services | .00 | 26,690 | 7,088 | 18,853 |
| 10-55-210 | Mbrshps, Bks & Sub - Police | 7,039 | 7,253 | 7,135 | 7,253 |
| 10-55-230 | Travel & Training - Police | 9,834 | 15,819 | 15,726 | 19,519 |
| 10-55-240 | Office Supplies - Police | 3,909 | 4,259 | 3,579 | 6,359 |
| 10-55-245 | Clothing Contract - Police | 11,965 | 12,050 | 10,303 | 13,050 |
| 10-55-246 | Special Dept Supplies - Police | 7,817 | 9,420 | 8,353 | 12,100 |
| 10-55-247 | Animal Control Costs | 28,169 | 67,687 | 58,631 | 60,938 |
| 10-55-248 | Vehicle Maintenance - Police | 16,245 | 42,582 | 41,179 | 20,137 |
| 10-55-250 | Equipment Maintenance - Police | .00 | 20 | .00 | 2,120 |
| 10-55-280 | Telephone/Internet - Police | 19,955 | 23,847 | 21,560 | 23,847 |
| 10-55-300 | Gas | 89,749 | 102,848 | 78,484 | 90,506 |
| 10-55-310 | Professional & Tech - Police | 18,218 | 23,362 | 21,263 | 29,862 |
| 10-55-323 | MDT/Radio Repairs | 1,039 | 1,769 | 2,135 | 3,269 |
| 10-55-329 | Computer Repairs - Police | 679 | 484 | 20 | 1,484 |
| 10-55-350 | Crime Scene Investigations | 35,373 | 37,935 | 37,935 | 43,560 |
| 10-55-400 | Weber/Morgan Strike Force | 17,063 | 17,488 | 17,488 | 18,172 |
| 10-55-450 | K-9 | 589 | 620 | 396 | 2,120 |
| 10-55-470 | Community Education/Programs | .00 | 600 | 199 | 600 |
| 10-55-649 | Lease Interest/Taxes | 8,477 | 6,099 | 6,099 | .00 |
| 10-55-650 | Lease Payments - Police | 143,129 | 207,973 | 209,732 | 83,940 |
| 10-55-700 | Small Equipment - Police | 934 | 32,051 | 14,128 | 8,735 |
| 10-55-750 | Capital Outlay - Police | 93,026 | 49,900 | 72,773 | 124,330 |
| Total POLICE SERVICES: | | 3,670,067 | 4,314,118 | 4,183,515 | 4,467,453 |
| FIRE PROTECTION | | | | | |
| 10-57-110 | Salaries & Wages | 1,288,022 | 1,512,352 | 1,390,521 | 1,657,393 |
| 10-57-111 | Part Time Wages | 186,017 | 199,276 | 167,783 | 219,403 |
| 10-57-112 | Overtime | 229,697 | 100,208 | 237,343 | 138,369 |
| 10-57-130 | Employee Benefits | 619,206 | 696,018 | 730,809 | 747,816 |
| 10-57-210 | Memberships, Books & Subscrip | 1,555 | 2,846 | 2,846 | 2,598 |
| 10-57-230 | Travel & Training | 14,474 | 14,126 | 13,361 | 9,539 |
| 10-57-240 | Office Supplies & Expense | 846 | 1,872 | 1,402 | 2,120 |
| 10-57-245 | Clothing Contract | 25,006 | 29,130 | 29,225 | 24,377 |
| 10-57-246 | Special Department Supplies | 11,149 | 12,206 | 11,561 | 17,223 |
| 10-57-250 | Vehicle Maintenance | 38,598 | 108,501 | 72,355 | 40,000 |
| 10-57-255 | Other Equipment Maintenance | 7,862 | 7,218 | 6,442 | 10,599 |
| 10-57-280 | Telephone/Internet | 10,770 | 10,757 | 10,757 | 9,845 |
| 10-57-300 | Gas | 30,555 | 29,430 | 29,226 | 30,930 |
| 10-57-310 | Professional & Technical | 11,937 | 12,182 | 10,111 | 12,934 |
| 10-57-330 | Fire Prevention/ Community Edu | 1,235 | 2,902 | 2,873 | 1,590 |
| 10-57-400 | Emergency Management Planning | 5,847 | 5,945 | 5,314 | 6,359 |
| 10-57-649 | Lease Interest/Taxes | 18,568 | 12,936 | 1,549 | 7,695 |
| 10-57-650 | Lease Payments | 42,537 | 186,740 | 53,980 | 141,590 |
| 10-57-690 | PPE - Personal Protection Equip | .00 | .00 | .00 | 26,000 |
| 10-57-700 | Small Equipment | 16,303 | 7,163 | 9,617 | 5,000 |
| 10-57-750 | Capital Outlay | 47,496 | 158,079 | 105,706 | 140,734 |
| Total FIRE PROTECTION: | | 2,607,680 | 3,109,887 | 2,892,780 | 3,252,114 |
| INSPECTION SERVICES | | | | | |
| 10-58-110 | Salaries and Wages | 86,403 | 93,884 | 91,955 | 102,996 |
| 10-58-130 | Employee Benefits | 36,413 | 46,619 | 48,387 | 49,564 |
| 10-58-210 | Books, Subscrip. & Memberships | 694 | 689 | 2,073 | 689 |

| Account Number | Account Title | 2021-22 Prior year Actual | 2022-23 Current year Budget | 2022-23 Current year Actual | 2023-24 Future year Budget |
|----------------------------|--------------------------------|---------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| 10-58-230 | Travel & Training | 1,075 | 1,560 | 1,963 | 2,270 |
| 10-58-240 | SUPPLIES | .00 | 530 | 317 | 530 |
| 10-58-245 | Clothing Allowance | 176 | 319 | 445 | 319 |
| 10-58-248 | Vehicle Maintenance | 1,373 | 530 | 50 | 530 |
| 10-58-280 | CELLULAR PHONE | 600 | 600 | 550 | 600 |
| 10-58-300 | Gas | 2,480 | 2,202 | 1,282 | 2,202 |
| 10-58-315 | PROFESSIONAL & TECHNICAL | 82,140 | 29,716 | 26,827 | 24,006 |
| 10-58-649 | Lease Interest/Taxes | 77 | 59 | 59 | .00 |
| 10-58-650 | Lease Payments | 8,488 | 6,300 | 6,507 | 6,000 |
| 10-58-750 | CAPITAL OUTLAY | .00 | .00 | 2,086 | .00 |
| Total INSPECTION SERVICES: | | 219,918 | 183,008 | 182,502 | 189,706 |
| STREETS | | | | | |
| 10-60-110 | Salaries and Wages | 241,491 | 284,801 | 260,310 | 309,599 |
| 10-60-112 | Overtime | 1,449 | 5,626 | 2,338 | 6,195 |
| 10-60-130 | Employee Benefits | 88,490 | 122,224 | 108,232 | 124,855 |
| 10-60-210 | Books, Subscrip. Memberships | 298 | 1,590 | 496 | 1,590 |
| 10-60-230 | Travel & Training | 1,452 | 3,000 | 1,876 | 5,000 |
| 10-60-240 | Office Supplies & Expense | 1,613 | 1,060 | 901 | 1,060 |
| 10-60-245 | Clothing/Uniform/Equip. Allow. | 2,240 | 3,000 | 1,303 | 3,000 |
| 10-60-248 | Vehicle Maintenance | 22,422 | 26,497 | 26,819 | 26,497 |
| 10-60-260 | Building & Grounds Maintenance | 51,042 | 10,599 | 4,257 | 10,599 |
| 10-60-270 | Utilities | 39,857 | 46,000 | 46,547 | 46,000 |
| 10-60-280 | Telephone | 4,132 | 3,710 | 2,790 | 4,190 |
| 10-60-300 | Gas | 25,915 | 25,528 | 28,696 | 23,028 |
| 10-60-310 | Professional | 17,331 | 16,624 | 12,118 | 16,624 |
| 10-60-325 | GIS - Service & Equipment | .00 | .00 | .00 | 6,000 |
| 10-60-329 | Computer Repairs | .00 | 530 | .00 | 530 |
| 10-60-400 | Class C Maintenance | 97,485 | 165,000 | 160,118 | 100,000 |
| 10-60-480 | Special Department Supplies | 14,928 | 23,317 | 14,260 | 23,317 |
| 10-60-600 | Siemens Streetlight Lease | 46,749 | 11,845 | 11,844 | .00 |
| 10-60-649 | Lease Interest/Taxes | 20,909 | 17,087 | 17,086 | .00 |
| 10-60-650 | Lease Payments | 193,620 | 491,687 | 492,654 | 20,000 |
| 10-60-700 | Small Equipment | 557 | 419 | 1,646 | 7,419 |
| 10-60-725 | Sidewalk Replacements | 2,604 | 50,000 | 7,916 | 50,000 |
| 10-60-730 | Street Light Maintenance | 12,730 | 26,784 | 7,324 | 26,784 |
| 10-60-750 | Capital Outlay | 127,951 | 327,000 | 127,721 | 7,600 |
| Total STREETS: | | 1,015,267 | 1,663,928 | 1,337,252 | 819,887 |
| PARKS | | | | | |
| 10-70-110 | Salaries and Wages | 253,285 | 341,586 | 314,175 | 376,541 |
| 10-70-112 | Overtime | 6,351 | 5,581 | 9,267 | 6,145 |
| 10-70-120 | Temporary - Parks | 12,403 | 7,161 | 8,164 | 7,884 |
| 10-70-130 | Employee Benefits | 164,941 | 210,267 | 198,464 | 217,062 |
| 10-70-210 | Books, Subscriptions & Mbrshps | 750 | 1,272 | 770 | 1,272 |
| 10-70-230 | Travel & Training | 1,827 | 2,100 | 3,940 | 6,100 |
| 10-70-240 | Special Dept. Supplies - Parks | 43,950 | 43,985 | 35,572 | 49,000 |
| 10-70-244 | Office Supplies Expense | 223 | 1,060 | 20 | 1,060 |
| 10-70-245 | Clothing/Uniform/Equip. Allow. | 2,973 | 4,000 | 2,560 | 5,500 |
| 10-70-248 | Vehicle Maintenance | 16,495 | 12,718 | 10,528 | 12,718 |
| 10-70-260 | Building Maintenance | 2,547 | 4,000 | 2,669 | 14,000 |
| 10-70-270 | Utilities | 61,831 | 49,856 | 42,582 | 67,226 |
| 10-70-275 | Off Leash Dog Area | 1,206 | 3,310 | 1,138 | 2,300 |
| 10-70-280 | Telephone/Internet | 5,872 | 6,359 | 5,848 | 8,759 |

| Account Number | Account Title | 2021-22 Prior year Actual | 2022-23 Current year Budget | 2022-23 Current year Actual | 2023-24 Future year Budget |
|-------------------|------------------------------------|---------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| 10-70-300 | Gas | 17,454 | 17,118 | 14,283 | 17,118 |
| 10-70-310 | Professional & Technical | 9,791 | 19,459 | 17,523 | 11,659 |
| 10-70-320 | Urban Forestry Commission | .00 | 250 | 189 | 250 |
| 10-70-329 | 2020 Wind Disaster | 37- | .00 | .00 | .00 |
| 10-70-450 | RAMP Grant Projects | .00 | .00 | .00 | 17,541 |
| 10-70-549 | Construction Mgmt - Burch Creek | 6,895 | 250 | .00 | .00 |
| 10-70-550 | Burch Creek Park Constr | 112,307 | 1,020 | 1,020 | .00 |
| 10-70-551 | Club Heights lights (AT&T) | .00 | 193,287 | 193,287 | .00 |
| 10-70-552 | Construction Mgmt - Club Heights | 2,075 | 35,450 | 1,381 | .00 |
| 10-70-553 | Club Heights Park Constr | 328,619 | 295,869 | .00 | .00 |
| 10-70-600 | Secondary Water Fees | 30,808 | 33,648 | 31,819 | 33,648 |
| 10-70-649 | Lease Interest/Taxes | 11,045 | 6,839 | 6,837 | .00 |
| 10-70-650 | Lease Payments | 105,851 | 183,145 | 183,024 | 7,000 |
| 10-70-700 | Small Equipment | 5,108 | 28,299 | 736 | 28,299 |
| 10-70-750 | Capital Outlay- Parks | .00 | 612,608 | 66,327 | 177,716 |
| Total PARKS: | | 1,204,573 | 2,120,497 | 1,152,124 | 1,068,798 |
| RECREATION | | | | | |
| 10-71-110 | Salaries & Wages | 63,169 | 121,957 | 104,411 | 132,350 |
| 10-71-125 | Temporary - Recreation | 98,951 | 94,728 | 88,960 | 38,236 |
| 10-71-130 | Employee Benefits | 44,424 | 56,709 | 53,947 | 49,544 |
| 10-71-210 | Books, Subscriptions & Memberships | 803 | 1,100 | 475 | 1,100 |
| 10-71-230 | Travel & Training | 2,089 | 2,120 | 2,070 | 2,120 |
| 10-71-240 | Office Supplies Expense | 301 | 1,272 | 183 | 1,272 |
| 10-71-241 | Comp League Expenses | 13,204 | 13,196 | 14,035 | 7,308 |
| 10-71-242 | Special Dept. Supplies | 21,972 | 3,651 | 2,769 | 9,539 |
| 10-71-248 | Vehicle Maintenance | .00 | 1,060 | 30 | 1,060 |
| 10-71-250 | Gym Facility Utilities/Operations | 3,506 | 6,783 | 4,129 | 6,783 |
| 10-71-280 | Telephone/Internet | 1,037 | 2,000 | 1,000 | 2,000 |
| 10-71-300 | Gas | 569 | 1,060 | 470- | 1,060 |
| 10-71-310 | Professional & Technical | 5,742 | 9,539 | 8,226 | 9,539 |
| 10-71-329 | Computer Repairs | .00 | 530 | .00 | 530 |
| 10-71-350 | Officials Fees | 42,738 | 30,160 | 26,229 | 30,160 |
| 10-71-649 | Lease Interest/Taxes | .00 | 529 | 529 | .00 |
| 10-71-650 | Lease Payments | .00 | 7,034 | 7,034 | .00 |
| 10-71-700 | Small Equipment | .00 | 2,650 | 349 | 2,650 |
| 10-71-750 | Capital Outlay | 36,212 | .00 | .00 | .00 |
| Total RECREATION: | | 334,716 | 356,078 | 313,906 | 295,251 |
| TRANSFERS | | | | | |
| 10-80-080 | Unreserved - Fund Balance | .00 | .00 | .00 | 178,559 |
| 10-80-160 | Reserve for Fund Balance | .00 | 183 | .00 | 176,054 |
| 10-80-170 | Transfer Prop 1 to CPF | 425,870 | 413,638 | 413,638 | 455,073 |
| 10-80-190 | Trans Utility F/F to CPF | 189,750 | 197,052 | 197,052 | 197,052 |
| 10-80-230 | Trans to Capital Improv Fund | 125,000 | .00 | .00 | .00 |
| 10-80-235 | Trans to CPF - Class 'C' | 282,948 | 592,423 | 592,423 | 651,075 |
| 10-80-240 | Transfer Class 'c' to Debt Ser | 242,388 | .00 | .00 | .00 |
| 10-80-250 | Transfer to Debt Service Fund | 1,047,948 | 1,047,707 | 1,047,707 | 1,050,707 |
| 10-80-275 | Trnfr to South Ogden Days Fund | 67,000 | 72,000 | 60,000 | 50,000 |
| 10-80-330 | Transfer CDRA Sales Tax | 47,073 | 11,000 | 10,093 | 11,000 |
| Total TRANSFERS: | | 2,427,977 | 2,334,003 | 2,320,913 | 2,769,520 |

| Account Number | Account Title | 2021-22 | 2022-23 | 2022-23 | 2023-24 |
|----------------|---------------------------------|----------------------|------------------------|------------------------|-----------------------|
| | | Prior year Actual | Current year Budget | Current year Actual | Future year Budget |
| | Total Expenditure: | 14,343,317 | 17,383,766 | 15,229,896 | 16,549,899 |
| | GENERAL FUND Revenue Total: | 15,175,251 | 17,383,766 | 15,919,025 | 16,549,899 |
| | GENERAL FUND Expenditure Total: | 14,343,317 | 17,383,766 | 15,229,896 | 16,549,899 |
| | Net Total GENERAL FUND: | 831,934 | .00 | 689,128 | .00 |

| Account Number | Account Title | 2021-22 Prior year Actual | 2022-23 Current year Budget | 2022-23 Current year Actual | 2023-24 Future year Budget |
|--|-------------------------------|---------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| South Ogden Days Fund | | | | | |
| Revenue | | | | | |
| 12-30-200 | Sponsor Donations | 18,950 | 41,000 | 27,750 | .00 |
| 12-30-225 | Vendor Booth Rentals | 3,425 | 3,500 | 2,350 | .00 |
| 12-30-260 | Pickleball Registration Fees | 670 | 1,500 | 910 | .00 |
| 12-30-320 | In-Kind Donations | .00 | 2,000 | .00 | .00 |
| 12-30-325 | Miscellaneous Sales & Fees | .00 | .00 | 15 | .00 |
| 12-30-400 | Transfer in from General Fund | 67,000 | 72,000 | 60,000 | 50,000 |
| Total Revenue: | | 90,045 | 120,000 | 91,025 | 50,000 |
| Total Revenue: | | 90,045 | 120,000 | 91,025 | 50,000 |
| Expenditures | | | | | |
| 12-40-112 | S/O Days Overtime | 3,996 | 10,000 | .00 | .00 |
| 12-40-300 | Entertainment | 24,205 | 15,000 | 13,721 | .00 |
| 12-40-325 | Fireworks | 10,000 | 10,000 | 10,000 | .00 |
| 12-40-350 | Printing & Banners | 1,787 | 2,000 | 1,785 | .00 |
| 12-40-375 | Equipment Rentals | 37,269 | 37,000 | 31,250 | .00 |
| 12-40-400 | T-shirt Printing | 1,960 | 3,000 | 2,498 | .00 |
| 12-40-410 | Awards | 1,153 | 1,500 | 1,365 | .00 |
| 12-40-475 | Miscellaneous Expenses | 5,979 | 41,500 | 8,619 | 50,000 |
| Total Expenditures: | | 86,349 | 120,000 | 69,238 | 50,000 |
| Total Expenditure: | | 86,349 | 120,000 | 69,238 | 50,000 |
| South Ogden Days Fund Revenue Total: | | 90,045 | 120,000 | 91,025 | 50,000 |
| South Ogden Days Fund Expenditure Total: | | 86,349 | 120,000 | 69,238 | 50,000 |
| Net Total South Ogden Days Fund: | | 3,696 | .00 | 21,787 | .00 |

| Account Number | Account Title | 2021-22 Prior year Actual | 2022-23 Current year Budget | 2022-23 Current year Actual | 2023-24 Future year Budget |
|--------------------------------------|--------------------------------|---------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| DEBT SERVICE FUND | | | | | |
| REVENUE | | | | | |
| 31-30-100 | Transfer in - Park Impact Fees | 200,000 | 500,000 | .00 | 350,000 |
| 31-30-150 | Transfer in from Class 'c' | 242,388 | .00 | .00 | .00 |
| 31-30-300 | Transfer From General Fund | 1,047,948 | 1,047,707 | 1,047,707 | 1,050,707 |
| 31-30-455 | Interest Earned - Trustee Acct | 469 | .00 | 1,959 | 250 |
| 31-30-800 | Appropriated Fund Balance | .00 | 2,000 | .00 | 1,250 |
| Total REVENUE: | | 1,490,805 | 1,549,707 | 1,049,666 | 1,402,207 |
| Total Revenue: | | 1,490,805 | 1,549,707 | 1,049,666 | 1,402,207 |
| EXPENDITURES | | | | | |
| 31-40-100 | Administrative & Professional | 3,000 | 2,000 | 1,500 | 1,500 |
| 31-40-150 | Bond Payment - Principal | 941,000 | 740,000 | 740,000 | 780,000 |
| 31-40-200 | Interest on Bond | 347,853 | 307,707 | 307,706 | 270,707 |
| 31-40-980 | Retained Earnings | .00 | 500,000 | .00 | 350,000 |
| Total EXPENDITURES: | | 1,291,853 | 1,549,707 | 1,049,206 | 1,402,207 |
| Total Expenditure: | | 1,291,853 | 1,549,707 | 1,049,206 | 1,402,207 |
| DEBT SERVICE FUND Revenue Total: | | 1,490,805 | 1,549,707 | 1,049,666 | 1,402,207 |
| DEBT SERVICE FUND Expenditure Total: | | 1,291,853 | 1,549,707 | 1,049,206 | 1,402,207 |
| Net Total DEBT SERVICE FUND: | | 198,952 | .00 | 460 | .00 |

| Account Number | Account Title | 2021-22 Prior year Actual | 2022-23 Current year Budget | 2022-23 Current year Actual | 2023-24 Future year Budget |
|---|--------------------------------|---------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| CAPITAL IMPROVEMENTS | | | | | |
| REVENUE | | | | | |
| 40-30-100 | WACOG/CDBG Grants | .00 | .00 | .00 | 487,816 |
| 40-30-110 | Traffic Impact Fees | 120,600 | 56,000 | 153,157 | 47,000 |
| 40-30-120 | Park Impact Fees | 554,676 | 275,000 | 219,200 | 400,000 |
| 40-30-200 | Interest | 9,995 | 2,600 | 101,155 | 17,000 |
| 40-30-205 | Interest Earned - Traffic I/F | 106 | 100 | 5,269 | 3,000 |
| 40-30-210 | Interest Earned - Park I/Fees | 660 | 400 | 6,413 | 4,000 |
| 40-30-300 | Transfer In G/F - Prop 1 | 425,870 | 413,638 | 413,638 | 455,073 |
| 40-30-400 | Transfer In From General Fund | 125,000 | .00 | .00 | .00 |
| 40-30-450 | Trans From G/F- Class 'C' Rev | 282,948 | 592,423 | 592,423 | 651,075 |
| 40-30-500 | Transfer in Util F/F - G/F | 189,750 | 197,052 | 197,052 | 197,052 |
| 40-30-600 | Transfer in RIF | 586,071 | 569,360 | 605,948 | 569,360 |
| 40-30-798 | Appropriate Parks I/F F/B | .00 | 500,000 | .00 | 350,000 |
| 40-30-800 | Appropriate Fund Balance | .00 | 125,000 | .00 | 30,250 |
| Total REVENUE: | | 2,295,676 | 2,731,573 | 2,294,256 | 3,211,626 |
| Total Revenue: | | 2,295,676 | 2,731,573 | 2,294,256 | 3,211,626 |
| EXPENDITURES | | | | | |
| 40-40-121 | FY 2024 Road Projects | .00 | .00 | .00 | 1,777,780 |
| 40-40-122 | 40th St & Chimes View Dr. | 62,245 | .00 | 117,984 | 599,596 |
| 40-40-124 | FY 2023 Road/Sidewalk Projects | .00 | 1,772,473 | 382,246 | .00 |
| 40-40-125 | FY 2022 Road/Sidewalk Proj | 990,409 | .00 | .00 | .00 |
| 40-40-475 | Skatepark Seed Money | .00 | 2,600 | 6,228 | 30,250 |
| 40-40-480 | Transfer to General Fund | .00 | 125,000 | .00 | .00 |
| 40-40-500 | Transfer to DSF - Park Imp/Fee | 200,000 | 500,000 | .00 | 350,000 |
| 40-40-550 | Park Impact Fee Projects | .00 | 275,400 | .00 | 404,000 |
| 40-40-700 | Traffic Impact Fee Projects | .00 | 56,100 | .00 | 50,000 |
| Total EXPENDITURES: | | 1,252,654 | 2,731,573 | 506,458 | 3,211,626 |
| Total Expenditure: | | 1,252,654 | 2,731,573 | 506,458 | 3,211,626 |
| CAPITAL IMPROVEMENTS Revenue Total: | | 2,295,676 | 2,731,573 | 2,294,256 | 3,211,626 |
| CAPITAL IMPROVEMENTS Expenditure Total: | | 1,252,654 | 2,731,573 | 506,458 | 3,211,626 |
| Net Total CAPITAL IMPROVEMENTS: | | 1,043,022 | .00 | 1,787,798 | .00 |

| Account Number | Account Title | 2021-22 Prior year Actual | 2022-23 Current year Budget | 2022-23 Current year Actual | 2023-24 Future year Budget |
|---------------------|--------------------------------|---------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| WATER FUND | | | | | |
| REVENUE | | | | | |
| 51-30-100 | Interest | 23,224 | 11,000 | 95,519 | 32,000 |
| 51-30-105 | Interest Earned I/Fees | 270 | 300 | 6,319 | 2,500 |
| 51-30-150 | Hydrant Rentals | 1,100 | 800 | 700 | 800 |
| 51-30-200 | Water Sales | 1,909,086 | 1,988,848 | 1,907,555 | 1,988,848 |
| 51-30-210 | Connection Fees Water | 6,510 | 2,000 | 13,385 | 4,500 |
| 51-30-220 | Water Impact Fees | 118,187 | 120,000 | 39,828 | 42,000 |
| 51-30-225 | Late Fees | 22,630 | 22,500 | 25,215 | 22,500 |
| 51-30-850 | Sale of Fixed Assets | 21,120 | .00 | 10,395 | .00 |
| 51-30-860 | Transfer In - City Center CRA | 166,063 | .00 | .00 | 166,064 |
| 51-30-875 | Transfer in from Storm Drain | .00 | 23,835 | .00 | 8,521 |
| 51-30-890 | Appropriation of Fund Balance | .00 | 1,307,457 | .00 | 2,531,003 |
| 51-30-925 | Misc. Revenue | 11,349 | 82,915 | 935 | 82,915 |
| Total REVENUE: | | 2,279,539 | 3,559,655 | 2,099,852 | 4,881,651 |
| Total Revenue: | | 2,279,539 | 3,559,655 | 2,099,852 | 4,881,651 |
| EXPENDITURES | | | | | |
| 51-40-110 | Salaries and Wages | 243,316 | 267,481 | 256,778 | 278,538 |
| 51-40-112 | Overtime | 14,990 | 13,395 | 20,627 | 14,748 |
| 51-40-130 | Employee Benefits | 70,398 | 134,010 | 141,736 | 141,526 |
| 51-40-140 | Franchise Fee | 110,629 | 119,331 | 112,637 | 119,331 |
| 51-40-210 | Books, Subscript. & Membership | 3,778 | 11,180 | 3,734 | 9,180 |
| 51-40-230 | Travel & Training | 2,826 | 7,479 | 4,495 | 10,479 |
| 51-40-240 | Office Supplies | 1,231 | 2,650 | 1,092 | 2,650 |
| 51-40-245 | Clothing/Uniform/Equip. Allow. | 2,431 | 5,088 | 2,130 | 5,088 |
| 51-40-248 | Vehicle Maintenance | 9,346 | 13,099 | 8,701 | 10,599 |
| 51-40-280 | Telephone | 3,631 | 8,299 | 6,451 | 6,259 |
| 51-40-290 | Building Maintenance | 1,049 | 7,950 | .00 | 7,950 |
| 51-40-300 | Gas | 11,281 | 12,030 | 12,898 | 12,030 |
| 51-40-310 | Professional & Technical Servi | 46,583 | 17,317 | 17,060 | 17,317 |
| 51-40-311 | Bad Debts Expense | 2,318 | .00 | .00 | .00 |
| 51-40-320 | Blue Stake Service | 2,376 | 2,720 | 2,388 | 2,120 |
| 51-40-325 | GIS - Service & Equipment | .00 | .00 | .00 | 6,000 |
| 51-40-329 | Computer Repairs | .00 | 530 | .00 | 530 |
| 51-40-330 | Valve Repair | 12,271 | 35,000 | 11,071 | 35,000 |
| 51-40-400 | PRV Maintenance | 14,750 | 19,400 | 1,553 | 20,000 |
| 51-40-480 | Special Department Supplies | 40,920 | 42,395 | 36,741 | 42,395 |
| 51-40-490 | Water Sample Testing | 4,744 | 8,479 | 8,586 | 13,479 |
| 51-40-550 | Weber Basin Exchange Water | 312,270 | 320,725 | 181,646 | 336,725 |
| 51-40-560 | Power and Pumping | 5,727 | 10,000 | 5,723 | 10,000 |
| 51-40-610 | h2o Tank Inspection/Maint | 10,462 | .00 | .00 | 10,000 |
| 51-40-649 | Lease Interest/Taxes | 2,855 | 5,047 | 4,662 | 3,822 |
| 51-40-650 | Lease Payments | .00 | 72,206 | 73,464 | 56,797 |
| 51-40-657 | PRV Replace @ Panarama | .00 | 207,924 | 266,602 | .00 |
| 51-40-667 | Radio Read Maintenance | 37,481 | 25,000 | 12,680 | 44,000 |
| 51-40-680 | Charge for Services - G/F | 268,668 | 270,256 | 270,256 | 270,256 |
| 51-40-705 | 42nd Reconnect - WBWCD | .00 | 13,314 | .00 | .00 |
| 51-40-706 | Service line disconnect/recon | .00 | 50,000 | .00 | .00 |
| 51-40-707 | PRV Scada instal - 40th & 900E | .00 | 50,000 | .00 | .00 |
| 51-40-708 | Oak Dr. 875 E - 785 E | .00 | 588,363 | 588,357 | .00 |
| 51-40-709 | Ben Lomond & Sunset | .00 | 343,480 | .00 | 1,120,000 |
| 51-40-710 | 40th & Chimes - FY 2023 | .00 | 28,658 | 13,854- | .00 |

| Account Number | Account Title | 2021-22 Prior year Actual | 2022-23 Current year Budget | 2022-23 Current year Actual | 2023-24 Future year Budget |
|-------------------------------|---------------------------|---------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| 51-40-711 | Brier Point Loop | .00 | 364,000 | 331,002 | 1,120,000 |
| 51-40-712 | 38th Grant & Kiesel Loop | .00 | 103,890 | 115,132 | 346,610 |
| 51-40-749 | Small Equipment | 183 | 4,108 | 664 | 8,108 |
| 51-40-750 | Capital Outlay | .00 | .00 | 9,418 | .00 |
| 51-40-770 | Water Impact Fee Projects | .00 | 120,300 | 24,447 | 44,500 |
| 51-40-790 | Transfer to General Fund | 57,668 | 60,551 | 30,276 | 60,551 |
| 51-40-970 | Depreciation | 276,796 | 194,000 | 193,992 | 194,000 |
| 51-40-980 | Contingency | 22,992 | .00 | .00 | 501,063 |
| Total EXPENDITURES: | | 1,593,971 | 3,559,655 | 2,743,141 | 4,881,651 |
| Total Expenditure: | | 1,593,971 | 3,559,655 | 2,743,141 | 4,881,651 |
| WATER FUND Revenue Total: | | 2,279,539 | 3,559,655 | 2,099,852 | 4,881,651 |
| WATER FUND Expenditure Total: | | 1,593,971 | 3,559,655 | 2,743,141 | 4,881,651 |
| Net Total WATER FUND: | | 685,568 | .00 | 643,289- | .00 |

| Account Number | Account Title | 2021-22 Prior year Actual | 2022-23 Current year Budget | 2022-23 Current year Actual | 2023-24 Future year Budget |
|-----------------------------------|--------------------------------|---------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| SANITARY SEWER | | | | | |
| REVENUE | | | | | |
| 52-30-100 | Interest Earned | 16,694 | 5,100 | 83,130 | 30,000 |
| 52-30-200 | Sewer Sales | 2,245,141 | 2,307,973 | 2,242,823 | 2,307,973 |
| 52-30-250 | Connection Fees Sewer | 2,400 | 300 | 7,400 | 2,000 |
| 52-30-880 | Transfer In - City Center CRA | 112,547 | .00 | .00 | 112,548 |
| 52-30-890 | Appropriation of Fund Balance | .00 | 524,355 | .00 | 647,782 |
| 52-30-925 | Misc. Revenue | 6,000 | 66,652 | 6,000 | 66,652 |
| Total REVENUE: | | 2,382,782 | 2,904,380 | 2,339,353 | 3,166,955 |
| Total Revenue: | | 2,382,782 | 2,904,380 | 2,339,353 | 3,166,955 |
| EXPENDITURES | | | | | |
| 52-40-110 | Salaries and Wages | 223,643 | 253,857 | 237,943 | 279,932 |
| 52-40-112 | Overtime | 4,989 | 13,953 | 13,779 | 15,363 |
| 52-40-130 | Employee Benefits | 54,184 | 160,867 | 144,641 | 147,990 |
| 52-40-140 | Franchise Fee | 133,847 | 138,478 | 134,222 | 138,478 |
| 52-40-210 | Memberships | 363 | 742 | 1,025 | 742 |
| 52-40-230 | Traveling & Training | 2,915 | 5,299 | 4,787 | 7,299 |
| 52-40-240 | Office Supplies | 1,060 | 3,839 | 782 | 4,239 |
| 52-40-245 | Clothing/Uniform/Equip. Allow. | 2,679 | 5,088 | 2,098 | 5,088 |
| 52-40-248 | Vehicle Maintenance | 4,152 | 5,299 | 2,971 | 5,299 |
| 52-40-280 | Telephone | 3,103 | 4,239 | 1,592 | 5,679 |
| 52-40-290 | Building Maintenance | 1,049 | 5,299 | .00 | 5,299 |
| 52-40-300 | Gas | 4,818 | 4,398 | 2,412 | 4,398 |
| 52-40-310 | Professional & Technical | 20,027 | 18,399 | 10,514 | 10,599 |
| 52-40-311 | Bad Debts Expense | 1,107 | .00 | .00 | .00 |
| 52-40-315 | Sewer Lines Cleaning Service | 22,730 | 50,000 | 54,210 | 50,000 |
| 52-40-320 | Blue Stake Service | .00 | 848 | .00 | 848 |
| 52-40-325 | GIS - Service & Equipment | .00 | .00 | .00 | 6,000 |
| 52-40-400 | Transfer to General Fund | 11,043 | 11,595 | 5,798 | 11,595 |
| 52-40-480 | Maintenance Supplies | 3,209 | 16,004 | 4,356 | 16,004 |
| 52-40-550 | Central Weber Sewer Pre-Trea | 12,748 | 13,249 | 13,249 | 13,249 |
| 52-40-610 | Central Weber Sewer Fees | 1,073,580 | 1,171,792 | 1,171,792 | 1,265,536 |
| 52-40-650 | Manhole Replacement | 777 | 12,600 | 4,570 | 45,200 |
| 52-40-665 | Video & Fix Trouble Spots | 3,151 | 25,000 | 13,831 | 25,000 |
| 52-40-680 | Charge for Services - G/F | 230,820 | 261,388 | 261,388 | 261,388 |
| 52-40-700 | Small Equipment | .00 | 5,299 | 1,074 | 5,299 |
| 52-40-704 | Lining 40th to Country Club | .00 | 246,731 | .00 | 246,731 |
| 52-40-705 | Replace 700 E/H Guy Child | .00 | 342,117 | 2,274 | 461,700 |
| 52-40-750 | Capital Outlay | .00 | .00 | 300- | .00 |
| 52-40-970 | Depreciation | 120,058 | 128,000 | 127,992 | 128,000 |
| Total EXPENDITURES: | | 1,936,050 | 2,904,380 | 2,216,997 | 3,166,955 |
| Total Expenditure: | | 1,936,050 | 2,904,380 | 2,216,997 | 3,166,955 |
| SANITARY SEWER Revenue Total: | | 2,382,782 | 2,904,380 | 2,339,353 | 3,166,955 |
| SANITARY SEWER Expenditure Total: | | 1,936,050 | 2,904,380 | 2,216,997 | 3,166,955 |
| Net Total SANITARY SEWER: | | 446,732 | .00 | 122,356 | .00 |

| Account Number | Account Title | 2021-22 Prior year Actual | 2022-23 Current year Budget | 2022-23 Current year Actual | 2023-24 Future year Budget |
|-------------------------------------|--------------------------------|---------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| STORM DRAIN FUND | | | | | |
| REVENUE | | | | | |
| 53-30-100 | Interest | 9,555 | 4,100 | 63,578 | 20,500 |
| 53-30-105 | Interest Earned I/Fees | 362 | 400 | 5,889 | 2,200 |
| 53-30-200 | Storm Drain Revenue | 1,263,010 | 1,258,675 | 1,258,520 | 1,258,675 |
| 53-30-220 | Storm Drain Impact Fees | 118,671 | 71,000 | 213,599 | 70,000 |
| 53-30-850 | Sale of Fixed Assets | 54,781 | .00 | .00 | .00 |
| 53-30-880 | Transfer In - City Center CRA | 122,847 | .00 | .00 | 122,848 |
| 53-30-890 | Appropriation of Fund Balance | .00 | 719,353 | .00 | 828,873 |
| 53-30-925 | Misc. Revenue | 2,002 | .00 | 48 | .00 |
| Total REVENUE: | | 1,571,228 | 2,053,528 | 1,541,634 | 2,303,096 |
| Total Revenue: | | 1,571,228 | 2,053,528 | 1,541,634 | 2,303,096 |
| EXPENDITURES | | | | | |
| 53-40-110 | Salaries and Wages | 279,805 | 312,464 | 282,649 | 340,890 |
| 53-40-112 | Overtime | 15,507 | 12,279 | 14,978 | 13,519 |
| 53-40-120 | Temporary Employees | .00 | .00 | 288 | .00 |
| 53-40-130 | Employee Benefits | 91,352 | 161,383 | 146,934 | 150,692 |
| 53-40-140 | Franchise Fee | 74,824 | 75,520 | 74,506 | 75,520 |
| 53-40-210 | BOOKS,SUBSCRIPT. & MEMBERSHIP | 2,813 | 4,239 | 5,434 | 6,000 |
| 53-40-230 | Travel & Training | .00 | 5,830 | 6,575 | 7,830 |
| 53-40-240 | Office Supplies | 959 | 1,590 | 605 | 1,590 |
| 53-40-245 | Clothing/Uniform/Equip. Allow. | 3,449 | 6,359 | 1,862 | 6,359 |
| 53-40-248 | Vehicle Maintenance | 11,491 | 9,359 | 8,684 | 6,359 |
| 53-40-280 | Telephone | 570 | 2,650 | 1,087 | 3,610 |
| 53-40-290 | Building Maintenance | 2,498 | 8,479 | .00 | 8,479 |
| 53-40-300 | Gas | 9,490 | 7,728 | 8,635 | 6,228 |
| 53-40-310 | Prof & Tech Services | 31,406 | 26,043 | 4,509 | 26,043 |
| 53-40-311 | Bad Debts Expense | 1,283 | .00 | .00 | .00 |
| 53-40-320 | Blue Stake Service | .00 | 742 | .00 | 742 |
| 53-40-325 | GIS - Service & Equipment | .00 | .00 | .00 | 6,000 |
| 53-40-400 | System Maintenance Program | 30,020 | 40,000 | 34,706 | 40,000 |
| 53-40-480 | Special Department Supplies | 6,749 | 6,359 | 3,365 | 6,359 |
| 53-40-649 | Lease Interest/Taxes | 2,013 | 2,360 | 2,358 | 1,655 |
| 53-40-650 | Lease Payments | .00 | 47,130 | 47,129 | 22,011 |
| 53-40-655 | Transfer to Water Fund | .00 | 23,835 | .00 | 8,521 |
| 53-40-660 | 42ns St - Liberty to Adams | .00 | 903,190 | .00 | .00 |
| 53-40-670 | Transfer to General Fund | 15,950 | 16,748 | 8,374 | 16,748 |
| 53-40-680 | Charge for Services - G/F | 188,100 | 202,251 | 202,251 | 202,251 |
| 53-40-700 | Small Equipment | .00 | 1,590 | 873 | 1,590 |
| 53-40-701 | Burch Creek Hollow Rel-line | .00 | .00 | .00 | 90,000 |
| 53-40-702 | Replace 42nd St / Lib & Adams | .00 | .00 | .00 | 779,100 |
| 53-40-703 | Replace 40th / Wash & Burch Cr | .00 | .00 | .00 | 298,800 |
| 53-40-970 | Depreciation | 105,280 | 104,000 | 103,992 | 104,000 |
| 53-40-980 | Contingency | 1,470 | .00 | .00 | .00 |
| 53-40-981 | Impact Fee Projects | 26,060 | 71,400 | .00 | 72,200 |
| Total EXPENDITURES: | | 901,088 | 2,053,528 | 959,795 | 2,303,096 |
| Total Expenditure: | | 901,088 | 2,053,528 | 959,795 | 2,303,096 |
| STORM DRAIN FUND Revenue Total: | | 1,571,228 | 2,053,528 | 1,541,634 | 2,303,096 |
| STORM DRAIN FUND Expenditure Total: | | 901,088 | 2,053,528 | 959,795 | 2,303,096 |

| Account Number | Account Title | 2021-22 | 2022-23 | 2022-23 | 2023-24 |
|----------------|-----------------------------|----------------------|------------------------|------------------------|-----------------------|
| | | Prior year Actual | Current year Budget | Current year Actual | Future year Budget |
| | | | | | |
| | Net Total STORM DRAIN FUND: | 670,140 | .00 | 581,839 | .00 |

| Account Number | Account Title | 2021-22 Prior year Actual | 2022-23 Current year Budget | 2022-23 Current year Actual | 2023-24 Future year Budget |
|---------------------------------|--------------------------------|---------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| GARBAGE FUND | | | | | |
| REVENUE | | | | | |
| 54-30-100 | Interest Earned | 1,554 | 750 | 8,955 | 3,500 |
| 54-30-200 | Garbage Fees | 769,874 | 772,526 | 805,082 | 772,526 |
| 54-30-205 | Recycling Fees | 233,438 | 240,383 | 242,182 | 240,383 |
| 54-30-850 | Misc. Rental | 2,045 | 1,400 | 1,395 | 1,000 |
| 54-30-885 | Lease Financing | .00 | 28,000 | .00 | .00 |
| 54-30-890 | Appropriate Fund Balance | .00 | 43,125 | .00 | 72,071 |
| 54-30-925 | Misc. Revenue | .00 | .00 | 100 | .00 |
| Total REVENUE: | | 1,006,910 | 1,086,184 | 1,057,715 | 1,089,480 |
| Total Revenue: | | 1,006,910 | 1,086,184 | 1,057,715 | 1,089,480 |
| EXPENDITURES | | | | | |
| 54-40-140 | Franchise Fee | 60,199 | 60,775 | 62,836 | 60,775 |
| 54-40-240 | Office Spplies | 939 | 2,650 | 591 | 2,650 |
| 54-40-248 | Vehicle Maintenance | 5,162 | 7,680 | 2,205 | 3,180 |
| 54-40-280 | Telephone | .00 | 1,590 | .00 | 1,590 |
| 54-40-290 | Building Maintenance | 1,049 | 5,299 | .00 | 5,299 |
| 54-40-300 | Gas | 4,288 | 4,026 | 3,681 | 2,526 |
| 54-40-310 | Prof & Teach Services | 482 | 1,060 | 208 | 1,060 |
| 54-40-311 | Bad Debts Expense | 1,252 | .00 | .00 | .00 |
| 54-40-420 | Republic Services - Contract | 520,226 | 520,628 | 519,093 | 541,454 |
| 54-40-425 | Recycled Earth Contract | 32,208 | 36,981 | 10,716 | 36,981 |
| 54-40-430 | Tipping Fees | 236,324 | 235,290 | 230,304 | 251,761 |
| 54-40-440 | Additional Cleanups | 13,374 | 9,843 | 9,365 | 7,843 |
| 54-40-450 | Construction Materials Tipping | 1,489 | 4,359 | 299 | 6,359 |
| 54-40-520 | Tree Removal | 13,930 | 15,898 | .00 | 15,898 |
| 54-40-615 | Junk Ordinance Enforcement | 125- | 7,950 | .00 | 7,950 |
| 54-40-649 | Lease Interest/Taxes | 1,569 | 1,979 | 1,596 | 1,207 |
| 54-40-650 | Lease Payments | .00 | 21,274 | 21,655 | 22,045 |
| 54-40-680 | Charge for Services - G/F | 97,704 | 109,902 | 109,902 | 109,902 |
| 54-40-750 | Capital Outlay | .00 | 28,000 | 19,512 | .00 |
| 54-40-970 | Depreciation | 16,424 | 11,000 | 11,004 | 11,000 |
| Total EXPENDITURES: | | 1,006,494 | 1,086,184 | 1,002,966 | 1,089,480 |
| Total Expenditure: | | 1,006,494 | 1,086,184 | 1,002,966 | 1,089,480 |
| GARBAGE FUND Revenue Total: | | 1,006,910 | 1,086,184 | 1,057,715 | 1,089,480 |
| GARBAGE FUND Expenditure Total: | | 1,006,494 | 1,086,184 | 1,002,966 | 1,089,480 |
| Net Total GARBAGE FUND: | | 417 | .00 | 54,749 | .00 |

| Account Number | Account Title | 2021-22 Prior year Actual | 2022-23 Current year Budget | 2022-23 Current year Actual | 2023-24 Future year Budget |
|--|-----------------------|---------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| ROAD IMPROVEMENT FEE FUND | | | | | |
| REVENUE | | | | | |
| 55-30-200 | Road Improvement Fees | 591,001 | 569,360 | 602,821 | 569,360 |
| Total REVENUE: | | 591,001 | 569,360 | 602,821 | 569,360 |
| Total Revenue: | | 591,001 | 569,360 | 602,821 | 569,360 |
| EXPENDITURES | | | | | |
| 55-40-311 | Bad Debt Expense | 142- | .00 | .00 | .00 |
| 55-40-550 | Transfer RIF to CPF | 586,071 | 569,360 | 605,948 | 569,360 |
| Total EXPENDITURES: | | 585,929 | 569,360 | 605,948 | 569,360 |
| Total Expenditure: | | 585,929 | 569,360 | 605,948 | 569,360 |
| ROAD IMPROVEMENT FEE FUND Revenue Total: | | 591,001 | 569,360 | 602,821 | 569,360 |
| ROAD IMPROVEMENT FEE FUND Expenditure Total: | | 585,929 | 569,360 | 605,948 | 569,360 |
| Net Total ROAD IMPROVEMENT FEE FUND: | | 5,072 | .00 | 3,127- | .00 |

| Account Number | Account Title | 2021-22 Prior year Actual | 2022-23 Current year Budget | 2022-23 Current year Actual | 2023-24 Future year Budget |
|-----------------------------------|-----------------------------|---------------------------------|-----------------------------------|-----------------------------------|----------------------------------|
| AMBULANCE FUND | | | | | |
| REVENUE | | | | | |
| 58-30-100 | Interest Earned | 10 | 11 | 75 | 25 |
| 58-30-201 | Ambulance Fees - S/O - DPS | 1,162,644 | 810,528 | 957,946 | 902,304 |
| 58-30-210 | Miscellaneous Revenue | 18,015 | .00 | .00 | .00 |
| 58-30-850 | State/Local Grants | .00 | 7,000 | .00 | 7,000 |
| 58-30-925 | Sale of Fixed Assets | 10,450 | .00 | .00 | .00 |
| Total REVENUE: | | 1,191,118 | 817,539 | 958,021 | 909,329 |
| Total Revenue: | | 1,191,118 | 817,539 | 958,021 | 909,329 |
| EXPENDITURES | | | | | |
| 58-40-110 | Salaries and Wages | 143,085 | 167,076 | 154,502 | 185,517 |
| 58-40-111 | Part Time Wages | 20,669 | 24,106 | 18,643 | 26,541 |
| 58-40-112 | Overtime | 25,541 | 12,627 | 26,372 | 13,903 |
| 58-40-130 | Employee Benefits | 49,384 | 77,600 | 81,248 | 83,555 |
| 58-40-210 | Memberships | 595 | 2,184 | 2,184 | 552 |
| 58-40-230 | Travel & Training | 1,756 | .00 | .00 | 1,590 |
| 58-40-240 | Office Supplies | 251 | 692 | 692 | 796 |
| 58-40-245 | Uniform Allowance | 3,954 | 2,538 | 2,538 | 4,081 |
| 58-40-248 | Vehicle Maintenance | 9,445 | 18,539 | 16,191 | 9,539 |
| 58-40-250 | Equipment Maintenance | 4,571 | 6,159 | 6,159 | 6,890 |
| 58-40-270 | GoldCross Billing Fees | 50,741 | 48,000 | 41,868 | 49,627 |
| 58-40-280 | Telephone | 90 | 158 | 38 | 796 |
| 58-40-300 | Gas | 5,591 | 5,460 | 5,811 | 5,538 |
| 58-40-310 | Professional & Technical | 58,592 | 71,101 | 62,392 | 26,987 |
| 58-40-311 | SecurLyft Fees | .00 | .00 | 13,600 | 16,320 |
| 58-40-312 | PMA Fees | 88,201 | 102,053 | 88,085 | 85,000 |
| 58-40-315 | Bad Debts Expense | 309,959 | .00 | .00 | .00 |
| 58-40-320 | State Assessment Fee | .00 | .00 | .00 | 35,400 |
| 58-40-330 | EMS Education | 808 | 1,364 | 1,363 | 1,060 |
| 58-40-480 | Special Department Supplies | 2,012 | 3,601 | 3,561 | 3,281 |
| 58-40-490 | Disposable Medical Supplies | 30,875 | 28,497 | 27,205 | 28,616 |
| 58-40-680 | Charge for Services - G/F | 66,564 | 70,742 | 70,742 | 70,742 |
| 58-40-700 | Small Equipment | .00 | 449 | 449 | 4,371 |
| 58-40-750 | Capital Outlay | .00 | 2,098 | 2,098 | .00 |
| 58-40-970 | Depreciation | 32,629 | 28,000 | 27,996 | 28,000 |
| 58-40-980 | Retained Earnings | .00 | 144,495 | .00 | 220,627 |
| Total EXPENDITURES: | | 905,313 | 817,539 | 653,734 | 909,329 |
| Total Expenditure: | | 905,313 | 817,539 | 653,734 | 909,329 |
| AMBULANCE FUND Revenue Total: | | 1,191,118 | 817,539 | 958,021 | 909,329 |
| AMBULANCE FUND Expenditure Total: | | 905,313 | 817,539 | 653,734 | 909,329 |
| Net Total AMBULANCE FUND: | | 285,805 | .00 | 304,286 | .00 |
| Net Grand Totals: | | 4,171,337 | .00 | 2,915,986 | .00 |

STAFF REPORT



SUBJECT: Contract with TecServ
AUTHOR: Doug Gailey
DEPARTMENT: Administration
DATE: 08-15-2023

RECOMMENDATION

Approve the contract with TecServ

BACKGROUND

TecServ has been providing advanced technical support to south Ogden. We have a part time employee who does the day to day tasks that are required. TecServ handles the server maintenance and keeps South Ogden up to date against cyber attacks.

ANALYSIS

TecServ has done a great job with South Ogden, but the current contract with them has expired.

SIGNIFICANT IMPACTS

Monthly rate increase of \$260. The rate is increasing from \$3,770 to \$4,030 per month.

ATTACHMENTS

None

Resolution No. 23-32

RESOLUTION OF SOUTH OGDEN CITY APPROVING AN AGREEMENT WITH TECSERV INC. FOR COMPUTER NETWORK MAINTENANCE; AUTHORIZING THE CITY MANAGER TO SIGN THE NECESSARY DOCUMENTS ON BEHALF OF THE CITY TO GIVE EFFECT TO THE INTENT HEREOF; AND, PROVIDING FOR AN EFFECTIVE DATE.

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

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

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

WHEREAS, the City Council finds that TecServ Inc. has been providing professional network maintenance services for the City during the past two years; and,

WHEREAS, the City Council finds it that would like to continue using TecServ Inc. for network maintenance services; and,

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

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

SECTION 2 - CONTRACT AUTHORIZED

That The "TecServ Inc. Monthly Network Services Agreement" For Network Maintenance, Attached Hereto As **Attachment "A"** And By This Reference Fully Incorporated Herein, Is Hereby Approved And Adopted; And That The City Manager Is Authorized To More Fully Negotiate Any Remaining Details Under The Agreement On Behalf Of The City And Then To Sign, And The City Recorder Authorized To Attest, Any And All Documents Necessary To Effect This Authorization And Approval.

That the foregoing recitals are incorporated herein.

SECTION 3 - 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 4 - 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 5 - SAVINGS CLAUSE

If any provision of this Resolution shall be held or deemed or shall be invalid, inoperative or unenforceable such shall not render 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 6 - DATE OF EFFECT

This Resolution shall be effective on the 15th day of August, 2023, 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 August, 2023.**

SOUTH OGDEN CITY

Russell Porter
Mayor

ATTEST:

Leesa Kapetanov, CMC
City Recorder

ATTACHMENT "A"

Resolution No. 23-32

Resolution Of South Ogden City Approving An Agreement With Tecserv Inc. For
Computer Network Maintenance; Authorizing The City Manager To Sign The
Necessary Documents On Behalf Of The City To Give Effect To The Intent Hereof;
And, Providing For An Effective Date.

15 Aug 23

Monthly Network Services Agreement

This agreement dated 8/15/2023 is made by and between South Ogden City (Client) whose address is 3950 Adams Ave. Suite 1 South Ogden, UT 84403_ and TecServ, Inc (Consultant) whose corporate address is 358 Rio Grande St. Suite 150 Salt Lake City, Utah 84101

1. *Consultation Services.* Client hereby employs the Consultant to perform the following services in accordance with the terms and conditions set forth in this agreement. The Consultant will perform computer network maintenance activities for Client, and will consult with the offices and employees of Client concerning matters relating to the management of Client's computer network. The Scope of Work to be performed by Consultant is defined in Attachment A.
2. *Terms of Agreement.* This agreement will be in effect from July 1st 2023 to June 30, 2024.
3. *Time Devoted by Consultant.* The term of this contract is based upon Consultant committing to perform activities to maintain Client computer network and handle computer network emergencies. Consultant will spend 6 hours every week of consulting services on Client's behalf for computer network maintenance activities.
4. *Schedule.* The work performed by Consultant will be for on-site services at Client's facilities and may occasionally include remote connectivity to Client's network. Remote hours will be TBD. Schedule may be altered with mutual agreement from both parties.
5. *Additional Time.* Consultant will respond to Client emergencies and spend sufficient time to resolve such emergencies. Emergencies are defined as computer network issues that directly prevent the operation of business by Client. Computer network issues that do not prevent business operations shall be handled during the on-site maintenance service schedule. If Client requests maintenance services outside the maintenance schedule, and these services are not emergencies, Consultant will bill Client for these hours at the standard client rate. This includes computer network projects that cannot be completed within the regularly scheduled time.
6. *Payment to Consultant.* The amount paid to Consultant for this contract shall be \$4030.00 per month. Consultant will invoice Client the first of each month. Payment is due upon receipt of invoice and no later than the last day of the month in which the client received the invoice. The first invoice under this contract will be generated July 1, 2023.

Additional project work is not covered within this scheduled maintenance contract. This additional time will be billed at \$175 per hour. Product purchases are not considered part of monthly contracts or other consulting services. Terms on Product Sales are considered "due upon receipt".
7. *Independent Consultant.* Both Client and the Consultant agree that the Consultant will act as an independent agency in the performance of its duties under this contract. Accordingly, the Consultant shall be responsible for payment of all taxes including Federal, State and local taxes arising out of the Consultants activities in accordance with this contract, including by way of illustration but not limitation, Federal and State income tax, Social Security tax, Unemployment.
8. *Confidential Information.* The Consultant agrees that any information received by the Consultant during this contract, which concerns the personal, financial or other affairs of Client and its agents and employees will be treated by the Consultant in full confidence and will not be revealed to any other persons, firms or organizations.
9. *Employment of Others.* Client may from time to time request that the Consultant arrange for the services of others outside of the employ of TecServ. All costs to the Consultant for those services will be paid by Client, but in no event shall the Consultant employ others without the prior authorization of Client.

10. *Non-Solicitation of Employees.* Client agrees that it will not solicit TecServ's employees to seek full or part time employment or other contractual arrangement with its company during the term of this Agreement or for twelve (12) months after the last invoice date from TecServ to Client. Client agrees that TecServ employees are not "contract for hire". Client shall not attempt to engage, contract or hire TecServ employees independently of this Agreement without prior written consent from TecServ.

Client may be released from such restriction under the following terms and with written approval from TecServ:

- The payment of 50,000.00 to TecServ for each employee hired by Client, and
- Each TecServ employee hired by Client has performed services for Client under this Agreement for twelve (12) consecutive months or more.

_____Initial of Client demonstrating that Client understands and fully accepts the Non-Solicitation Covenant and terms and agrees to such terms should Client seek to hire or directly contract TecServ employees.

11. *Liability.* With regard to the services to be performed by the Consultant pursuant to the terms of this agreement, the Consultant shall not be liable to Client, or to anyone who may claim any right due to any relationship with the Corporation, for any acts or omissions in the performance of services on the part of the Consultant or on the part of the agents or employees of the Consultant, except when said acts of omissions of the Consultant are due to willful misconduct or negligence. Client shall hold the Consultant free and harmless from any obligations, costs, claims, judgments, attorneys' fees, and Client pursuant to the terms of this agreement or in any way connected with the rendering of services, except when the same shall arise due to the willful misconduct or negligence of the Consultant and the Consultant is adjudged to be guilty of willful misconduct or negligence by a court of competent jurisdiction.
12. *Venue.* This agreement and its performances there under shall be governed by the laws of the state of Utah. In the event that litigation results from or arises out of this Agreement or the performance thereof, the parties agree to reimburse the prevailing party's reasonable attorney's fees, court costs, and all other expenses, whether or not taxable by the court as costs, in addition to any other relief to which the prevailing party may be entitled.
13. *Hardware and Software.* Under the terms of this agreement all hardware and software must be purchased through TecServ, Inc. TechServ, Inc. may not charge markups for software purchased through them.

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement.

TecServ, Inc.

Client

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attachment A
Scope of Work

Program Definition:

- 6 hours onsite maintenance every week for applying software patches, checking backups, updating virus definitions, and troubleshooting problems.
- Remote monitoring of servers and routers 24 hours a day, 7 days a week.
- Guaranteed response time of thirty minutes for remote work.
- Access to TecServ's extensive knowledge base and technical staff.

Additional projects and emergency work beyond the allotted hours will be billed at a discounted rate of \$175 per hour with a one hour minimum for onsite work. Emergency work performed between 6:00 PM and 7:00 AM weekdays or anytime on weekends will be billed at \$262.50 an hour. After hours help desk support is available 24 hours a day, 7 days a week.

STAFF REPORT



SUBJECT: Resolutions 23-33 and 23-34
AUTHOR: Leesa Kapetanov
DEPARTMENT: Administration
DATE: August 15, 2023

RECOMMENDATION

Staff recommends approval of both Resolution 23-33 and Resolution 23-34

BACKGROUND

The city has been using the same company for over 15 years for both the printing and mailing of our utility bills as well as the daily pick-up and mailing of all out-going city mail. The company had always been reliable and timely, and the City had no problems-until the past year. During the past year, time sensitive mail was often not sent the day it was picked up by the company, but was post-marked days and sometimes weeks after it should have been mailed. Then utility bills started being held up. The City has tried to work with the company by explaining the need of mail and billings to be sent in a timely manner, but the company has failed to correct the problems.

ANALYSIS

Many of the notices the City sends out are time sensitive, i.e. notices for public hearings or ordinance violation notices that need to be responded to by a certain date. We need to be able to rely on the mail getting to the post office when it needs to. We also need to know that the utility bills will get out in timely manner. Because that reliability no longer exists with our current vendor, we looked into other alternatives.

Jeannine Teel, our treasurer, had worked with The Data Center for utility billing printing and mailing in the city she previously worked in, and knew they were reliable. She contacted several vendors, but The Data Center stood out as the most efficient and best priced. They also gave us a great quote on the printing of our newsletter- they will print it in color for the same price we are getting it printed in black and white!

As for everyday mail, staff looked at several options. The best option seemed to be to lease a mail metering machine which will print postage on an envelope as well as seal it. Quadient has a state contract the City can "piggyback" off of, so we will be getting the best pricing possible. We will also be signing a funding agreement so we can have an account from which the price of postage will be withdrawn.

SIGNIFICANT IMPACTS

The City will save over \$5,000 a year in printing and mailing costs for utility bills, plus get a color newsletter for no more than we are paying for a black and white version now!

For daily mailing costs, it is hard to measure. We will get a lower postage rate than the standard, but staff will also be spending a little extra time metering the mail themselves; however, the increased level of service to our residents and peace of mind that the mail got sent out in time will more than make up for it.

ATTACHMENTS

Resolution No. 23-33

**RESOLUTION OF SOUTH OGDEN CITY APPROVING AN AGREEMENT
WITH THE DATA CENTER INC. FOR UTILITY BILL AND NEWSLETTER
PRINTING AND MAILING AND NEWSLETTER PRINTING;
AUTHORIZING THE CITY MANAGER TO SIGN THE NECESSARY
DOCUMENTS ON BEHALF OF THE CITY TO GIVE EFFECT TO THE
INTENT HEREOF; AND, PROVIDING FOR AN EFFECTIVE DATE.**

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 utility billing needs of the City; and,

WHEREAS, the City Council finds that The Data Center has the necessary professional skills and equipment to provide utility bill printing and mailing services for the City; and,

WHEREAS, the City Council finds that The Data Center also has the necessary professional skills and equipment to provide newsletter printing services for the City; 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 2 - CONTRACT AUTHORIZED

That The "Agreement Between South Ogden City and The Data Center", Attached Hereto As **Attachment "A"** And By This Reference Fully Incorporated Herein, Is Hereby Approved And Adopted; And That The City Manager Is Authorized To More Fully Negotiate Any Remaining Details Under The Agreement On Behalf Of The City And Then To Sign, And The City Recorder Authorized To Attest, Any And All Documents Necessary To Effect This Authorization And Approval.

That the foregoing recitals are incorporated herein.

SECTION 3 - 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 4 - 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 5 - SAVINGS CLAUSE

If any provision of this Resolution shall be held or deemed or shall be invalid, inoperative or unenforceable such shall not render 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 6 - DATE OF EFFECT

This Resolution shall be effective on the 15th day of August, 2023, 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 August, 2023.**

SOUTH OGDEN CITY

Russell Porter
Mayor

ATTEST:

Leesa Kapetanov, CMC
City Recorder

ATTACHMENT "A"

Resolution No. 23-33

Resolution Of South Ogden City Approving An Agreement With The Data Center Inc. For Utility Bill And Newsletter Printing And Mailing And Newsletter Printing; Authorizing The City Manager To Sign The Necessary Documents On Behalf Of The City To Give Effect To The Intent Hereof; And, Providing For An Effective Date.

15 Aug 23

Agreement Between South Ogden City And The Data Center

This Agreement is entered into this _____ day of _____, 2023, between South Ogden City and The Data Center, a Utah corporation, with its principal place of business at 1827 South Fremont Drive, Salt Lake City, UT, 84104 ("Contractor"). City and Contractor may be referred to jointly as "the Parties."

AGREEMENT

1. **SCOPE OF SERVICES**

Contractor agrees to provide those services set out in Schedule A, including exhibits and attachments thereto.

2. **CONSIDERATION**

The City agrees to Contractor's Response to City Request for rates.

3. **EFFECTIVE DATE/TERM**

This Agreement shall be effective upon execution by both Parties and shall continue for a term of two (2) years from the date of execution ("Term"), with the City and Contractor reserving the right to renew the agreement for three consecutive two year terms by mutual consent of both parties.

4. **INDEPENDENT CONTRACTOR AND TAXES**

The relationship between customer and Contractor under this Agreement shall be that of an independent contractor status. Each party shall have the entire responsibility to discharge all of the obligations of an independent contractor under federal, state and local law, including but not limited to, those obligations relating to employee supervision, benefits and wages; taxes; unemployment compensation and insurance; social security; worker's compensation; disability pensions and tax withholdings, including the filing of all returns and reports and the payment of all taxes, assessments and contributions and other sums required of an independent contractor. Nothing contained in this Agreement shall be construed to create the relationship between City and Contractor of employer and employee, partners or joint venturers.

The Parties agree that Contractor's obligations under this Agreement are solely to the City. This Agreement shall not confer any rights to third Parties unless otherwise expressly provided for under this Agreement.

5. **AGENCY**

No agent, employee or servant of Contractor or City is or shall be deemed to be an employee, agent or servant of the other party. None of the benefits provided by each party to its employees including, but not limited to, workers' compensation insurance, health insurance and unemployment insurance, are available to the employees, agents, or servants of the other party. Contractor and City shall each be solely and entirely responsible for its acts and for the acts of its agents, employees, and servants during the performance of this Agreement. Contractor and City shall each make all commercially reasonable efforts to inform all persons with whom they are involved in connection with this Agreement to be aware that Contractor is an independent contractor.

6. **CITY'S REPRESENTATIVE**

City hereby appoints the City Treasurer as City's Representative to assist in the administrative management of this Agreement and to coordinate performance of the services to be provided by Contractor under this Agreement.

7. **CONTRACTOR REPRESENTATIVE**

Contractor shall designate an employee and make known to the City the name and title of this employee within its organization who is authorized to act as Contractor's representative in its performance of this Agreement. Contractor Representative shall have the responsibility of working with City to coordinate the performance of its obligations under this Agreement.

8. **STANDARD OF PERFORMANCE/PROFESSIONALISM**

Contractor acknowledges the standard of performance and professionalism required in the performance of its services under this Agreement. Contractor agrees to perform the services under this Agreement with the level of professionalism expected in its industry/profession in the community. Further, Contractor, while performing its obligations under this Agreement, will conduct itself in such a manner that will promote the best interests of the City. Contractor further agrees that it will not accept any fee or financial remuneration from any entity or person other than City for its performance under this Agreement.

9. **INDEMNIFICATION**

Contractor and city agree to indemnify, hold harmless, and defend either party, its officers, agents, and employees from and against any and all losses, damages, injuries, liabilities, and claims, including claims for personal injury, death, or damage to personal property or profits and liens of workmen and material men (suppliers), however allegedly caused, resulting directly or indirectly from, or arising out of, negligent acts or omissions by, its agents, representatives, officers, employees or subcontractors in the performance of this Agreement.

10. **GOVERNMENTAL IMMUNITY**

City is a Special City's of the State of Utah, subject to the Governmental Immunity Act of Utah (the "Act"), Utah Code Ann. §§ 63G-7-101 to -904 (2011). The Parties agree that City shall only be liable within the parameters of the Governmental Immunity Act. Nothing contained in this Agreement shall be construed in any way, to modify the limits of liability set forth in that Act or the basis for liability as established in the Act.

11. **NON-FUNDING CLAUSE.**

City intends to request the appropriation of funds to be paid for the services provided by Contractor under this Agreement. If funds are not available beyond December 31 of any effective fiscal year of this Agreement, the City's obligation for performance of this Agreement beyond that date shall be null and void. This Agreement shall create no obligation on the City as to succeeding fiscal years and shall terminate and become null and void on the last day of the fiscal year for which funds were budgeted and appropriated, except as to those portions of payments agreed upon for which funds were appropriated and budgeted. Said termination shall not be construed as a breach of this Agreement or any event of default under this Agreement and said termination shall be without penalty, whatsoever, and no right of action for damages or other relief shall accrue to the benefit of Contractor, its successors, or its assigns, as to this Agreement, or any portion thereof, which may terminate and become null and void.

If funds are not appropriated for a succeeding fiscal year to fund performance by City under this Agreement, City shall promptly notify Contractor of said non-funding and the termination of this Agreement, and in no event, later than 30 (thirty) days prior to the expiration of the fiscal year for which funds were appropriated.

12. **INSURANCE**

12.1 City represents that it is self-insured pursuant to the provisions of Utah Code Ann. § 63G-7-801 (2011).

12.2 Contractor shall, at its sole cost and expense, secure and maintain during the term of this Agreement, including all renewal or additional terms, the following minimum insurance coverage:

GENERAL INSURANCE REQUIREMENTS FOR ALL POLICIES

A. Any insurance coverage required herein that is written on a "claims made" form rather than on an "occurrence" form shall (i) provide full prior acts coverage or have a retroactive date effective before the date of this Agreement, and (ii) be maintained for a period of at least three (3) years following the end of the term of this Agreement or contain a comparable "extended discovery" clause. Evidence of current extended discovery coverage and the purchase options available upon policy termination shall be provided to the City.

B. All policies of insurance shall be issued by insurance companies licensed to do business in the State of Utah and either:

(i) Currently rated A- or better by A.M. Best Company; and

—OR—

(ii) Listed in the United States Treasury Department's current *Listing of Approved Sureties (Department Circular 570)*, as amended.

C. Contractor shall furnish certificates of insurance, acceptable to the City, verifying the foregoing matters concurrent with the execution hereof and thereafter as required.

D. In the event any work is subcontracted, the Contractor shall require its subcontractor, at no cost to the City, to secure and maintain all minimum insurance coverages required of the Contractor hereunder.

E. In the event that governmental immunity limits are subsequently altered by legislation or judicial opinion, Contractor shall provide a new certificate of insurance within thirty (30) days after being notified thereof in writing by the City, certifying coverage in compliance with the modified limits or, if no new limits are specified, in an amount acceptable to City.

F. All required certificates and policies shall provide that coverage thereunder shall not be canceled or modified without providing (30) days prior written notice to City in a manner approved by the South Ogden City Attorney.

G. In the event Contractor fails to maintain and keep in force any insurance policies as required herein, City shall have the right at its sole discretion to obtain such coverage and reduce payments to Contractor for the costs of said insurance.

REQUIRED INSURANCE POLICIES

Contractor agrees to secure and maintain the following required policies of insurance in accordance with the general insurance requirements set forth in the preceding subsection:

A. Workers' compensation and employer's liability insurance as required by the State of Utah unless a waiver of coverage is allowed and acquired pursuant to Utah law. This requirement includes contractors who are doing business as an individual and/or as a sole proprietor as well as corporations, limited liability companies, joint ventures and partnerships. In the event any work is subcontracted, Contractor shall require its subcontractor(s) similarly to provide workers' compensation insurance for all of the latter's employees, unless a waiver of coverage is allowed and acquired pursuant to Utah law.

B. Commercial general liability insurance, on an occurrence form, with City as an additional insured, in the minimum amount of \$500,000 per occurrence with a \$1,000,000 general policy aggregate and \$1,000,000 products completed operations policy aggregate. The policy shall protect City, Contractor, and any subcontractor from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from Contractor's operations under this Agreement, whether performed by Contractor itself, any subcontractor, or anyone directly or indirectly employed by either of them. Such insurance shall provide coverage for premises operations, acts of independent contractors, and completed operations.

C. Commercial automobile liability insurance that provides coverage for owned, hired, and non-owned automobiles, with City as an additional insured, in the minimum amount of \$1,000,000 per occurrence.

—OR IF THERE WILL NOT BE ANY VEHICLE OPERATIONS—

D. The Contractor shall not operate a vehicle in connection with any services rendered under this Agreement. Inasmuch as the Contractor agrees not to operate a vehicle in connection with services rendered under this Agreement, City shall not require the Contractor to provide commercial automobile liability insurance.

13. NO OFFICER OR EMPLOYEE INTEREST

It is understood and agreed that no officer or employee of City has or shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds resulting from the performance of this Agreement. No officer or employee of Contractor or any member of their families shall serve on any City board or committee or hold any such position which either by rule, practice, or action nominates, recommends, or supervises Contractor's operations, or authorizes funding or payments to Contractor.

14. PUBLIC FUNDS AND PUBLIC MONIES

14.1 Definitions: "Public funds" and "public monies" mean monies, funds, and accounts, regardless of the source from which they are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities, or any county, city, school City, political subdivision, or other public body. The terms also include monies, funds or accounts that have been transferred by any of the aforementioned public entities to a private contract provider for public programs or services. Said funds shall maintain the nature of "public funds" while in Contractor's possession.

14.2 Contractor's Obligation: Contractor, as recipient of "public funds" and "public monies" pursuant to this and other contracts related hereto, expressly understands that it, its officers, and employees are obligated to receive, keep safe, transfer, disburse and use these "public funds" and "public monies" as authorized by law and this Agreement for the provision of services to City. Contractor understands that it, its officers, and employees may be criminally liable under Utah Code Ann. § 76-8-402 (2011), for misuse of public funds or monies. Contractor expressly understands that City may monitor the expenditure of public funds by Contractor. Contractor expressly understands that City may withhold funds or require repayment of funds from Contractor for contract noncompliance, failure to comply with directives regarding the use of public funds, or for misuse of public funds or monies.

15. **TERMINATION**

15.1 **Termination for Default.** City may terminate this Agreement for an "Event of Default" as defined, upon written notice from City to Contractor.

15.2 **Termination by Contractor for Default.** Contractor may terminate this Agreement for an Event of Default upon written notice from Contractor to City.

15.3 **Event of Default.** As used in this Agreement, the term "Event of Default" means (a) a party fails to make any payment herein when the same becomes due and such failure continues for a period of 90 (ninety) days after written notice to the party failing to make such payment; (b) a party hereto fails to perform any of its material obligations and such failure continues for a period of 90 (ninety) days after written notice to such defaulting party; or (c) any material representation or warranty of a party contained in this Agreement proves to be untrue or incorrect in any material respect when made.

15.4 **Force Majeure.** Neither party shall be liable for any excess costs if the failure to perform arises from causes beyond the control and without the fault or negligence of that party, e.g., acts of God, fires, floods, strikes, or unusually severe weather. If such condition continues for a period in excess of 60 days, Contractor or City shall have the right to terminate this Agreement without liability or penalty effective upon written notice to the other party.

15.5 **No Limitation of Rights.** The rights and remedies of the Parties hereto are in addition to any other rights and remedies provided by law or under this Agreement. The Parties agree that the waiver of any breach of this Agreement by either party shall in no event constitute a waiver as to any future breach.

15.6 **Termination for Convenience.** City reserves the right to terminate this Agreement, in whole or in part, at any time during the Term or any Additional Terms whenever City determines, in its sole discretion that it is in the City interest to do so. If City elects to exercise this right, City shall provide written notice to Contractor at least 90 (ninety) days prior to the date of termination for convenience. Upon such termination, Contractor shall be paid for all services up to the date of termination. Contractor agrees that City termination for convenience will not be deemed a termination for default nor will it entitle Contractor to any rights or remedies provided by law or this Agreement for breach of contract by City or any other claim or cause of action.

16. **COMPLIANCE WITH LAWS**

Each party agrees to comply with all federal, state and local laws, rules and regulations in the performance of its duties and obligations under this Agreement. Any violation by Contractor of applicable law shall constitute an event of default under this Agreement and Contractor shall be liable for and hold City harmless and defend City from and against any and all liability arising out of or connected with the violation, to include all attorney fees and costs incurred by City as a result of the violation. Contractor is responsible, at its expense, to acquire, maintain and renew during the term of this Agreement, all necessary permits and licenses required for its lawful performance of its duties and obligations under this Agreement.

17. **NON-DISCRIMINATION**

Contractor and any agent of Contractor agree that they shall comply with all federal, state and county laws, rules and regulations governing discrimination and they shall not discriminate in the engagement or employment of any professional person or any other person qualified to perform the services required under this Agreement.

18. **ANTI-BOYCOTT ISRAEL**

In accordance with Utah Statute 63G-27-101, Contractor certifies that it is not currently engaged in a boycott of the State of Israel and agrees not to engage in a boycott of the State of Israel for the duration of the contract.

19. **LABOR REGULATIONS AND REQUIREMENTS**

Contractor agrees to comply with all applicable provisions of Title 34 of the Utah Code, and with all applicable federal, state and local labor laws. Contractor shall indemnify and hold City harmless from and against any and all claims for liability arising out of any violation of this paragraph or the laws referenced by Contractor, its agents or employees.

20. **EMPLOYEE STATUS VERIFICATION SYSTEM**

If this Agreement was the result of a Request for Proposals by City, Contractor shall register and participate in the Status Verification System before entering into a contract with City as required by Utah Code Ann. § 63G-12-302 (2011). The Status Verification System is an electronic system operated by the federal government, through which an authorized official of a state agency or a political subdivision of the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. § 1373 to verify the citizenship or immigration status of an individual within the jurisdiction of the agency or political subdivision. Contractor is individually responsible for verifying the employment status of only new employees who work under Contractor's supervision or direction and not those who work for another contractor or subcontractor, except each contractor or subcontractor who works under or for another contractor shall certify to the main contractor by affidavit that the contractor or subcontractor has verified, through the Status Verification System, the employment status of each new employee of the respective contractor or subcontractor. The contractor shall comply in all respects with the provisions of Utah Code Ann. § 63G-12-302. Contractor's failure to so comply may result in the immediate termination of its contract with the City.

21. **CONFIDENTIALITY**

Contractor shall hold all information provided to it by City for the purposes of its performance of this Agreement, whether provided in written or other form, in strict confidence, shall make no use thereof other than for the performance of the Agreement, and shall not release any of said information to any third party, any member of Contractor's firm who is not involved in the performance of services under the Agreement, or to any representative of the news media without prior written consent of City. Materials, information, data, reports, plans, analyses, budgets and similar documentation provided to or prepared by Contractor in performance of this Agreement shall also be held confidential by Contractor. City shall have the sole obligation or privilege of releasing such information as required by law.

22. **OWNERSHIP OF WORK PRODUCT**

All work performed by Contractor under this Agreement shall become the sole property of City. Ownership of the work shall apply regardless of the form of the work product including, but not limited to, writings, drawings, reports, any form of video or audio, etc. With the exception of software developed and/or proprietary to the contractor. Upon final payment by City to Contractor, Contractor shall deliver to City all work product applicable to the services provided under this Agreement including, but not limited to, work product in draft form.

23. **GOVERNMENT RECORDS ACCESS MANAGEMENT ACT**

Contractor acknowledges that City is a governmental entity subject to the Utah Government Records Access and Management Act ("GRAMA"), Utah Code Ann. §§ 63G-2-101 to -901. As a result, City is required to disclose certain information and materials to the public, upon request. Contractor agrees to timely refer all requests for documents, materials and data in its possession relating to this Agreement and its performance to the City's Representative for response by City.

Generally, any document submitted to City is considered a "public record" under GRAMA. Any person who provides to City a record that the person believes should be protected under subsection U.C.A. § 63G-2-305(1) or (2) shall provide both: (1) a written claim of business confidentiality and (2) a concise statement of reasons supporting the claim of business confidentiality. Generally, GRAMA only protects against the disclosure of trade secrets or commercial information that could reasonably be expected to result in unfair competitive injury.

24. **ASSIGNMENT**

Contractor shall not assign or transfer its duties of performance nor its rights to compensation under this Agreement, without the prior written approval of City. City reserves the right to assert any claim or defense it may have against Contractor and against any assignee or successor-in-interest of Contractor.

25. **SUBCONTRACTING**

Contractor agrees that it shall not subcontract to provide any of the services under this Agreement or execute performance of its obligations under this Agreement without prior express written consent of City.

26. **NOTICES**

All notices to be given under this Agreement shall be made in writing and shall be deemed given upon personal delivery, upon the next business day immediately following the day sent if sent by overnight express carrier, or upon the third business day following the day sent if sent postage prepaid by certified or registered mail, return receipt requested, to the Parties at the following addresses (or to such other address or addresses as shall be specified in any notice given):

CITY: South Ogden City
3950 Adams Avenue
South Ogden City, Utah 84403

CONTRACTOR: The Data Center/Mailing.com
Stacy Conologue
Senior Sales Executive
1827 South Fremont Drive
Salt Lake City, Utah 84104

27. **TIME**

The Parties stipulate that time is of the essence in the performance of this Agreement. The time set forth for performance in this Agreement shall be strictly followed and any default in performance according to the times required shall be a default of this Agreement and shall be just cause for immediate termination by City of this Agreement and pursuit of any remedy allowed by this Agreement and by law.

28. **ENTIRE AGREEMENT**

City and Contractor acknowledge and agree that this Agreement, along with Contractor's standard agreements regarding its banking services, including but not limited to the Master Services Agreement for Treasury Management services, Fee schedules and any other documented agreements to receive specific banking services (collectively, the "Contractor Agreements"), constitute the entire integrated understanding between City and Contractor, and that there are no other terms, conditions, representations or understanding, whether written or oral, concerning the rights and obligations of the Parties. The Parties agree that where the terms of this Agreement conflict with the terms of the Contractor Agreements, the terms of this Agreement shall prevail. This Agreement may not be enlarged, modified or altered, except in writing, signed by the Parties.

29. **GOVERNING LAW**

It is understood and agreed by the Parties hereto that this Agreement shall be governed by the laws of the State of Utah, both as to interpretation and performance. All actions, including but not limited to court proceedings, administrative proceedings, arbitration and mediation proceedings, shall be commenced, maintained, adjudicated and resolved within the jurisdiction of the State of Utah.

30. **COUNTERPARTS**

This Agreement may be executed in several counterparts and all so executed shall constitute one agreement binding on all the Parties, notwithstanding that each of the Parties are not signatory to the original or the same counterpart. Further, executed copies of this Agreement delivered by facsimile shall be deemed an original signed copy of this Agreement.

31. **INTERPRETATION**

The Agreement documents are complementary and what is called for by any one of them shall be as binding as if called for by all. In the event of any inconsistency between any of the provisions of the Agreement documents, the inconsistency shall be resolved by giving precedence in the following order:

- A. This Agreement;
- B. City Request for Rates (See Price Proposal- Attachment A);

City and Contractor agree that where possible, each provision of this Agreement shall be interpreted in such a manner as to be consistent and valid under applicable law; but if any provision of this Agreement shall be invalid, prohibited or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or prohibition, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

IN WITNESS WHEREOF, the Parties execute this Agreement the day and year recited above.

South Ogden City

By: _____

Title: _____

Date: _____

The Data Center/Mailing.com

By: _____

Title: _____

Date: _____

Schedule "A"

Description of work:

- *Programming to lay variable data fields with postal cleansing capability*
- *Forms design process*
- *Printing of variable data statements*
- *Folding, inserting, metering, bundle, try, sort and delivery to the U.S. Postal service*
- *Postal Presorting*
- *Production will be monitored and balanced to statement count and total dollars billed*
- *The Data Center will use City's pre-existing stock of pre-printed statements until completely used, after which The Data Center will use its common plain pre-perforated paper for printing*
- *The Data Center will use City's pre-existing stock of pre-printed envelopes until completely used, after which The Data Center will use its common outgoing #10 envelope*
- *When data files are received and proofs are signed off, statement will mail within 24 to 48 hours. Non deliverable mail will be returned to South Ogden City, Utah*
- *Postage billed as a pass through from USPS*
- *Pricing per City's Cost Proposal Summary page (Attachment A)*
- *Upfront deposit for postage due prior to distribution of first mailing, and actual postage is invoiced monthly with supporting spreadsheet*
- *Price increases for paper and envelopes could change quoted prices for statement package and postcards, and will be supported by documentation from subcontractor*

ATTACHMENT A



THE DATA CENTER
STATEMENT PRINTING · DIRECT MAIL · DIGITAL OUTPUT

May 17, 2023

South Ogden City

Jeannine Teel City Treasurer

Statement Pricing

Full color statement with data .09 each
single sided, with perf

#9 return envelope .03 each
single window

#10 envelope .035 each
double window

Mailing services .03
fold, insert, meter, sort, tray and deliver to the post office

Total cost .185 per statement

Postage 1st class presorted rate .471
.498

NO CHARGE FOR SET UP AND PROGRAMING

Please let me know if you have any questions.

Thank you,
Stacy

1827 South Fremont Drive | Salt Lake City, Utah 84104 | Tel: 801-978-1030 | Fax: 801-978-0501



THE DATA CENTER
STATEMENT PRINTING • DIRECT MAIL • DIGITAL OUTPUT

July 9th new postage rate

Postage \$2114.57 for 4102 statements

Newsletter cost

11 x 17 full color, glossy text .25 each

11 x 17 full color, 20# paper ~~.18~~ each .15

Resolution No. 23-34

RESOLUTION OF SOUTH OGDEN CITY AUTHORIZING A LEASE AGREEMENT WITH QUADIENT INC. FOR A MAIL METERING MACHINE AND THERMAL LABEL PRINTER, AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AND FINAL PASSAGE.

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

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

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

WHEREAS, the City Council finds that the City is authorized under state law to “piggyback” on State of Utah approved contracts, and execution of any required agreement between the city and the successful bidder in furtherance of these ends requires an authorized signature from the City; and,

WHEREAS, the City Council finds that Quadient Inc. has the necessary equipment to lease to the City to meet the City’s mailing needs; and,

WHEREAS, the City Council finds that City now desires to further these ends by authorizing an agreement with Quadient Inc.; 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 2 - CONTRACT AUTHORIZED

That The "Purchase Order-Lease and Postage Funding Enrollment” For The Mail Metering Machine and Thermal Printer Attached Here As **Attachment "A"** And By This Reference Fully Incorporated Herein, Is Hereby Approved And

Adopted; And That The City Manager Is Authorized To More Fully Negotiate Any Remaining Details Under The Agreement On Behalf Of The City And Then To Sign, And The City Recorder Authorized To Attest, Any And All Documents Necessary To Effect This Authorization And Approval.

That the foregoing recitals are incorporated herein.

SECTION 3 - 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 4 - 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 5 - SAVINGS CLAUSE

If any provision of this Resolution shall be held or deemed or shall be invalid, inoperative or unenforceable such shall not render 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 6 - DATE OF EFFECT

This Resolution shall be effective on the 15th day of August, 2023, 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 August, 2023.

SOUTH OGDEN CITY

Russell L. Porter
Mayor

ATTEST:

Leesa Kapetanov, MMC
City Recorder

ATTACHMENT "A"

Resolution No. 23-34

Resolution Of South Ogden City Authorizing A Lease Agreement With
Quadient Inc. For A Mail Metering Machine And Thermal Label Printer, And
Providing That This Resolution Shall Become Effective Immediately Upon
Posting And Final Passage.

15 Aug 23



Quadient Postage Funding Enrollment with Agreement

Receive a monthly Quadient Postage Funding invoice and pay on your regular accounting schedule.

- Refill your postage meter as often as you need
- Postage available immediately
- Never run short of postage
- One monthly statement, one monthly payment
- 24/7 online account management tools

Customer Information

| |
|-----------------|
| Company Name |
| Contact Name |
| Mailing Address |
| City, St., Zip |

Account Information

| |
|--|
| POC Account # |
| Quadient Postage Funding Plan |
| Quadient Postage Funding Account Limit |
| Quadient Postage Funding Total Limit |

☒ Yes, please enroll me in Quadient Postage Funding. I acknowledge that I have received, read and agree to all applicable terms and conditions of the Quadient Postage Funding Account Agreement on the following pages, and that I am authorized to sign the agreements on behalf of the customer identified above.

| | | |
|---------------------|-------|------|
| Signature | | Date |
| Name (Please Print) | Title | |
| Email Address | | |

☐ Notify me by email when my account is set up.

*Set up of your account may take up to three business days. To ensure continued access to postage, please make sure that sufficient funds are in your POC Account until your enrollment into Quadient Postage Funding takes effect. Please keep a copy of this Agreement for your records.

It's easy to enroll and get started.

Please submit this form via fax to 800.237.0692 or via email to us.pocadmin@quadient.com.

Quadient, Inc. | 478 Wheelers Farms Road | Milford, CT 06461



Quadient Postage Funding Account Agreement

- 1. Incorporation of Certain Terms.** This Agreement is by and between Quadient Finance USA, Inc. ("Quadient Finance") and the Customer identified on the Enrollment Form for this Quadient Postage Funding Account Agreement, and sets forth the terms and conditions that apply to a postage funding account as described herein ("Agreement").
- 2. Establishment and Activation of Account.** You hereby authorize Quadient Finance, to establish an account in Your name ("Account") for funding the purchase of postage from the United State Postal Service ("USPS") for use in the Postage Meter. Your Account may also be used to purchase supplies, pay for the Postage Meter rental, and obtain certain other products and services from Quadient, Inc. The establishment of Your Account shall be subject to Our approval of Your creditworthiness. Any use of the Account shall constitute Your acceptance of all the terms and conditions of this Account Agreement and all other documents executed or provided in connection with the Account. The Account may not be used for personal, family, or household purposes.
- 3. Operation of Account.** Each time an employee or agent of Yours with the express, implied, or apparent authority to do so (each an "Authorized User") uses the Account to receive a postage meter reset or obtain other products or services that Quadient, Inc. Inc. is authorized to provide, Quadient, Inc. Inc. will notify Us of the amount to be applied to Your Account balance. If the Account is used to obtain postage, then We will transfer the requested amount of postage to the USPS on Your behalf and Your Account will be charged for the amount of postage requested and any related fees, if applicable. You can continue to pre-pay the USPS for postage and understand that pre-paid postage funds will be used first to pay for my postage meter resets. You further understand that the Account will provide additional available postage funds when Your pre-paid account balance is zero (\$0). When You request a Postage Meter reset, if You have the funds on account with the USPS, those funds automatically will be withdrawn first to pay for postage, and any additional amounts due for postage and related fees will be billed through the Account under the terms and conditions of this Account Agreement. If the Account is used to acquire products or services that Quadient, Inc. is authorized to provide, then We shall pay the applicable amount to Quadient, Inc. Inc. and add such amount to Your Account balance.
- 4. Payment Terms.** You will receive a billing statement for each billing cycle in which You have any activity on Your Account. Payments are due on the due date shown on Your billing statement. You may pay the entire balance due or a portion of the balance, provided that You pay at least the minimum payment amount shown on Your statement. However, if You have exceeded the Account Limit, then You must pay the entire amount of any overage, as well as the minimum payment amount shown on Your statement. Whenever there is an unpaid balance outstanding on Your Account which is not paid in full by the due date shown on Your billing statement, We will charge You, and You agree to pay, interest on the unpaid balance of the Account for each day from the date the transaction is posted to Your Account until the date the unpaid balance is paid in full, at the Annual Percentage Rate (as defined below). The Account balance that is subject to a finance charge each day will include outstanding balances, minus any payments and credits received by Quadient Finance on Your Account that day. The Annual Percentage Rate applicable to Your Account will be equal to the lesser of eighteen percent (18.00%) per annum or the maximum permitted by law. Each payment will be applied to reduce the outstanding balance of Your Account and replenish the amount available to You. We may refuse to extend further credit if the amount of a requested charge plus Your existing balance exceeds Your Account Limit.
- 5. Account Limit and Account Fees.** You agree that We will establish a credit limit on Your Account (the "Account Limit"). The exact amount of the Account Limit will be indicated on Your invoice. We may, in Our sole discretion, allow Your balance to exceed the Account Limit. In the event We do so, You agree to pay Quadient Finance an additional fee equal to one percent (1%) of the amount by which the Account Limit is exceeded for each transaction that You initiate after Your Account has reached the Account Limit. Such amount will be charged to Your Account on the date that the relevant transaction(s) occurs. Unless prohibited by applicable law, You agree to pay the amounts set forth in this Account Agreement, which may include, without limitation, the amounts specified above, a fee for a late payment, a fee for any checks that are returned as a result of insufficient funds, a fee for any ACH direct debit transactions which are rejected, and an annual account fee. All such fees shall be added to Your Account balance.
- 6. Cancellation and Suspension.** We may at any time close or suspend Your Account or temporarily refuse to allow further charges to Your Account. You can cancel Your Account at any time by notifying Quadient Finance in writing at the address provided on Your Account statement of Your desire to do so. No cancellation or suspension will affect Your obligation to pay any amounts You then owe under this Account Agreement. We will notify You of the Account balance in the event of any termination and all outstanding obligations will survive the termination of this Account Agreement by either party.



- 7. Default.** We may declare You in default if You: (i) have made any misrepresentations to Quadient Finance; (ii) at any time, have done or allowed anything that indicates to Quadient Finance that You may be unable or unwilling to repay the balance of Your Account as required under this Account Agreement; or (iii) are in default under this Account Agreement or any lease, rental, or other agreement with Quadient Finance, Quadient, Inc., or their affiliates. If You are in default, or upon any cancellation of Your Account, We shall not be obligated to continue to provide the Account service or extend further credit under this Account Agreement. If We are required to take collection action or any other legal action under this Account Agreement, You shall pay upon demand by Quadient Finance all court and collection costs, along with reasonable attorney's fees. These remedies shall be cumulative and not exclusive, and shall be in addition to any and all other remedies available to Quadient Finance.
- 8. Remedies.** If We have declared that You are in default under this Account Agreement, then We may: (i) declare all agreements You have with Quadient Finance in default and due and payable at once without notice or demand; (ii) refuse to make further advances on Your behalf to reset Your Postage Meter; and (iii) exercise any other rights that We may have. In addition, You agree that any default under this Account Agreement shall constitute a default under any agreement You may have with any of Our affiliates, including, but not limited to, Quadient, Inc., Quadient Leasing USA, Inc..
- 9. Amendments.** We may amend this Account Agreement, or any of its provisions, including without limitation any fees and charges and/or the Annual Percentage Rate, at any time by at least thirty (30) days written notice to You, and such written notice may be included in Your billing statement. Any such amendment will become effective on the date stated in the notice and will apply to any transactions after such date, as well as to any outstanding balance on Your Account.
- 10. No ce:** Any notice required to be given under this Account Agreement by either party hereto shall be given if to You, at the address shown on Your Order Form, and if to Quadient Finance at 478 Wheelers Farms Road, Milford, CT 06461.
- 11. Miscellaneous.** You understand that We may obtain credit reports in connection with Your Account now and in the future. This Account Agreement shall be governed by and construed in accordance with the laws of the State of Utah, without reference to its conflict-of-laws rules, and any applicable federal laws. The sole jurisdiction and venue for actions related to the subject matter hereof shall be in a State or Federal Court within the State of Utah.

MAILING EQUIPMENT, SUPPLIES & MAINTENANCE

Led by the State of Arizona
State of Utah Contract #: AR3975

Master Agreement #: CTR058809

Contractor: **QUADIENT, INC.**

Participating Entity: **STATE OF UTAH**

Participating Entity Contract #: **AR3975**

The following products or services are included in this contract portfolio:

Contractor shall provide equipment, services, and maintenance support to meet the mailing needs of the customer per the limitations of their award. The applicable product range will include, but not be limited to, software license and subscriptions, ultra-low volume equipment through equipment used in mailing production environments, including postage meter rental, accessories, supplies, and maintenance. All equipment and services offered must meet the approval of the USPS® if applicable.

Participating Addendum Terms and Conditions:

1. Scope: This addendum covers mailing equipment, supplies and maintenance led by the State of Arizona for use by state agencies and other entities located in the State of Utah authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official. An amendment to this PA is not required when offerings are adjusted in the Master Agreement, so long as all additions remain within the master agreement's original scope.
2. Pricing: The pricing and rates from the Master Agreement shall flow down to this PA. An amendment to this PA is not required when pricing in the Master Agreement is adjusted / updated.
3. Contract Effective Dates: This PA is effective upon final signature of both parties, and expires upon the expiration or termination of the NASPO ValuePoint Master Agreement #CTR058809. A contract amendment is not necessary in the event of the renewal or extension of the Master Agreement, so long as such renewal/extension was originally provided within the solicitation supporting the master agreement.
4. Order of Precedence: The order of precedence as provided in the NASPO ValuePoint Master Agreement #CTR058809 applies to this PA.
5. Participation: This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of Utah. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
6. Subcontractors: All contactors, dealers, and resellers authorized in the State of Utah, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The

MAILING EQUIPMENT, SUPPLIES & MAINTENANCE

Led by the State of Arizona
State of Utah Contract #: AR3975

contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

7. Orders: Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.
8. The Order shall survive the termination of this Participating Addendum and the Master Agreement. Purchase Order Instructions: All orders should make reference to NASPO Contract # CTR058809 and also contain (2) Customer Name, Address, Contact, & Phone-Number.

Orders and payments should be made out to (a) Quadient, Inc. or (b) Quadient Leasing USA, Inc. (for Leased Equipment Only). All payments for postage will be payable to Quadient Finance USA, Inc. or the United State Postal Service (USPS) depending on the funding method chosen. Payments shall not be made to an AUTHORIZED reseller.

9. Software: Software subscription terms and software license terms and conditions shall be mutually agreed upon in writing by the purchasing entity and the Contractor.
10. Agreements: Equipment Lease, Purchase, Maintenance and Meter Rental Agreements are authorized in accordance with the terms of NASPO Master Price Agreement number: CTR058809 and its associated exhibits, attachments and addendums and attached herein. The termination or expiration of this Agreement shall in no way relieve either party from its obligations accrued hereunder prior to such termination or expiration or affect the limitation of liability including, but not limited to, any obligations pursuant to any Product Leases or Postage Meter Rental Agreements that were entered prior to the date of any such termination or expiration
11. ENTIRE AGREEMENT: This Participating Addendum and the Master Price Agreement number CTR058809 (administered by the State of Arizona) together with its exhibits, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Addendum and the Price Agreement, together with its exhibits, shall not be added to or incorporated into this Addendum or the Price Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Participating Addendum and the Price Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms within the Participating State/Entity.

MAILING EQUIPMENT, SUPPLIES & MAINTENANCE

Led by the State of Arizona
State of Utah Contract #: AR3975

12. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

| | |
|------------|--|
| Name: | Larry Waters |
| Address: | 478 Wheelers Farms Rd, Milford, CT 06461 |
| Telephone: | (281) 216-4596 |
| Email: | l.waters@quadiant.com |

Participating Entity

| | |
|------------|---------------------------------------|
| Name: | Cherilyn Hess |
| Address: | 4315 S 2700 W, Taylorsville, UT 84129 |
| Telephone: | (801) 957-7133 |
| Email: | chess@utah.gov |

13. Additional Terms and Conditions

The following terms and conditions will apply to this participating addendum.

ATTACHMENT A: STATE OF UTAH STANDARD TERMS AND CONDITIONS FOR GOODS AND SERVICES

Terms negotiated and agreed by both parties: 1(e), 1(n), 12, 14, 15, 18, 23, and 27

1. **DEFINITIONS**: The following terms shall have the meanings set forth below:
 - a) **"Confidential Information"** means information that is deemed as confidential under applicable state and federal laws, including personal information. The Eligible User reserves the right to identify, during and after this Contract, additional reasonable types of categories of information that must be kept confidential under federal and state laws.
 - b) **"Contract"** means the Contract Signature Page(s), including all referenced attachments and documents incorporated by reference. The term "Contract" shall include any purchase orders that result from this Contract.
 - c) **"Contract Signature Page(s)"** means the State of Utah cover page(s) that the Division and Contractor signed.
 - d) **"Contractor"** means the individual or entity delivering the Procurement Item identified in this Contract. The term "Contractor" shall include Contractor's agents, officers, employees, and partners.
 - e) **REMOVED.**
 - f) **"Division"** means the Division of Purchasing and General Services.
 - g) **"Eligible User(s)"** means those authorized to use State Cooperative Contracts and includes the State of Utah's government departments, institutions, agencies, political subdivisions (e.g., colleges, school districts, counties, cities, etc.), and, as applicable, nonprofit organizations, agencies of the federal government, or any other entity authorized by the laws of the State of Utah to participate in State Cooperative Contracts.
 - h) **"End User Agreement"** means any agreement that Eligible Users are required to sign in order to participate in this Contract, including an end user agreement, customer agreement, memorandum of understanding, statement of work, lease agreement, service level agreement, or any other named separate agreement.
 - i) **"Procurement Item"** means a supply, a service, Custom Deliverable, construction, or technology that Contractor is required to deliver to the Eligible User under this Contract.
 - j) **"Response"** means the Contractor's bid, proposals, quote, or any other document used by the Contractor to respond to the Solicitation.
 - k) **"Solicitation"** means an invitation for bids, request for proposals, notice of a sole source procurement, request for statement of qualifications, request for information, or any document used to obtain bids, proposals, pricing, qualifications, or information for the purpose of entering into this Contract.

MAILING EQUIPMENT, SUPPLIES & MAINTENANCE

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- l) **"State of Utah"** means the State of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities, instrumentalities, boards, commissions, elected or appointed officers, employees, agents, and authorized volunteers.
 - m) **"Subcontractors"** means a person under contract with a contractor or another subcontractor to provide services or labor for design or construction, including a trade contractor or specialty contractor.
 - n) **REMOVED**
2. **GOVERNING LAW AND VENUE:** This Contract shall be governed by the laws, rules, and regulations of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** At all times during this Contract, Contractor and all Procurement Items delivered and/or performed under this Contract will comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements. If this Contract is funded by federal funds, either in whole or in part, then any federal regulation related to the federal funding, including CFR Appendix II to Part 200, will supersede this Attachment A.
4. **RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made by Eligible Users to Contractor under this Contract. These records shall be retained by Contractor for at least six (6) years after final payment, or until all audits initiated within the six (6) years have been completed, whichever is later. Contractor agrees to allow, at no additional cost, State of Utah auditors, federal auditors, Eligible Users or any firm identified by the Division, access to all such records. Contractor must refund to the Division any overcharges brought to Contractor's attention by the Division or the Division's auditor and Contractor is not permitted to offset identified overcharges by alleged undercharges to Eligible Users.
5. **PERMITS:** If necessary Contractor shall procure and pay for all permits, licenses, and approvals necessary for the execution of this Contract.
6. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** The Status Verification System, also referred to as "E-verify", only applies to contracts issued through a Request for Proposal process, to sole sources that are included within a Request for Proposal, and when Contractor employs any personnel in Utah.
- a. Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 - b. Contractor shall require that each of its Subcontractors certify by affidavit, as to their own entity, under penalty of perjury, that each Subcontractor has registered and is participating in the Status Verification System to verify the work eligibility status of Subcontractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 - c. Contractor's failure to comply with this section will be considered a material breach of this Contract.
7. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the Division or the State of Utah, unless disclosure has been made to the Division.
8. **INDEPENDENT CONTRACTOR:** Contractor and Subcontractors, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the Division or the State of Utah.
9. **CONTRACTOR RESPONSIBILITY:** Contractor is solely responsible for fulfilling the contract, with responsibility for all Procurement Items delivered and/or performed as stated in this Contract. Contractor shall be the sole point of contact regarding all contractual matters. Contractor must incorporate Contractor's responsibilities under this Contract into every subcontract with its Subcontractors that will provide the Procurement Item(s) to the Eligible Users under this Contract. Moreover, Contractor is responsible for its Subcontractors compliance under this Contract.

MAILING EQUIPMENT, SUPPLIES & MAINTENANCE

Led by the State of Arizona

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10. **INDEMNITY:** Contractor shall be fully liable for the actions of its agents, employees, officers, partners, and Subcontractors, and shall fully indemnify, defend, and save harmless the Division, the Eligible Users and the State of Utah from all claims, losses, suits, actions, damages, and costs of every name and description arising out of Contractor's performance of this Contract to the extent caused by any intentional wrongful act or negligence of Contractor, its agents, employees, officers, partners, or Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the fault of an Eligible User. The parties agree that if there are any limitations of the Contractor's liability, including a limitation of liability clause for anyone for whom the Contractor is responsible, such limitations of liability will not apply to injuries to persons, including death, or to damages to property.
11. **EMPLOYMENT PRACTICES:** Contractor agrees to abide by the following federal and state employment laws, including: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90, which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order 2019-1, dated February 5, 2019, which prohibits unlawful harassment in the workplace. Contractor further agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind by any of Contractor's employees. Contractor agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind by any of Contractor's employees.
12. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, provided that the amendment is within the Scope of Work of this Contract and is within the scope/purpose of the original solicitation for which this Contract was derived. The amendment will be attached and made part of this Contract.
13. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, proposed for debarment, or declared ineligible by any governmental department or agency, whether international, national, state, or local. Contractor must notify the Division within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by any governmental entity during this Contract.
14. **TERMINATION:** This Contract may be terminated, with cause by either party, in advance of the specified expiration date, upon written notice given by the other party. The party in violation will be given ten (10) days after written notification to correct and cease the violations, after which this Contract may be terminated for cause immediately and subject to the remedies below. This Contract may also be terminated without cause (for convenience), in advance of the specified expiration date, by the Division, upon thirty (30) days written termination notice being given to the Contractor. The Division and the Contractor may terminate this Contract, in whole or in part, at any time, by mutual agreement in writing. The termination or expiration of this Agreement shall in no way relieve either party from its obligations accrued hereunder prior to such termination or expiration or affect the limitation of liability including, but not limited to, any obligations pursuant to any Product Leases or Postage Meter Rental Agreements that were entered prior to the date of any such termination or expiration.

On termination of this Contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved and conforming Procurement Items ordered prior to date of termination. In no event shall the Eligible Users be liable to the Contractor for compensation for any Procurement Item neither requested nor accepted by an Eligible User. In no event shall the Division's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the Eligible Users for any damages or claims arising under this Contract.

15. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** Upon thirty (30) days written notice delivered to the Contractor, a purchase order that results from this Contract may be terminated in whole or in part at the sole discretion of an Eligible User, if an Eligible User reasonably

MAILING EQUIPMENT, SUPPLIES & MAINTENANCE

Led by the State of Arizona

State of Utah Contract #: AR3975

determines that: (i) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (ii) that a change in available funds affects an Eligible User's ability to pay under this Contract. A change of available funds as used in this paragraph includes, but is not limited to a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor.

If a written notice is delivered under this section, an Eligible User will reimburse Contractor for the Procurement Item(s) properly ordered and/or properly performed until the effective date of said notice. An Eligible User will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice.

16. **SALES TAX EXEMPTION:** The Procurement Item(s) under this Contract will be paid for from an Eligible User's funds and used in the exercise of an Eligible Users essential functions. Upon request, an Eligible User will provide Contractor with its sales tax exemption number. It is Contractor's responsibility to request an Eligible User's sales tax exemption number. It also is Contractor's sole responsibility to ascertain whether any tax deduction or benefits apply to any aspect of this Contract.
17. **WARRANTY OF PROCUREMENT ITEM(S):** Contractor warrants, represents and conveys full ownership and clear title, free of all liens and encumbrances, to the Procurement Item(s) delivered to an Eligible User under this Contract. Contractor warrants for a period of one (1) year that: (i) the Procurement Item(s) perform according to all specific claims that Contractor made in its Response; (ii) the Procurement Item(s) are suitable for the ordinary purposes for which such Procurement Item(s) are used; (iii) the Procurement Item(s) are suitable for any special purposes identified in the Contractor's Response; (iv) the Procurement Item(s) are designed and manufactured in a commercially reasonable manner; (v) the Procurement Item(s) are manufactured and in all other respects create no harm to persons or property; and (vi) the Procurement Item(s) are free of defects. Unless otherwise specified, all Procurement Item(s) provided shall be new and unused of the latest model or design.

Remedies available to an Eligible User under this section include, but are not limited to, the following: Contractor will repair or replace Procurement Item(s) at no charge to the Eligible User within ten (10) days of any written notification informing Contractor of the Procurement Items not performing as required under this Contract. If the repaired and/or replaced Procurement Item(s) prove to be inadequate, or fail its essential purpose, Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies an Eligible User may otherwise have under this Contract.

18. **CONTRACTOR'S INSURANCE RESPONSIBILITY.** The Contractor shall maintain the following insurance coverage:
 - a. Workers' compensation insurance during the term of this Contract for all its employees and any Subcontractor employees related to this Contract. Workers' compensation insurance shall cover full liability under the workers' compensation laws of the jurisdiction in which the work is performed at the statutory limits required by said jurisdiction.
 - b. Commercial general liability [CGL] insurance from an insurance company authorized to do business in the State of Utah. The limits of the CGL insurance policy will be no less than one million dollars (\$1,000,000.00) per person per occurrence and two million dollars (\$2,000,000.00) aggregate.
 - c. Commercial automobile liability [CAL] insurance from an insurance company authorized to do business in the State of Utah. The CAL insurance policy must cover bodily injury and property damage liability and be applicable to all vehicles used in your performance of Services under this Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1 million per occurrence, combined single limit. The CAL insurance policy is required if Contractor will use a vehicle in the performance of this Contract.
 - d. Other insurance policies required in the Solicitation.

Certificate of Insurance, showing up-to-date coverage, shall be on file with the State before the Contract may commence.

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Failure to provide proof of insurance as required will be deemed a material breach of this Contract. Contractor's failure to maintain this insurance requirement for the term of this Contract will be grounds for immediate termination of this Contract.

19. **RESERVED.**

20. **PUBLIC INFORMATION:** Contractor agrees that this Contract, related purchase orders, related pricing documents, and invoices will be public documents and may be available for public and private distribution in accordance with the State of Utah's Government Records Access and Management Act (GRAMA). Contractor gives the Division, the Eligible Users, and the State of Utah express permission to make copies of this Contract, related sales orders, related pricing documents, and invoices in accordance with GRAMA. Except for sections identified in writing by Contractor and expressly approved by the Division, Contractor also agrees that the Contractor's Response will be a public document, and copies may be given to the public as permitted under GRAMA. The Division, the Eligible Users, and the State of Utah are not obligated to inform Contractor of any GRAMA requests for disclosure of this Contract, related purchase orders, related pricing documents, or invoices.

21. **DELIVERY:** All deliveries under this Contract will be F.O.B. destination with all transportation and handling charges paid for by Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to an Eligible User, except as to latent defects or fraud. Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract.

22. **ACCEPTANCE AND REJECTION:** An Eligible User shall have thirty (30) days after delivery of the Procurement Item(s) to perform an inspection of the Procurement Item(s) to determine whether the Procurement Item(s) conform to the standards specified in the Solicitation and this Contract prior to acceptance of the Procurement Item(s) by the Eligible User. If Contractor delivers nonconforming Procurement Item(s), an Eligible User may, at its option and at Contractor's expense: (i) return the Procurement Item(s) for a full refund; (ii) require Contractor to promptly correct or replace the nonconforming Procurement Item(s); or (iii) obtain replacement Procurement Item(s) from another source, subject to Contractor being responsible for any cover costs. Contractor shall not redeliver corrected or rejected Procurement Item(s) without: first, disclosing the former rejection or requirement for correction; and second, obtaining written consent of the Eligible User to redeliver the corrected Procurement Item(s). Repair, replacement, and other correction and redelivery shall be subject to the terms of this Contract.

23. **INVOICING:** Contractor will submit invoices within thirty (30) days after the delivery date of the Procurement Item(s) to the Eligible User. The prices paid by the Eligible User will be those prices listed in this Contract, unless Contractor offers a discount at the time of the invoice. It is Contractor's obligation to provide correct and accurate invoicing. The Eligible User has the right to adjust or return any invoice reflecting incorrect pricing.

24. **PAYMENT:** Payments are to be made within thirty (30) days after a correct invoice is received. All payments to Contractor will be remitted by mail, electronic funds transfer, or the State of Utah's Purchasing Card (major credit card). If payment has not been made after sixty (60) days from the date a correct invoice is received by an Eligible User, then interest may be added by Contractor as prescribed in the Utah Prompt Payment Act. The acceptance by Contractor of final payment, without a written protest filed with the Eligible User within ten (10) business days of receipt of final payment, shall release the Eligible User from all claims and all liability to the Contractor. An Eligible User's payment for the Procurement Item(s) and/or Services shall not be deemed an acceptance of the Procurement Item(s) and is without prejudice to any and all claims that the Eligible User may have against Contractor. Contractor shall not charge Eligible Users electronic payment fees of any kind.

25. **INDEMNIFICATION RELATING TO INTELLECTUAL PROPERTY:** Contractor will indemnify and hold the Division, the Eligible Users, and the State of Utah harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities, and costs in any action or claim brought against the Division, the Eligible User, or the State of Utah for infringement of a third party's

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copyright, trademark, trade secret, or other proprietary right. The parties agree that if there are any limitations of Contractor's liability, such limitations of liability will not apply to this section.

26. **OWNERSHIP IN INTELLECTUAL PROPERTY:** The Division, the Eligible User, and Contractor each recognizes that each has no right, title, or interest, proprietary or otherwise, in the intellectual property owned or licensed by the other, unless otherwise agreed upon by the parties in writing. All Procurement Item(s), documents, records, programs, data, articles, memoranda, and other materials not developed or licensed by Contractor prior to the execution of this Contract, but specifically manufactured under this Contract shall be considered work made for hire, and Contractor shall transfer any ownership claim to the Eligible User.
27. **REMOVED**
28. **ASSIGNMENT:** Contractor may not assign, sell, transfer, subcontract or sublet rights, or delegate any right or obligation under this Contract, in whole or in part, without the prior written approval of the Division.
29. **REMEDIES:** Any of the following events will constitute cause for an Eligible User to declare Contractor in default of this Contract: (i) Contractor's non-performance of its contractual requirements and obligations under this Contract; or (ii) Contractor's material breach of any term or condition of this Contract. An Eligible User may issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains after Contractor has been provided the opportunity to cure, an Eligible User may do one or more of the following: (i) exercise any remedy provided by law or equity; (ii) terminate this Contract; (iii) impose liquidated damages, if liquidated damages are listed in this Contract; (iv) debar/suspend Contractor from receiving future contracts from the Division; or (v) demand a full refund of any payment that the Eligible User has made to Contractor under this Contract for Procurement Item(s) that do not conform to this Contract.
30. **FORCE MAJEURE:** Neither an Eligible User nor Contractor will be held responsible for delay or default caused by fire, riot, act of God, and/or war which is beyond that party's reasonable control. An Eligible User may terminate a purchase order resulting from this Contract after determining such delay will prevent Contractor's successful performance of this Contract.
31. **CONFIDENTIALITY:** If Confidential Information is disclosed to Contractor, Contractor shall: (i) advise its agents, officers, employees, partners, and Subcontractors of the obligations set forth in this Contract; (ii) keep all Confidential Information strictly confidential; and (iii) not disclose any Confidential Information received by it to any third parties. Contractor will promptly notify an Eligible User of any potential or actual misuse or misappropriation of Confidential Information.
- Contractor shall be responsible for any breach of this duty of confidentiality, including any required remedies and/or notifications under applicable law. Contractor shall indemnify, hold harmless, and defend the Eligible User, including anyone for whom the Eligible User is liable, from claims related to a breach of this duty of confidentiality, including any notification requirements, by Contractor or anyone for whom the Contractor is liable.
- Upon termination or expiration of this Contract, Contractor will return all copies of Confidential Information to the Eligible User or certify, in writing, that the Confidential Information has been destroyed. This duty of confidentiality shall be ongoing and survive the termination or expiration of this Contract.
32. **LARGE VOLUME DISCOUNT PRICING:** Eligible Users may seek to obtain additional volume discount pricing for large orders provided Contractor is willing to offer additional discounts for large volume orders. No amendment to this Contract is necessary for Contractor to offer discount pricing to an Eligible User for large volume purchases.

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33. **ELIGIBLE USER PARTICIPATION:** Participation under this Contract by Eligible Users is voluntarily determined by each Eligible User. Contractor agrees to supply each Eligible User with Procurement Items based upon the same terms, conditions, and prices of this Contract.
34. **INDIVIDUAL CUSTOMERS:** Each Eligible User that purchases Procurement Items from this Contract will be treated as individual customers. Each Eligible User will be responsible to follow the terms and conditions of this Contract. Contractor agrees that each Eligible User will be responsible for their own charges, fees, and liabilities. Contractor shall apply the charges to each Eligible User individually. The Division is not responsible for any unpaid invoice.
35. **REPORTS AND FEES:**
- a. **Administrative Fee:** Contractor agrees to provide a quarterly administrative fee to the State in the form of a check, EFT or online payment through the Division's Automated Vendor Usage Management System. Checks will be payable to the "State of Utah Division of Purchasing" and will be sent to State of Utah, Division of Purchasing, Attn: Cooperative Contracts, PO Box 141061, Salt Lake City, UT 84114-1061. The Administrative Fee will be 1.0% and will apply to all purchases (net of any returns, credits, or adjustments) made under this Contract.
 - b. **Quarterly Reports:** Contractor agrees to provide a quarterly utilization report, reflecting net sales to the State during the associated fee period. The report will show the dollar volume of purchases by each Eligible User. The quarterly report will be provided in secure electronic format through the Division's Automated Vendor Usage Management System found at: <https://statecontracts.utah.gov/Vendor>.
 - c. **Report Schedule:** Quarterly utilization reports shall be made in accordance with the following schedule:

| | |
|--------------|-------------|
| Period End | Reports Due |
| March 31 | April 30 |
| June 30 | July 31 |
| September 30 | October 31 |
| December 31 | January 31 |
 - d. **Fee Payment:** After the Division receives the quarterly utilization report, it will send Contractor an invoice for the total quarterly administrative fee owed to the Division. Contractor shall pay the quarterly administrative fee within thirty (30) days from receipt of invoice.
 - e. **Timely Reports and Fees:** If the quarterly administrative fee is not paid by thirty (30) days of receipt of invoice or quarterly utilization reports are not received by the report due date, then Contractor will be in material breach of this Contract.
36. **ORDERING:** Orders will be placed by the using Eligible User directly with Contractor. All orders will be shipped promptly in accordance with the terms of this Contract.
37. **END USER AGREEMENTS:** If Eligible Users are required by Contractor to sign an End User Agreement before participating in this Contract, then a copy of the End User Agreement must be attached to this Contract as an attachment. The term of the End User Agreement shall not exceed the term of this Contract, and the End User Agreement will automatically terminate upon the completion of termination of this Contract. An End User Agreement must reference this Contract, and may not be amended or changed unless approved in writing by the Division. Eligible Users will not be responsible or obligated for any early termination fees if the End User Agreement terminates as a result of completion or termination of this Contract.
38. **PUBLICITY:** Contractor shall submit to the Division for written approval all advertising and publicity matters relating to this Contract. It is within the Division's sole discretion whether to provide approval, which approval must be in writing.
39. **WORK ON STATE OF UTAH OR ELIGIBLE USER PREMISES:** Contractor shall ensure that personnel working on the premises of an Eligible User shall: (i) abide by all of the rules, regulations, and policies of the premises; (ii) remain in authorized areas; (iii) follow all instructions; and (iv) be subject to a background check, prior to entering the premises. The Eligible User may remove any individual for a violation hereunder.

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40. **CONTRACT INFORMATION:** During the duration of this Contract the State of Utah Division of Purchasing is required to make available contact information of Contractor to the State of Utah Department of Workforce Services. The State of Utah Department of Workforce Services may contact Contractor during the duration of this Contract to inquire about Contractor's job vacancies within the State of Utah.
41. **WAIVER:** A waiver of any right, power, or privilege shall not be construed as a waiver of any subsequent right, power, or privilege.
42. **SUSPENSION OF WORK:** Should circumstances arise which would cause an Eligible User to suspend Contractor's responsibilities under this Contract, but not terminate this Contract, this will be done by formal written notice pursuant to the terms of this Contract. Contractor's responsibilities may be reinstated upon advance formal written notice from the Eligible User.
43. **PROCUREMENT ETHICS:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or to any person in any official capacity who participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization.
44. **CHANGES IN SCOPE:** Any changes in the scope of the services to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by both parties, specifying any such changes, fee adjustments, any adjustment in time of performance, or any other significant factors arising from the changes in the scope of services.
45. **ATTORNEY'S FEES:** In the event of any judicial action to enforce rights under this Contract, the prevailing party shall be entitled its costs and expenses, including reasonable attorney's fees incurred in connection with such action.
46. **TRAVEL COSTS:** If travel expenses are permitted by the Solicitation All travel costs associated with the delivery of Services under this Contract will be paid according to the rules and per diem rates found in the Utah Administrative Code R25-7. Invoices containing travel costs outside of these rates will be returned to the vendor for correction.
47. **PERFORMANCE EVALUATION:** The Division may conduct a performance evaluation of Contractor, including Contractor's Subcontractors. Results of any evaluation may be made available to Contractor upon request.
48. **STANDARD OF CARE:** The services performed by Contractor and its Subcontractors shall be performed in accordance with the standard of care exercised by licensed members of their respective professions having substantial experience providing similar services which similarities include the type, magnitude, and complexity of the services that are the subject of this Contract. Contractor shall be liable to the Eligible User for claims, liabilities, additional burdens, penalties, damages, or third party claims (e.g., another Contractor's claim against the State of Utah), to the extent caused by wrongful acts, errors, or omissions that do not meet this standard of care.
49. **REVIEWS:** The Division reserves the right to perform plan checks, plan reviews, other reviews, and/or comment upon the services of Contractor. Such reviews do not waive the requirement of Contractor to meet all of the terms and conditions of this Contract.
50. **DISPUTE RESOLUTION:** Prior to either party filing a judicial proceeding, the parties agree to participate in the mediation of any dispute. The Division or an Eligible User, after consultation with Contractor, may appoint an expert or panel of experts to assist in the resolution of a dispute. If the Division or an Eligible User appoints such an expert or panel, the Division or the Eligible User and Contractor agree to cooperate in good faith in providing information and documents to the expert or panel in an effort to resolve the dispute.

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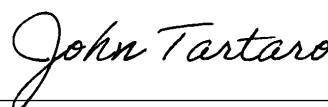
51. **ORDER OF PRECEDENCE:** In the event of any conflict in the terms and conditions in this Contract, the order of precedence shall be: (i) this Attachment A; (ii) Contract Signature Page(s); (iii) the State of Utah's additional terms and conditions, if any; (iv) any other attachment listed on the Contract Signature Page(s); and (v) Contractor's terms and conditions that are attached to this Contract, if any. Any provision attempting to limit the liability of Contractor or limit the rights of an Eligible User, the Division, or the State of Utah must be in writing and attached to this Contract or it is rendered null and void.
52. **SURVIVAL OF TERMS:** Termination or expiration of this Contract shall not extinguish or prejudice Eligible Users' right to enforce this Contract with respect to any default of this Contract or defect in the Procurement Item(s) that has not been cured, or of any of the following clauses, including: Governing Law and Venue, Laws and Regulations, Records Administration, Remedies, Dispute Resolution, Indemnity, Newly Manufactured, Indemnification Relating to Intellectual Property, Warranty of Procurement Item(s), Insurance.
53. **SEVERABILITY:** The invalidity or unenforceability of any provision, term, or condition of this Contract shall not affect the validity or enforceability of any other provision, term, or condition of this Contract, which shall remain in full force and effect.
54. **ERRORS AND OMISSIONS:** Contractor shall not take advantage of any errors and/or omissions in this Contract. The Contractor must promptly notify the Division of any errors and/or omissions that are discovered.
55. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.
56. **ANTI-BOYCOTT ISRAEL:** In accordance with Utah Statute 63G-27-101, Contractor certifies that it is not currently engaged in a boycott of the State of Israel and agrees not to engage in a boycott of the State of Israel for the duration of the contract.

(Revision Date: 15 April 2021)

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IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

| | |
|--|--|
| Participating Entity: State of Utah, Division of Purchasing | Contractor: Quadient, Inc. |
| Signature:  <small>Nick Hughes (Sep 22, 2022 14:12 MDT)</small> | Signature:  |
| Name: Nick Hughes | Name: John Tartaro |
| Title: Assistant Director, Division of Purchasing & General Services | Title: Deputy, CFO |
| Date: 09/22/2022 | Date: 9/22/2022 |

**Please email fully executed PDF copy of this document
to
PA@naspovaluepoint.org
to support documentation of participation and posting
in appropriate data bases.**



Section 6: NASPO VALUEPOINT MASTER AGREEMENT TERMS AND CONDITIONS

I. Definitions

- 1.1 Acceptance** means acceptance of goods and services as set forth in Section IX of this Master Agreement.
- 1.2 Contractor** means a party to this Master Agreement, whether a person or entity, that delivers goods or performs services under the terms set forth in this Master Agreement.
- 1.3 Embedded Software** means one or more software applications which permanently reside on a computing device.
- 1.4 Intellectual Property** means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.
- 1.5 Lead State** means the State centrally administering any resulting Master Agreement(s) who is a party to this Master Agreement.
- 1.6 Master Agreement** means the underlying agreement executed by and between the Lead State, acting in cooperation with NASPO ValuePoint, and the Contractor, as now or hereafter amended.
- 1.7 NASPO ValuePoint** is a division of the National Association of State Procurement Officials ("NASPO"), a 501(c)(3) limited liability company. NASPO ValuePoint facilitates administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and may perform contract administration functions relating to collecting and receiving reports, as well as other contract administration functions as assigned by the Lead State.
- 1.8 Order or Purchase Order** means any purchase order, sales order, contract or other document used by a Purchasing Entity to order the Products.
- 1.9 Participating Addendum** means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any additional Participating Entity-specific language or other requirements (e.g., ordering procedures specific to the Participating Entity, entity-specific terms and conditions, etc.).
- 1.10 Participating Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.
- 1.11 Participating State** means a state that has executed a Participating Addendum or has indicated an intent to execute a Participating Addendum.
- 1.12 Product or Products and Services** means any equipment, software (including embedded software), documentation, service, or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Product includes goods and services.

- 1.13 Purchasing Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

II. Term of Master Agreement

- 2.1 Initial Term.** The initial term of this Master Agreement is for one (1) year. The term of this Master Agreement may be amended beyond the initial term for four (4) additional years at the Lead State's discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance.
- 2.2 Amendment Limitations.** The terms of this Master Agreement will not be waived, altered, modified, supplemented, or amended in any manner whatsoever without prior written agreement of the Lead State and Contractor.
- 2.3 Amendment Term.** The term of the Master Agreement may be amended past the initial term and stated renewal periods for a reasonable period if in the judgment of the Lead State a follow-on competitive procurement will be unavoidably delayed (despite good faith efforts) beyond the planned date of execution of the follow-on master agreement. This subsection will not be deemed to limit the authority of a Lead State under its state law to otherwise negotiate contract extensions.

III. Order of Precedence

- 3.1 Order.** Any Order placed under this Master Agreement will consist of the following documents:
- 3.1.1** A Participating Entity's Participating Addendum ("PA");
 - 3.1.2** NASPO ValuePoint Master Agreement, including all attachments thereto;
 - 3.1.3** A Purchase Order or Scope of Work/Specifications issued against the Master Agreement;
 - 3.1.4** The Solicitation or, if separately executed after award, the Lead State's bilateral agreement that integrates applicable provisions;
 - 3.1.5** Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State.
- 3.2 Conflict.** These documents will be read to be consistent and complementary. Any conflict among these documents will be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.
- 3.3 Participating Addenda.** Participating Addenda will not be construed to diminish, modify, or otherwise derogate any provisions in this Master Agreement between the Lead State and Contractor. Participating Addenda will not include a term of agreement that exceeds the term of the Master Agreement.

IV. Participants and Scope

- 4.1 Requirement for a Participating Addendum.** Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed.
- 4.2 Applicability of Master Agreement.** NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Participating Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified, supplemented

or amended by a Participating Addendum, subject to Section III. For the purposes of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g., purchase order or contract) used by the Purchasing Entity to place the Order.

- 4.3 Authorized Use.** Use of specific NASPO ValuePoint Master Agreements by state agencies, political subdivisions and other Participating Entities is subject to applicable state law and the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.
- 4.4 Obligated Entities.** Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. States or other entities permitted to participate may use an informal competitive process to determine which Master Agreements to participate in through execution of a Participating Addendum. Participating Entities incur no financial obligations on behalf of other Purchasing Entities.
- 4.5 Notice of Participating Addendum.** Contractor shall email a fully executed PDF copy of each Participating Addendum to pa@naspovaluepoint.org to support documentation of participation and posting in appropriate databases.
- 4.6 Eligibility for a Participating Addendum.** Eligible entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent of the Chief Procurement Official of the state where the entity is located. Coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists; the entity must ensure that they have the requisite procurement authority to execute a Participating Addendum.
- 4.7 Prohibition on Resale.** Subject to any specific conditions included in the solicitation or Contractor's proposal as accepted by the Lead State, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products purchased under this Master Agreement. Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products; sales of Products to the general public as surplus property; and fees associated with inventory transactions with other governmental or nonprofit entities and consistent with a Purchasing Entity's laws and regulations. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of intellectual property.
- 4.8 Individual Customers.** Except as may otherwise be agreed to by the Purchasing Entity and Contractor, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement and as the Participating Entity has in the Participating Addendum, including but not limited to any indemnity or right to recover any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.
- 4.9 Release of Information.** Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the release of information that pertains to the

potential work or activities covered by the Master Agreement. This limitation does not preclude publication about the award of the Master Agreement or marketing activities consistent with any proposed and accepted marketing plan.

- 4.10 No Representations.** The Contractor shall not make any representations of NASPO ValuePoint, the Lead State, any Participating Entity, or any Purchasing Entity's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent.

V. NASPO ValuePoint Provisions

- 5.1 Applicability.** NASPO ValuePoint is not a party to the Master Agreement. The terms set forth in Section V are for the benefit of NASPO ValuePoint as a third-party beneficiary of this Master Agreement.

5.2 Administrative Fees

5.2.1 NASPO ValuePoint Fee. Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee must be submitted quarterly and is based on all sales of products and services under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with a vendor's response to the Lead State's solicitation.

5.2.2 State Imposed Fees. Some states may require an additional fee be paid directly to the state on purchases made by Purchasing Entities within that state. For all such requests, the fee rate or amount, payment method and schedule for such reports and payments will be incorporated into the applicable Participating Addendum. Unless agreed to in writing by the state, Contractor may not adjust the Master Agreement pricing to include the state fee for purchases made by Purchasing Entities within the jurisdiction of the state. No such agreement will affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

5.3 NASPO ValuePoint Summary and Detailed Usage Reports

5.3.1 Summary Sales Data. The Contractor shall submit quarterly sales reports directly to NASPO ValuePoint using the NASPO ValuePoint Quarterly Sales/Administrative Fee Reporting Tool found at <http://calculator.naspovaluepoint.org>. All sales made under this Master Agreement must be reported as cumulative totals by state. Contractor must submit a report for each quarter, including quarters during which a Contractor has no sales, in which case this will be indicated in the Reporting Tool. Reports must be submitted no later than thirty (30) days following the end of the calendar quarter (as specified in the reporting tool).

5.3.2 Detailed Sales Data. Contractor shall also report detailed sales data by: (1) state; (2) entity/customer type, e.g. local government, higher education, K12, non-profit; (3) Purchasing Entity name; (4) Purchasing Entity bill-to and ship-to locations; (4) Purchasing Entity and Contractor Purchase Order identifier/number(s); (5) Purchase Order Type (e.g. sales order, credit, return, upgrade, determined by industry practices); (6) Purchase Order date; (7) Ship Date; (8) and line item description, including product number if used. The report must be submitted in any form required by the solicitation. Reports are due on a quarterly basis and must be received by the Lead State and NASPO ValuePoint Cooperative Development Team no later than thirty (30) days after the end of the reporting period. Reports must be delivered to the Lead State and to the NASPO ValuePoint Cooperative Development Team electronically through a designated

portal or other method as determined by the Lead State and NASPO ValuePoint. Detailed sales data reports must include sales information for all sales under Participating Addenda executed under this Master Agreement.

5.3.3 Reporting on Personal Use. Reportable sales for the summary sales data report and detailed sales data report includes sales to employees for personal use where authorized by the solicitation and the Participating Addendum. Report data for employees should be limited to ONLY the state and entity ((state and agency, city, county, school district, etc.) under whose authority the employee is purchasing Product for personal use and the amount of sales. No personal identification numbers (e.g., names, addresses, **social security numbers or any other numerical identifier**) may be submitted with any report.

5.3.4 Executive Summary. Contractor shall provide the NASPO ValuePoint Cooperative Development Coordinator with an executive summary each quarter that includes, at a minimum, a list of states with an active Participating Addendum, states that Contractor is in negotiations with and any Participating Addendum roll out or implementation activities and issues. NASPO ValuePoint Cooperative Development Coordinator and Contractor will determine the format and content of the executive summary. The executive summary is due thirty (30) days after the conclusion of each calendar quarter.

5.3.5 Use of Data. Timely submission of these reports is a material requirement of the Master Agreement. The recipient of the reports will have exclusive ownership of the media containing the reports. The Lead State and NASPO ValuePoint shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided under this section.

5.4 NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review

5.4.1 Staff Education. Contractor shall work cooperatively with NASPO ValuePoint personnel. Contractor shall present plans to NASPO ValuePoint for the education of Contractor's contract administrator(s) and sales/marketing workforce regarding the Master Agreement contract, including the competitive nature of NASPO ValuePoint procurements, the master agreement and participating addendum process, and the manner in which eligible entities can participate in the Master Agreement.

5.4.2 Onboarding Plan. Upon request by NASPO ValuePoint, Contractor shall, as Participating Addendums are executed, provide plans to launch the program for the Participating Entity. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the scope and terms of the Master Agreement as available to the Participating Entity and eligible Purchasing Entities.

5.4.3 Annual Contract Performance Review. Contractor shall participate in an annual contract performance review with the Lead State and NASPO ValuePoint, which may at the discretion of the Lead State be held in person and which may include a discussion of marketing action plans, target strategies, marketing materials, Contractor reporting, and timeliness of payment of administration fees.

5.4.4 Use of NASPO ValuePoint Logo. The NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a separate logo use agreement is executed with NASPO ValuePoint.

5.4.5 Most Favored Customer. Contractor shall, within thirty (30) days of their effective date, to notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in third-party contracts or agreements that may affect the promotion of this Master Agreements or whose terms provide for adjustments to future rates or pricing based on rates, pricing in, or Orders from this Master Agreement. Upon request

of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions.

- 5.5 Cancellation.** In consultation with NASPO ValuePoint, the Lead State may, in its discretion, cancel the Master Agreement or not exercise an option to renew, when utilization of Contractor's Master Agreement does not warrant further administration of the Master Agreement. The Lead State may also exercise its right to not renew the Master Agreement if vendor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than [two years] after execution of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement or terminate for default subject to the terms herein. This subsection also does not limit any right of the Lead State to cancel the Master Agreement under applicable laws.
- 5.6 Canadian Participation.** Subject to the approval of Contractor, any Canadian provincial government or provincially funded entity in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, or Saskatchewan, and territorial government or territorial government funded entity in the Northwest Territories, Nunavut, or Yukon, including municipalities, universities, community colleges, school boards, health authorities, housing authorities, agencies, boards, commissions, and crown corporations, may be eligible to use Contractor's Master Agreement.
- 5.7 Additional Agreement with NASPO.** Upon request by NASPO ValuePoint, awarded Contractor shall enter into a direct contractual relationship with NASPO ValuePoint related to Contractor's obligations to NASPO ValuePoint under the terms of the Master Agreement, the terms of which shall be the same or similar (and not less favorable) than the terms set forth in the Master Agreement.

VI. Pricing, Payment & Leasing

- 6.1 Pricing.** The prices contained in this Master Agreement or offered under this Master Agreement represent the not-to-exceed price to any Purchasing Entity.
- 6.1.1** All prices and rates must be guaranteed for the initial term of the Master Agreement.
- 6.1.2** Following the initial term of the Master Agreement, any request for a price or rate adjustment must be for an equal guarantee period and must be made at least 90 days prior to the effective date.
- 6.1.3** Requests for a price or rate adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the Master Agreement will not be effective unless approved in writing by the Lead State.
- 6.1.4** No retroactive adjustments to prices or rates will be allowed.
- 6.2 Payment.** Unless otherwise agreed upon in a Participating Addendum or Order, Payment after Acceptance will be made within thirty (30) days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum or Order, or otherwise prescribed by applicable law. Payments will be remitted in the manner specified in the Participating Addendum or Order. Payments may be made via a purchasing card with no additional charge.
- 6.3 Leasing or Alternative Financing Methods.** The procurement and other applicable laws of some Purchasing Entities may permit the use of leasing or alternative financing methods for the acquisition of Products under this Master Agreement. Where the terms and conditions are not otherwise prescribed in an applicable Participating Addendum, the terms and conditions for

leasing or alternative financing methods are subject to negotiation between the Contractor and Purchasing Entity.

VII. Ordering

- 7.1 Order Numbers.** Master Agreement order and purchase order numbers must be clearly shown on all acknowledgments, packing slips, invoices, and on all correspondence.
- 7.2 Quotes.** Purchasing Entities may define entity-specific or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an “as needed” basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity’s rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost, and other factors considered.
- 7.3 Applicable Rules.** Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities’ rules, policies, and procedures regarding the ordering of supplies and/or services contemplated by this Master Agreement.
- 7.4 Required Documentation.** Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.
- 7.5 Term of Purchase.** Orders may be placed consistent with the terms of this Master Agreement and applicable Participating Addendum during the term of the Master Agreement and Participating Addendum.
 - 7.5.1** Orders must be placed pursuant to this Master Agreement prior to the termination date thereof, but may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement.
 - 7.5.2** Notwithstanding the previous, Orders must also comply with the terms of the applicable Participating Addendum, which may further restrict the period during which Orders may be placed or delivered.
 - 7.5.3** Financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.
 - 7.5.4** Notwithstanding the expiration, cancellation or termination of this Master Agreement, Contractor shall perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration, cancellation, or termination of this Master Agreement, or in any manner inconsistent with this Master Agreement’s terms.
 - 7.5.5** Orders for any separate indefinite quantity, task order, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.
- 7.6 Order Form Requirements.** All Orders pursuant to this Master Agreement, at a minimum, must include:
 - 7.6.1** The services or supplies being delivered;
 - 7.6.2** A shipping address and other delivery requirements, if any;
 - 7.6.3** A billing address;

- 7.6.4 Purchasing Entity contact information;
 - 7.6.5 Pricing consistent with this Master Agreement and applicable Participating Addendum and as may be adjusted by agreement of the Purchasing Entity and Contractor;
 - 7.6.6 A not-to-exceed total for the products or services being ordered; and
 - 7.6.7 The Master Agreement number or the applicable Participating Addendum number, provided the Participating Addendum references the Master Agreement number.
- 7.7 **Communication.** All communications concerning administration of Orders placed must be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.
- 7.8 **Contract Provisions for Orders Utilizing Federal Funds.** Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.

VIII. Shipping and Delivery

- 8.1 **Shipping Terms.** All deliveries will be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor.
- 8.1.1 Notwithstanding the above, responsibility and liability for loss or damage will remain the Contractor's until final inspection and acceptance when responsibility will pass to the Purchasing Entity except as to latent defects, fraud, and Contractor's warranty obligations.
- 8.2 **Minimum Shipping.** The minimum shipment amount, if any, must be contained in the Master Agreement. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an Order to be shipped without transportation charges that is back ordered will be shipped without charge.
- 8.3 **Inside Deliveries.** To the extent applicable, all deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order. Inside Delivery refers to a delivery to a location other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Costs to repair any damage to the building interior (e.g., scratched walls, damage to the freight elevator, etc.) caused by Contractor or Contractor's carrier will be the responsibility of the Contractor. Immediately upon becoming aware of such damage, Contractor shall notify the Purchasing Entity placing the Order.
- 8.4 **Packaging.** All products must be delivered in the manufacturer's standard package. Costs must include all packing and/or crating charges. Cases must be of durable construction, in good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton must be marked with the commodity, brand, quantity, item code number and the Purchasing Entity's Purchase Order number.

IX. Inspection and Acceptance

- 9.1 **Laws and Regulations.** Any and all Products offered and furnished must comply fully with all applicable Federal, State, and local laws and regulations.

- 9.2 Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section IX will apply. This section is not intended to limit rights and remedies under the applicable commercial code.
- 9.3 Inspection.** All Products are subject to inspection at reasonable times and places before Acceptance. Contractor shall provide right of access to the Lead State, or to any other authorized agent or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement.
- 9.3.1** Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability for material (nonconformity that substantially impairs value) latent or hidden defects subsequently revealed when goods are put to use.
- 9.3.2** Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked.
- 9.4 Failure to Conform.** If any services do not conform to contract requirements, the Purchasing Entity may require the Contractor to perform the services again in conformity with contract requirements, at no increase in Order amount. When defects cannot be corrected by re-performance, the Purchasing Entity may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect the reduced value of services performed.
- 9.5 Acceptance Testing.** Purchasing Entity may establish a process, in keeping with industry standards, to ascertain whether the Product meets the standard of performance or specifications prior to Acceptance by the Purchasing Entity.
- 9.5.1** The Acceptance Testing period will be thirty (30) calendar days, unless otherwise specified, starting from the day after the Product is delivered or, if installed by Contractor, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing.
- 9.5.2** If the Product does not meet the standard of performance or specifications during the initial period of Acceptance Testing, Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met.
- 9.5.3** Upon rejection, the Contractor will have fifteen (15) calendar days to cure. If after the cure period, the Product still has not met the standard of performance or specifications, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Product from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor.
- 9.5.4** Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section.
- 9.5.5** No Product will be deemed Accepted and no charges will be paid until the standard of performance or specification is met.

X. Warranty

- 10.1 Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section X will apply.
- 10.2 Warranty.** The Contractor warrants for a period of one year from the date of Acceptance that:
- (a) the Product performs according to all specific claims that the Contractor made in its response

to the solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the Purchasing Entity has relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects.

- 10.3 Breach of Warranty.** Upon breach of the warranty set forth above, the Contractor will repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made.
- 10.4 Rights Reserved.** The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.
- 10.5 Warranty Period Start Date.** The warranty period will begin upon Acceptance, as set forth in Section IX.

XI. Product Title

- 11.1 Conveyance of Title.** Upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to the Product free and clear of all liens, encumbrances, or other security interests.
- 11.2 Embedded Software.** Transfer of title to the Product must include an irrevocable and perpetual license to use any Embedded Software in the Product. If Purchasing Entity subsequently transfers title of the Product to another entity, Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license will be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.
- 11.3 License of Pre-Existing Intellectual Property.** Contractor grants to the Purchasing Entity a nonexclusive, perpetual, royalty-free, irrevocable, license to use, publish, translate, reproduce, transfer with any sale of tangible media or Product, perform, display, and dispose of the Intellectual Property, and its derivatives, used or delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property"). The Contractor shall be responsible for ensuring that this license is consistent with any third-party rights in the Pre-existing Intellectual Property.

XII. Indemnification

- 12.1 General Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to tangible property arising from any act, error, or omission of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to performance under this Master Agreement.
- 12.2 Intellectual Property Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, Purchasing Entities, along with their officers and employees ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use infringes Intellectual Property rights of another person or entity ("Intellectual Property Claim").

- 12.2.1** The Contractor's obligations under this section will not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:
- 12.2.1.1** provided by the Contractor or the Contractor's subsidiaries or affiliates;
 - 12.2.1.2** specified by the Contractor to work with the Product;
 - 12.2.1.3** reasonably required to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or
 - 12.2.1.4** reasonably expected to be used in combination with the Product.
- 12.2.2** The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of the Intellectual Property Claim. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible.
- 12.2.3** The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of the Intellectual Property Claim and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim.
- 12.2.4** Unless otherwise set forth herein, Section 12.2 is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

XIII. Insurance

- 13.1 Term.** Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. A Participating Entity may negotiate alternative Insurance requirements in their Participating Addendum.
- 13.2 Class.** Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of A.M. Best's Insurance Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.
- 13.3 Coverage.** Coverage must be written on an occurrence basis. The minimum acceptable limits will be as indicated below:
- 13.3.1** Contractor shall maintain Commercial General Liability insurance covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than \$1 million per occurrence and \$2 million general aggregate;
 - 13.3.2** Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.

- 13.4 Notice of Cancellation.** Contractor shall pay premiums on all insurance policies. Contractor shall provide notice to a Participating Entity who is a state within five (5) business days after Contractor is first aware of expiration, cancellation or nonrenewal of such policy or is first aware that cancellation is threatened or expiration, nonrenewal or expiration otherwise may occur.
- 13.5 Notice of Endorsement.** Prior to commencement of performance, Contractor shall provide to the Lead State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) provides that written notice of cancellation will be delivered in accordance with the policy provisions, and (2) provides that the Contractor's liability insurance policy will be primary, with any liability insurance of any Participating State as secondary and noncontributory.
- 13.6 Participating Entities.** Contractor shall provide to Participating States and Participating Entities the same insurance obligations and documentation as those specified in Section XIII, except the endorsement is provided to the applicable Participating State or Participating Entity.
- 13.7 Furnishing of Certificates.** Contractor shall furnish to the Lead State copies of certificates of all required insurance in a form sufficient to show required coverage within thirty (30) calendar days of the execution of this Master Agreement and prior to performing any work. Copies of renewal certificates of all required insurance will be furnished within thirty (30) days after any renewal date to the applicable state Participating Entity. Failure to provide evidence of coverage may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.
- 13.8 Disclaimer.** Insurance coverage and limits will not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

XIV. General Provisions

14.1 Records Administration and Audit

- 14.1.1** The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as will adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right will survive for a period of six (6) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Master Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.
- 14.1.2** Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders or underpayment of fees found as a result of the examination of the Contractor's records.
- 14.1.3** The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement that requires the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

14.2 Confidentiality, Non-Disclosure, and Injunctive Relief

- 14.2.1 Confidentiality.** Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients.
- 14.2.1.1** Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity ("Confidential Information").
- 14.2.1.2** Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information.
- 14.2.1.3** Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity; or (6) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.
- 14.2.2 Non-Disclosure.** Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement.
- 14.2.2.1** Contractor shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information.
- 14.2.2.2** Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person.
- 14.2.2.3** Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor shall turn

over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information.

14.2.2.4 Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits, and evidence of the performance of this Master Agreement.

14.2.3 Injunctive Relief. Contractor acknowledges that Contractor's breach of Section 14.2 would cause irreparable injury to the Purchasing Entity that cannot be inadequately compensated in monetary damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.

14.2.4 Purchasing Entity Law. These provisions will be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.

14.2.5 NASPO ValuePoint. The rights granted to Purchasing Entities and Contractor's obligations under this section will also extend to NASPO ValuePoint's Confidential Information, including but not limited to Participating Addenda, Orders or transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line-item descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to this Master Agreement. To the extent permitted by law, Contractor shall notify the Lead State of the identify of any entity seeking access to the Confidential Information described in this subsection.

14.2.6 Public Information. This Master Agreement and all related documents are subject to disclosure pursuant to the Lead State's public information laws.

14.3 Assignment/Subcontracts

14.3.1 Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.

14.3.2 The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties, to NASPO ValuePoint and other third parties.

14.4 Changes in Contractor Representation. The Contractor must, within ten (10) calendar days, notify the Lead State in writing of any changes in the Contractor's key administrative personnel managing the Master Agreement. The Lead State reserves the right to approve or reject changes in key personnel, as identified in the Contractor's proposal. The Contractor shall propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

14.5 Independent Contractor. Contractor is an independent contractor. Contractor has no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and shall not to hold itself out as agent except as expressly set forth herein or as expressly set forth in an applicable Participating Addendum or Order.

14.6 Cancellation. Unless otherwise set forth herein, this Master Agreement may be canceled by either party upon sixty (60) days' written notice prior to the effective date of the cancellation.

Further, any Participating Entity may cancel its participation upon thirty (30) days' written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision will not affect the rights and obligations attending Orders outstanding at the time of cancellation, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. Cancellation of the Master Agreement due to Contractor default may be immediate.

- 14.7 Force Majeure.** Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, or acts of war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement upon determining such delay or default will reasonably prevent successful performance of the Master Agreement.

14.8 Defaults and Remedies

14.8.1 The occurrence of any of the following events will be an event of default under this Master Agreement:

- 14.8.1.1** Nonperformance of contractual requirements;
- 14.8.1.2** A material breach of any term or condition of this Master Agreement;
- 14.8.1.3** Any certification, representation or warranty by Contractor in response to the solicitation or in this Master Agreement that proves to be untrue or materially misleading;
- 14.8.1.4** Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or
- 14.8.1.5** Any default specified in another section of this Master Agreement.

14.8.2 Upon the occurrence of an event of default, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of fifteen (15) calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure will not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.

14.8.3 If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and the Lead State shall have the right to exercise any or all of the following remedies:

- 14.8.3.1** Any remedy provided by law;
- 14.8.3.2** Termination of this Master Agreement and any related Contracts or portions thereof;
- 14.8.3.3** Assessment of liquidated damages as provided in this Master Agreement;
- 14.8.3.4** Suspension of Contractor from being able to respond to future bid solicitations;

14.8.3.5 Suspension of Contractor's performance; and

14.8.3.6 Withholding of payment until the default is remedied.

14.8.4 Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and shall have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in an Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions will be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

14.9 Waiver of Breach. Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies will not operate as a waiver under this Master Agreement, any Participating Addendum, or any Purchase Order. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order will not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, any Participating Addendum, or any Purchase Order.

14.10 Debarment. The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in public procurement or contracting by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

14.11 No Waiver of Sovereign Immunity

14.11.1 In no event will this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued thereunder, or any act of the Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

14.11.2 This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court. This section is also not a waiver by the state of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

14.12 Governing Law and Venue

14.12.1 The procurement, evaluation, and award of the Master Agreement will be governed by and construed in accordance with the laws of the Lead State sponsoring and administering the procurement. The construction and effect of the Master Agreement after award will be governed by the law of the state serving as Lead State. The construction and effect of any Participating Addendum or Order against the Master

Agreement will be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's state.

14.12.2 Unless otherwise specified in the RFP, the venue for any protest, claim, dispute or action relating to the procurement, evaluation, and award is in the state serving as Lead State. Venue for any claim, dispute or action concerning the terms of the Master Agreement will be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum will be in the Purchasing Entity's state.

14.12.3 If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to the procurement, evaluation, award, or contract performance or administration if the Lead State is a party; a Participating State if a named party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

14.13 Assignment of Antitrust Rights. Contractor irrevocably assigns to a Participating Entity who is a state any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided in that state for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at the Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

Section 7: Lead State (State of Arizona) Terms and Conditions

7.1 State of Arizona Special terms and Conditions

A. Purpose

Pursuant to provisions of the Arizona Procurement Code. A.R.S. §§ 41-2501 *et seq.*, the State of Arizona intends to establish a Contract (Participating Addendum, PA) for the materials or services as listed herein on service to the State.

B. Licenses

Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of a business conducted by the contractor.

C. Volume of Work

The State does not guarantee a specific amount of work either for the life of the Contract or on an annual basis.

D. Key Personnel

It is essential that the contractor provide an adequate staff of experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The contractor must assign specific individuals to the key positions.

1. The Contractor agrees that, once assigned to work under this Contract, key personnel shall not be removed or replaced without written notice to the State.
2. Key personnel who are not available for work under this Contract for a continuous period exceeding thirty (30) calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the contractor shall immediately notify the State and shall subject to the concurrence of the State, replace such personnel of substantially equal ability and qualifications.

E. Price or Rate Adjustment

Any price or rate adjustment shall be within the confines of the awarded contract, or as negotiated in service to this Contract. Any price or rate adjustment requested must not exceed the Producers Price Index (PPI) by Industry: Other Commercial and Service Industry Machinery Manufacturing: Mailing, Letter Handling, and Addressing Machines, Except Parts and Attachments, Series ID: PCU3333183333183A at time of requested adjustment. Any negotiated price adjustments for this Contract shall be documented via a bilateral Contract Amendment.

F. Information Disclosure

The Contractor shall establish and maintain procedures and controls that are acceptable to the State for the purpose of assuring that no information contained in its records or obtained from the state or from others in carrying out its functions under the contract shall be used or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the State. The Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of the Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the State.

G. Employees of the Contractor

All employees of the Contractor employed in the performance of work under the Contract shall be considered employees of the Contractor at all times, and not employees of the State. The Contractor shall comply with the Social Security Act, Workman's Compensation laws and Unemployment laws of the State of Arizona and all State, local and Federal legislation relevant to the Contractor's business.

H. Warranty

All services supplied under this Contract shall be fully guaranteed by the Contractor for a minimum period of ninety (90) days from the date of acceptance by the State. Any defects of design, workmanship, or delivered materials that would result in non-compliance shall be fully corrected by the Contractor without cost to the State.

I. Non-Exclusive Contract

Any Contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the State of Arizona. The State reserves the right to obtain like goods or services from another source when necessary, or when determined to be in the best interest of the State.

1. Method of Assessment:

At the completion of each quarter, the contractor reviews all sales under their contract in preparation for submission of their Usage Report. The contractor identifies all sales receipts transacted by members of the State Purchasing Cooperative and assesses one percent (1.0%) of this amount in their Usage Report. An updated list of State Purchasing Cooperative members may be found at: <https://spo.az.gov/state-purchasing-cooperative>. At its option, the State may expand or narrow the applicability of this fee. The State shall provide thirty (30) written notice prior to exercising or changing this option. The contractor shall summarize all sales, along with all assessed Administrative Fee amounts within their Usage Report, including total amounts for the following:

- Total sales receipts from State agencies, boards and commissions;
- Total sales receipts from members of the State Purchasing Cooperative; and
- Total Administrative Fee amount based on one percent (1.0%) of the sales receipts from members of the State Purchasing Cooperative.

2. Submission of Reports and Fees:

Within thirty (30) days following the end of the quarter, the contractor submits their Usage Report and if applicable, a check in the amount of one percent (1%) of their sales receipts from members of the State Purchasing Cooperative, to the Department of Administration, State Procurement Office. Contractors are required to use the State's current report templates unless you have authorization from your contract officer to use a different format. You need to complete Form 799, which is a cover letter that gives the totals of your transactions; and Form 801, which is an Excel spreadsheet that details your transactions. Sales to state agencies and the cooperative members are to be totaled separately. The most current forms can be downloaded at <https://spo.az.gov/statewide-contracts-administrative-fee>.

4.1 The submission schedule for Administrative Fees and Usage reports shall be as follows:

FY Q1, July through September Due October 31

FY Q2, October through December Due January 31

FY Q3, January through March Due by April 30

FY Q4, April through June Due by July 31

2.2 Usage Reports and any questions are to be submitted by email to the state's designated usage report email address: usage@azdoa.gov

3. Administrative Fee

The Administrative Fee shall be a part of the Contractor's unit prices and is not to be charged directly to the customer in the form of a separate line item. Statewide contracts shall not have separate prices for State Agency customers and State Purchasing Cooperative customers.

4. Contractor's failure to remit administrative fees

Contractor's failure to remit administrative fees in a timely manner consistent with the contract's requirements may result in the State exercising any recourse available under the contract or as provided for by law.

J. Compensation

Should the Contractor fail to provide all required services or deliver work products, as agreed upon by State and the Contractor, the State shall be entitled to invoke applicable remedies, including but not limited to, withholding payment to the Contractor and declaring the Contractor in material breach of the Contract. If the Contractor is in any manner in default of any obligation or the Contractor's work or performance is determined by the State to be defective, sub-standard, or if audit exceptions are identified, the State may, in addition to other available remedies, either adjust the amount of payment or withhold payment until satisfactory resolution of the default, defect, exception or sub-standard performance. The Contractor shall reimburse the State on demand, or the State may deduct from future payments, any amounts paid for work products or performance which are determined to be an audit exception, defective or sub-standard performance. The Contractor shall correct its mistakes or errors without additional cost to the State. The State shall be the sole determiner as to defective or sub-standard performance.

The Contractor shall fulfill their contractual requirements including the Deliverables identified in the Statement of Work and fulfill the roles and responsibilities described in the Statement of Work for a firm fixed price, inclusive of travel and travel-related expenses. The fixed amount shall be inclusive of any fees for the use of any third party products or services required for use in the performance of this Contract.

K. Offshore Performance of Work Prohibited

Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

L. Indemnification and Insurance

- 1.1 To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, and any jurisdiction or agency issuing permits for any work included in the project, and their respective directors, officers, officials, agents and employees (hereinafter referred to as "Indemnatee") from and against any and all claims, actions, liabilities, costs, losses, or expenses, (including reasonable attorney's fees), (hereinafter collectively referred to as "Claims") arising out of actual or alleged bodily injury or personal injury of any person (including death) or

loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of Contractor's directors, officers, agents, employees, volunteers or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by Contractor from and against any and all Claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. This indemnification will survive the termination of the above listed contract with the Contractor.

This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

1.2 Insurance Requirements

1.2.1 Contractor and subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

1.2.2 The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors, and the Contractor is free to purchase additional insurance.

1.3 Minimum Scope and Limits of Insurance

Contractor shall provide coverage with limits of liability not less than those stated below.

1.3.1 Commercial General Liability (CGL) – Occurrence Form Policy shall include bodily injury, property damage, and broad form contractual liability coverage.

| | |
|---|-------------|
| General Aggregate | \$2,000,000 |
| Products – Completed Operations Aggregate | \$1,000,000 |
| Personal and Advertising Injury | \$1,000,000 |
| Damage to Rented Premises | \$50,000 |
| Each Occurrence | \$1,000,000 |

- a. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor
- b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

1.3.2 Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract.

- ☐ Combined Single Limit (CSL) \$1,000,000

Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving automobiles owned, hired and/or non-owned by the Contractor.

- c. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

1.3.3 Workers' Compensation and Employers' Liability

- ☐ Workers' Compensation Statutory
- ☐ Employers' Liability
- ☐ Each Accident \$1,000,000
- ☐ Disease – Each Employee \$1,000,000
- ☐ Disease – Policy Limit \$1,000,000

- d. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- e. This requirement shall not apply to each Contractor or subcontractor that is exempt under A.R.S. § 23-901, and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

1.3.4 Technology Errors & Omissions Insurance

| | |
|---|-------------|
| <input type="checkbox"/> Each Claim | \$2,000,000 |
| <input type="checkbox"/> Annual Aggregate | \$2,000,000 |

- f. Such insurance shall cover any, and all errors, omissions, or negligent acts in the delivery of products, services, and/or licensed programs under this contract.
- g. Coverage shall include or shall not exclude settlement and/or defense of claims involving intellectual property, including but not limited to patent or copyright infringement.
- h. In the event that the Tech E&O insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years, beginning at the time work under this Contract is completed.

1.3.5 Media Liability Coverage

| | |
|---|-------------|
| <input type="checkbox"/> Each Claim | \$2,000,000 |
| <input type="checkbox"/> Annual Aggregate | \$2,000,000 |

- i. Such insurance shall cover any and all errors and omissions or negligent acts in the production of content, including but not limited to plagiarism, defamation, libel, slander, false advertising, invasion of privacy, and infringement of copyright, title, slogan, trademark, service mark and trade dress.
- j. In the event that the Media Liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained, or an extended discovery period will be

exercised for a period of two (2) years beginning at the time work under this Contract is completed.

1.4 Additional Insurance Requirements

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

1.4.1 The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

1.4.2 Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract

1.5 Notice of Cancellation

Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to (State Representative's Name, Address & Fax Number).

1.6 Acceptability of Insurers

Contractor's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

1.7 Verification of Coverage

Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) as required by this Contract. An authorized representative of the insurer shall sign the certificates.

1.7.1 All certificates and endorsements, as required by this written agreement, are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

1.7.2 All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

1.8 Subcontractors

Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of this contract, proof from the Contractor that its subcontractors have the required coverage.

1.9 Approval and Modifications

The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

1.10 Exceptions

In the event the Contractor or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a certificate of self-insurance. If the Contractor or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

P. Data Privacy/Security Incident Management

Contractor and its agents shall cooperate and collaborate with appropriate State personnel to identify and respond to an information security or data privacy incident, including a security breach.

1. Threat of Security Breach

Contractor(s) agrees to notify the State Chief Information Officer (CIO), the State Chief Information Security Officer (CISO) and other key personnel as identified by the State of any perceived threats placing the supported infrastructure and/or applications in danger of breach of security. The speed of notice shall be at least commensurate with the level of threat, as perceived by the Contractor(s). The State agrees to provide contact information for the State CIO, CISO and key personnel to the Contractor(s).

2. Discovery of Security Breach

Contractor agrees to immediately notify the State CIO, the CISO and key personnel as identified by the State of a discovered breach of security. The State agrees to provide contact information for the State CIO, the CISO and key personnel.

Q. Access Constraints and Requirements

Contractor access to State facilities and resources shall be properly authorized by State personnel, based on business need and will be restricted to least possible privilege. Upon approval of access privileges, the Contractor shall maintain strict adherence to all policies, standards, and procedures. Policies / Standards, ADOA/ASET Policies / Procedures, and Arizona Revised Statutes (A.R.S.) §28-447, §28-449, §38-421, §13-2408, §13-2316, §41-770.

Failure of the Contractor, its agents or subcontractors to comply with policies, standards, and procedures including any person who commits an unlawful breach or harmful access (physical or virtual) will be subject to prosecution under all applicable state and / or federal laws.

Any and all recovery or reconstruction costs or other liabilities associated with an unlawful breach or harmful access shall be paid by the Contractor.

R. Compliance Requirements for A.R.S. § 41-4401, Government Procurement: E-Verify Requirement

1. The Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.")
2. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the Contract and the

Contractor may be subject to penalties up to and including termination of the Contract.

3. Failure to comply with a State audit process to randomly verify the employment records of Contractors and subcontractors shall be deemed a material breach of the Contract and the Contractor may be subject to penalties up to and including termination of the Contract.
4. The State Agency retains the legal right to inspect the papers of any employee who works on the Contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph One(1).

7.2 State of Arizona Uniform Terms and Conditions

1. Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

- 1.1. *"Attachment"* means any item the Solicitation requires the Offeror to submit as part of the Offer.
- 1.2. *"Contract"* means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement of Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
- 1.3. *"Contract Amendment"* means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
- 1.4. *"Contractor"* means any person who has a Contract with the State.
- 1.5. *"Days"* means calendar days unless otherwise specified.
- 1.6. *"Exhibit"* means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
- 1.7. *"Gratuity"* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- 1.8. *"Materials"* means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

- 1.9. *“Procurement Officer”* means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
- 1.10. *“Services”* means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.
- 1.11. *“Subcontract”* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
- 1.12. *“State”* means the State of Arizona and Department or Agency of the State that executes the Contract.
- 1.13. *“State Fiscal Year”* means the period beginning with July 1 and ending June 30.

2. Contract Interpretation

- 2.1. Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.
- 2.2. Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3. Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
 - 2.3.1. Special Terms and Conditions;
 - 2.3.2. Uniform Terms and Conditions;
 - 2.3.3. Statement or Scope of Work;
 - 2.3.4. Specifications;
 - 2.3.5. Attachments;
 - 2.3.6. Exhibits;
 - 2.3.7. Documents referenced or included in the Solicitation.
- 2.4. Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

- 2.5. Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 2.6. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 2.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. Contract Administration and Operation

- 3.1. Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2. Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- 3.3. Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- 3.4. Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

- 3.5. Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized

Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.

- 3.6. Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
- 3.7. Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
- 3.8. Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.
- 3.9. Federal Immigration and Nationality Act. The contractor shall comply with all federal, state and local immigration laws and regulations relating

to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the contractor.

3.10 E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.

3.11 Offshore Performance of Work Prohibited.

Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

4. Costs and Payments

4.1. Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

4.2. Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3. Applicable Taxes.

4.3.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.3.2. State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

- 4.3.3. Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.
- 4.3.4. IRS W9 Form. In order to receive payment, the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.
- 4.4. Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.
- 4.5. Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:
 - 4.5.1. Accept a decrease in price offered by the contractor;
 - 4.5.2. Cancel the Contract; or
 - 4.5.3. Cancel the contract and re-solicit the requirements.

5. Contract Changes

- 5.1. Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.
- 5.2. Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's

proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

- 5.3. Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6. Risk and Liability

- 6.1. Risk of Loss: The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.
- 6.2. Indemnification
 - 6.2.1. Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.
 - 6.2.2. Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers."
- 6.3. Indemnification - Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

6.4. Force Majeure.

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2. Force Majeure shall not include the following occurrences:

6.4.2.1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3. Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

- 6.5. Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7. Warranties

- 7.1. Liens. The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.
- 7.2. Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:
- 7.2.1. Of a quality to pass without objection in the trade under the Contract description;
- 7.2.2. Fit for the intended purposes for which the materials are used;
- 7.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
- 7.2.4. Adequately contained, packaged and marked as the Contract may require; and
- 7.2.5. Conform to the written promises or affirmations of fact made by the Contractor.
- 7.3. Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- 7.4. Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.
- 7.5. Compliance with Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.
- 7.6. Survival of Rights and Obligations after Contract Expiration or Termination.
- 7.6.1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.6.2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8. State's Contractual Remedies

- 8.1. Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.
- 8.2. Stop Work Order.
 - 8.2.1. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
 - 8.2.2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- 8.3. Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.
- 8.4. Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its

rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

- 8.5. Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9. Contract Termination

- 9.1. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
- 9.2. Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.
- 9.3. Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.

- 9.4. Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State.

In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.

- 9.5. Termination for Default.

9.5.1. In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

9.5.2. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3. The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

- 9.6. Continuation of Performance through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10. Contract Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11. Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. §12-1518, except as may be required by other applicable statutes (Title 41).

12. Comments Welcome

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

STATE OF CALIFORNIA - ADDITIONAL TERMS

Terms and conditions listed below will be incorporated and made a part of California Participating Addenda. The State of California reserves the right to add additional terms and conditions to individual Participating Addenda.

A. Terms

- 1) General Provisions – Information Technology (GSPD-401IT) effective 9/5/2014. This document can be viewed on the [DGS Procurement Division website](https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/Model-Contract-Language) (<https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/Model-Contract-Language>).

B. Administrative Fee

Contractor shall submit a check, payable to the State of California, remitted to the Cooperative Agreement Unit for the calculated amount equal to 1.25% of the sales for the quarterly period.

Contractor must include the Participating Addendum Number on the check. Those checks submitted to the State without the Participating Addendum Number will be returned to Contractor for additional identifying information.

Administrative fee checks shall be submitted to:

State of California
Department of General Services, Procurement Division
Attention: Cooperative Agreement Payment Processing
707 3rd Street, 2nd Floor, MS 2-202
West Sacramento, CA 95605

The administrative fee shall not be included as an adjustment to Contractor's NASPO ValuePoint Master Agreement pricing.

The administrative fee shall not be invoiced or charged to the ordering agency.

Payment of the administrative fee is due irrespective of payment status on orders or service contracts from a purchasing entity.

Administrative fee checks are due for each quarter as follows:

| Reporting Period | Due Date |
|--------------------------|------------|
| January 1 to March 31 | April 30 |
| April 1 to June 30 | July 31 |
| July 1 to September 30 | October 31 |
| October 1 to December 31 | January 31 |

Failure to meet administrative fee requirements and submit fees on a timely basis shall constitute grounds for suspension of the Participating Addendum.

STAFF REPORT



SUBJECT: Ratifying an Agreement with Royal Plumbing Heating & Air Inc.
AUTHOR: Jon Andersen & Cameron West
DEPARTMENT: Public Works & Fire Department
DATE: 8-15-23

RECOMMENDATION

Staff recommends approval of Ratifying Resolution 23-26 with Royal Plumbing Heating & Air Inc, for the installation of mini-split AC units for Station 81 dorm rooms and living area.

BACKGROUND

The dorms and living area of Station 81 have had their struggles over the years with trying to keep it cool for the staff to stay there. There have been issues with the HVAC over the years including the compressors, chiller, valves, and air handler. Different options for that area have been discussed. City staff decided that it would be best to have mini-splits installed in the dorms and living areas of the second floor of Station 81 for the employees for a more consistent living environment during the hotter months. By installing these units, it will also help with the use of the new chiller and air handler. The air handler will be able to cycle down in the evenings for most of the night and the newly installed mini-splits will be able to control the dorms and the living area and make it more comfortable for city staff around the clock. City staff was given the go-ahead to get bids of which two were received. It was decided to go with Royal Plumbing, Heating & Air. When contact was made with them to move forward with the project, Royal originally said it would take a few weeks to get equipment and set a date to install. With some luck on the City's side, they were able to speed up the process, and equipment was available for installation starting the week of August 7, 2023. City Manager Dixon gave staff the approval to have them move forward rather than waiting the extra weeks to get them installed.

ANALYSIS

Bids were received from the following contractors:

- | | |
|---|-------------|
| 1- Holbrook Service | \$42,995.38 |
| 2- Royal Plumbing, Heating & Air Conditioning | \$26,175.74 |

SIGNIFICANT IMPACTS

An impact to the Building & Grounds Capital Outlay of \$26,175

ATTACHMENTS

Bids



Royal Plumbing, Heating and Air Conditioning, Inc.
820 Exchange Road, Ogden, Utah 84401-1203
United States
(801) 888-2709

Estimate 18836409
Job 18823646
Estimate Date 7/17/2023
Customer PO

Billing Address
South Ogden City Fire Station #82
5635 Wasatch Drive
South Ogden, UT 84403 USA

Job Address
South Ogden City Fire Station
#81
3950 South Adams Avenue
Washington Terrace, UT 84405
USA

Estimate Details

Living area mini split

| Task # | Description | Quantity | Your Price | Your Total |
|--------------------|--|----------|------------|------------|
| RXB24AXVJU | Operating Range - Cooling (50° - 114.8°) | 1.00 | \$3,588.01 | \$3,588.01 |
| Daikin RXB24AXVJU | | | | |
| FTXB24AXVJU | DAIKIN 17 SEER WALL MOUNT | 1.00 | \$2,800.00 | \$2,800.00 |
| Daikin FTXB24AXVJU | | | | |

| # | Description | Total |
|-------|----------------|-----------|
| RD500 | Royal Discount | \$-500.00 |

| | |
|--------------------------|------------|
| Potential Savings | \$0.00 |
| Sub-Total | \$5,888.01 |
| Tax | \$0.00 |
| Total | \$5,888.01 |

Thank you for choosing Royal Plumbing, Heating and Air Conditioning, Inc.

THIS IS AN ESTIMATE, NOT A CONTRACT FOR SERVICES. The summary above is furnished by Royal Plumbing, Heating and Air Conditioning, Inc. as a good faith estimate of work to be performed at the location described above and is based on our evaluation and does not include material price increases or additional labor and materials which may be required should unforeseen problems arise after the work has started. I understand that the final cost of the work may differ from the estimate, perhaps materially. THIS IS NOT A GUARANTEE OF THE FINAL PRICE OF WORK TO BE PERFORMED. I agree and authorize the work as summarized on these estimated terms, and I agree to pay the full amount for all work performed.



Royal Plumbing, Heating and Air Conditioning, Inc.
820 Exchange Road, Ogden, Utah 84401-1203
United States
(801) 888-2709

Estimate 18837285
Job 18823646
Estimate Date 7/17/2023
Customer PO

Billing Address
South Ogden City Fire Station #82
5635 Wasatch Drive
South Ogden, UT 84403 USA

Job Address
South Ogden City Fire Station
#81
3950 South Adams Avenue
Washington Terrace, UT 84405
USA

Estimate Details

Mini splits dorms

| Task # | Description | Quantity | Your Price | Your Total |
|-------------------|-----------------------------|----------|------------|-------------|
| FTXS09LVJU | DAIKIN LV SERIES WALL MOUNT | 5.00 | \$2,500.00 | \$12,500.00 |
| Daikin FTXS09LVJU | | | | |
| 5MXS48TVJU | 5 PORT DUCTLESS OUTDOOR | 1.00 | \$8,787.73 | \$8,787.73 |
| Daikin 5MXS48TVJU | | | | |

| # | Description | Total |
|--------|----------------|-------------|
| RD1000 | Royal Discount | \$-1,000.00 |

| | |
|--------------------------|-------------|
| Potential Savings | \$0.00 |
| Sub-Total | \$20,287.73 |
| Tax | \$0.00 |
| Total | \$20,287.73 |

Thank you for choosing Royal Plumbing, Heating and Air Conditioning, Inc.

THIS IS AN ESTIMATE, NOT A CONTRACT FOR SERVICES. The summary above is furnished by Royal Plumbing, Heating and Air Conditioning, Inc. as a good faith estimate of work to be performed at the location described above and is based on our evaluation and does not include material price increases or additional labor and materials which may be required should unforeseen problems arise after the work has started. I understand that the final cost of the work may differ from the estimate, perhaps materially. THIS IS NOT A GUARANTEE OF THE FINAL PRICE OF WORK TO BE PERFORMED. I agree and authorize the work as summarized on these estimated terms, and I agree to pay the full amount for all work performed.

Resolution No. 23-35

**A RESOLUTION RATIFYING AN AGREEMENT WITH ROYAL
PLUMBING AND HEATING FOR UPGRADE TO CITY HALL
HVAC SYSTEM; AUTHORIZING THE CITY MANAGER TO
SIGN ANY AND ALL NECESSARY DOCUMENTS; AND,
PROVIDING FOR AN EFFECTIVE DATE**

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

WHEREAS, the City Council finds that in conformance with Utah Code ("LTC") §10-3- 717, the City Council as the governing body of the City may exercise all administrative powers by Resolution; and,

WHEREAS, the City Council finds that the HVAC System at City Hall needed to be upgraded in order to cool the firefighters residing at City Hall without cooling the entire building; and,

WHEREAS, the City Council finds that the upgrade will ensure the health and safety of the City's firefighters, as well as increase the life-span of the existing HVAC system; and,

WHEREAS, City staff requested bids from three different vendors, only two of which responded, of which Royal Plumbing Heating and Air was the lowest bidder; and,

WHEREAS, Royal Plumbing Heating and Air was unexpectedly available before their quoted time frame, and City staff felt they should take advantage of the opening to better serve the City's firefighters;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOUTH OGDEN UTAH THAT:

The City Council of South Ogden City, State Of Utah, Ratifies the Approval Of An Agreement With Royal Plumbing Heating and Air Inc. For An Upgrade to the City Hall HVAC System, And Authorizes The City Manager To Negotiate And Resolve Any Additional Terms To The Agreement That May Be Necessary To Give Effect To The Intent Of This Resolution, And To Sign Said "**Contract Agreement**" (Attached Hereto As **Attachment "A"**) And By This Reference Fully Incorporated; And Authorizes The City Recorder To Attest All Documents Necessary To Confirm That The City Manager Has Been Duly Authorized To Execute Those Documents.

That the foregoing recitals are incorporated herein.

SECTION 2 - REPEALER OF CONFLICTING ENACTMENTS:

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

SECTION 3 - PRIOR 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 4- SAVINGS CLAUSE:

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

SECTION 5 - DATE OF EFFECT

This Resolution shall be effective on the 15th day of August, 2023, 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 August, 2023.

SOUTH OGDEN CITY

Russell Porter
Mayor

ATTEST:

Leesa Kapetanov, MMC
City Recorder

ATTACHMENT "A"

Resolution No. 23-35

A Resolution Ratifying An Agreement With Royal Plumbing And Heating
For Upgrade To City Hall HVAC System; Authorizing The City Manager
To Sign Any And All Necessary Documents; And, Providing For An
Effective Date

15 Aug 23

CONTRACT AGREEMENT

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

And Royal Pumping, Heating & Air (hereinafter called CONTRACTOR).

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

ARTICLE 1- WORK

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

DESCRIPTION OF WORK:

The contractor will install wall mount split units at Station 82 in each dorm and the living area as per the manufactures specifications.

ARTICLE 2-THE PROJECT

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

Station 82 HVAC Upgrades to the dorms and living area

ARTICLE 3- CONTRACT TIMES

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

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

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

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

ARTICLE 4- CONTRACT PRICE

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

For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual quantity of that item as measured in the field.

UNIT PRICE WORK

| <u>No.</u> | <u>Item</u> | <u>Quantity</u> | <u>Unit</u> | <u>Unit Price</u> | <u>Amount</u> |
|------------|-----------------------------------|-----------------|-------------|-------------------|---------------|
| | Install mini-splits in dorms | | | | \$20,287.73 |
| | Install mini-split in Living Area | | | | \$5,888.01 |
| | total | | | | 26,175.74 |

TOTAL OF ALL UNIT PRICES **Twenty Six Thousand one hundred seventy five dollars and seventy four cents**

ARTICLE 5- PAYMENT PROCEDURES

5.01 *Submittal and Processing of Payments:* CONTRACTOR shall submit Applications for Payment to OWNER no more than one time per each month.

5.02 *Progress Payments; Retainage:* OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment on or about the **15th** day of each month during performance of the Work as provided in paragraphs 5.02(1)(A) and 5.02(1)(B). All such payments will be measured by the schedule of values indicated:

1. Prior to Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as OWNER may determine or OWNER may withhold, in accordance with the following:

A. 95% of Work completed (with the balance being retained). If the Work has been 50% completed as determined by the OWNER, and if the character and progress of the Work have been satisfactory, OWNER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100% of the Work completed less the aggregate of payments previously made; and

B. 25% of cost of materials and equipment not incorporated in the Work (with the balance being retained).

2. Upon Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 100% of the Work completed.

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

ARTICLE 6- INTEREST

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

ARTICLE 7- CONTRACTOR'S REPRESENTATIONS

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

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

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

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

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

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

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

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

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

ARTICLE 8- CONTRACT DOCUMENTS

8.01 *Contents:*

A. The Contract Documents consist of the following:

1. This Agreement;

Exhibits this Agreements;

2. CONTRACTOR's Bid;

3. Documentation submitted by CONTRACTOR

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

Written Amendments;

Work Change Directives;

Change Order(s).

B. The documents listed in paragraph 8.01 A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 8.

D. The Contract Documents may only be amended, modified, or supplemented by OWNER through work change orders or quantity modifications.

ARTICLE 9- MISCELLANEOUS

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

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

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

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

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

OWNER:

CONTRACTOR:

SOUTH OGDEN CITY CORPORATION

By: _____

By: _____

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

Attest _____

Address for giving notices:

Address for giving notices:

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

Designated Representative:

Name: _____

Title: _____

Address: _____

Phone: _____

Name: _____

Title: _____

Address: _____

Phone: _____

STAFF REPORT



SUBJECT: Wasatch Front Football Agreement 2023
AUTHOR: Jon Andersen
DEPARTMENT: Parks & Recreation
DATE: 8-15-23

RECOMMENDATION

City staff is recommending WFFL agreement be approved. The approval of this agreement will allow the City recreation program to continue its participation in the Wasatch Front Football League for the 2023 season

BACKGROUND

South Ogden City has been using the WFFL as the organization which allows its youth to participate in tackle football for twenty plus years. This agreement is renewed on an annual basis. The agreement identifies the fees and rules for which all franchises/associations that play in the WFFL will abide by.

ANALYSIS

The agreement establishes a fee for each team to participate in the 2023 season. The fees are \$100.00 per team(Mitey Mite, Jr. Pee Wee -Bantam) and \$50.00 per team(Jr. Mite & Mitey Mite). South Ogden Recreation has seven teams this year. The cost to the recreation program will be \$600.00 for the 2023 season. The number of teams varies from year to year depending the number of youth that play. We have had anywhere for 4-10 teams playing in years past.

SIGNIFICANT IMPACTS

There will be minimal impact to the Recreation budget which has been budgeted for in the 2023-24. The impact will be \$600.00.

ATTACHMENTS

None

Resolution No. 23-36

RESOLUTION OF SOUTH OGDEN CITY APPROVING A FRANCHISE AGREEMENT WITH WASATCH FRONT FOOTBALL LEAGUE, 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 that in conformance with Utah Code ("UC") § 10-1-401, et. seq., the governing body of the city may enter into franchise agreements with various service providers; and,

WHEREAS, the City Council finds that Wasatch Front Football League is an organization that provides opportunities for young people to play competitive football as part of the recreation program of South Ogden City (the "City") and other surrounding areas; and,

WHEREAS, the City Council finds that providing competitive football requires the availability and organization of varied facilities within the City; and,

WHEREAS, the City Council finds that under Utah Code, the City has the authority to grant to Wasatch Front Football League a franchise to provide football services within the City; and,

WHEREAS, the City Council finds that the City desires to set forth the terms and conditions by which Wasatch Front Football League shall use the public facilities of the City to provide these services; and,

WHEREAS, the City Council finds it necessary to insure provision of adequate and effective various services for city residents; 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 2 - FRANCHISE AGREEMENT AUTHORIZED

The **"Wasatch Front Football League Franchise/Association Agreement"** 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, If Any, Under The Agreement On Behalf Of The City And The Manager Is Authorized 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.

SECTION 3 - 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 4 - 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 5 - 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 6 - DATE OF EFFECT

This Resolution shall be effective on the 16th day of August, 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 August, 2023.

SOUTH OGDEN CITY

Russell L. Porter, Mayor

ATTEST:

Leesa Kapetanov, MMC
City Recorder

ATTACHMENT "A"

Resolution No. 23-36

Resolution Of South Ogden City Approving A Franchise Agreement With
Wasatch Front Football League, And Providing That This Resolution Shall
Become Effective Immediately Upon Posting And Final Passage.

15 Aug 23

Wasatch Front Football League Franchise/Association Agreement

THIS FRANCHISE/ASSOCIATION AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, 2023 By and between the Wasatch Front Football League, a non-profit 501 (C) (3) Organization (hereafter referred to as "WFFL") and _____ a _____ (hereafter referred to as "Franchise/Association"), with reference to the following facts:

A. WFFL is the owner and operator of certain proprietary and other property rights and interests in and to:

- 1) the "WFFL" (Wasatch Front Football Association) name and such other related trademarks, trade names, service marks, logotypes, insignias, and designs as "WFFL" may use from time to time (the trademarks) in connection with the development operation and maintenance of Franchise/Association may be authorized to use from time to time in operating the franchise/Association, and
- 2) the "WFFL" procedures for the operation of such Franchise/Association, including advertising, materials, signs, personnel management, administration and control systems.

B. "WFFL" desires to expand and develop the Franchise/Association, and desires a Franchise/Association who will promote and operate little league football teams, in accordance with the "WFFL" terms and conditions contained in this Agreement, league rules, by-laws, policies and procedures as set forth from the "WFFL" governing body.

WHEREFORE IT IS AGREED

I. GRANT OF WASATCH FRONT FOOTBALL LEAGUE FRANCHISE/ASSOCIATION

- 1.1 Grant of League Franchise/Association
"WFFL" hereby grants to Franchise/Association, and Franchise/Association hereby accepts, a nonexclusive and revocable authorization to make reasonable use of the designated Franchise/Association area, during the term to open and operate a "WFFL" little league football program, and to procure, screen, qualify, train and assist. Coaches, players, employees and others necessary to run a program, in the development area more fully described in Exhibit "A" which is annexed hereto and by this reference made a part hereof, upon the terms and subject to the conditions of this Agreement.
- 1.2 Franchise/Association is subject to the terms and conditions set forth in this agreement, league rules by-laws, general policies, procedures and terms as set forth by the executive board of the "WFFL" from time to time, and more fully described in Exhibit B. Nothing in this Franchise/Association Agreement shall be deemed to waive the requirements of the other rules, by-laws, policies or procedures of general applicability enacted, or hereafter enacted, by the "WFFL".
- 2.1 Minimum Development Obligation Franchise/Association shall construct, equip, open and continue to operate, and procure, screen, qualify, train and assist all involved in the

- organization of the "WFFL" little league football Franchise/Association.
- 2.2 Each Franchise/Association area shall be subject to a separate agreement. And terms set forth by the "WFFL" governing body specific to each Franchise/Association area, more fully described in Exhibit B.
- 2.3 Each Franchise/Association will be subject to "WFFL" specified training and certification of Franchise/Association area directors, coaches, and all other personnel involved with the administration and day to day activities of the Franchise/Association.
- 2.4 Each Franchise/Association must use the designated materials as outlined in the league operations manual, and provided by the "WFFL" organization, including but not limited to, registration, player participation, and player eligibility.
- 3.1 TERM - The term of this Agreement (the "Term") shall be for a period of one (1) Season, commencing on the effective date hereof, and ending at the end of the season, as prescribed in the terms set for each Franchise/Association area, more fully described in Exhibit B, unless sooner terminated in accordance with the provisions herein.
- 4.2 Pursuant to league rules, by-laws, policies, procedures and terms, as set forth by the WFFL governing body., the WFFL is Authorized to grant or renew Franchise/Associations to construct, operate and maintain a Little league football program under the guidelines set forth.
- 4.3 Franchise/Association Breaches: Termination of Franchise/Association Furthermore the WFFL holds exclusive right to terminate this Franchise/Association for Cause. Termination may be at anytime during the Term of this agreement. The WFFL executive board will determine cause, after investigation of any violations of this agreement, league rules, by-laws, policies, procedures and terms (as prescribed in Exhibits A & B), including but not limited to the previous listed infractions. All executive board rulings will be final and binding.
- 4.4 Procedures for remedying Franchise/Association Violations
If the WFFL believes that the Franchise/Association has failed to perform any obligation under this Agreement or has failed to preform in a timely manner, the "WFFL" shall notify the Franchise/Association in writing, stating with reasonable specificity the nature of the alleged default. The Franchise/Association shall have seven (7) days from the receipt of such notice to:
- 1) respond to the "WFFL", contesting the "WFFL's" assertion that a default has occurred, and requesting a hearing; or
 - 2) cure the default: or
 - 3) notify the "WFFL" that Franchise/Association cannot cure the default within seven (7) days because of the nature of the default. In the event the default cannot be cured within seven (7) days the Franchise/Association must notify the "WFFL" so that it can be determined whether additional time beyond the seven (7) days will be granted. The Franchise/Association shall promptly take all reasonable steps to cure the default and notify the "WFFL" in writing and in detail as to the exact steps that will be taken and the projected completion date. In such case, the "WFFL" may set a hearing to determine whether additional time beyond the 7 days is indeed needed, and whether the Franchise/Association's proposed completion schedule and steps are reasonable.

If the Franchise Association does not cure the alleged default within the cure period stated above, or by the projected completion date above, or denies the default and request a hearing, or the "WFFL" orders a hearing to investigate said issues or the existence of the alleged default. At the hearing, Franchise/Association shall be provided an opportunity to be heard and to present evidence in its defense.

The determination as to whether a default or a material breach of this agreement has occurred shall be within the "WFFL's" sole discretion.

If after the hearing, the "WFFL" determines that a default still exists, the "WFFL" shall order the Franchise/Association to correct or remedy the default or breach within three (3) days or within such other reasonable time frame as the "WFFL" shall determine. In the event the Franchise/Association does not cure said default or breach within such time to the "WFFL's" reasonable satisfaction, the "WFFL" may:

- 1) Withdraw membership of any team or teams, player or players, coach or coaches, director or directors, or any other member of the Franchise/Association organization indefinitely..
- 2) Revoke this Franchise/Association in its entirety, removing all teams from the current schedule.
- 3) Review Franchise/Association application for the next season, and withhold any Franchise/Association agreements for an indefinite period of time.

4.5 Revocation

In addition to revocation in accordance with other provisions of this Agreement. The "WFFL" may revoke this Agreement and rescind all rights and privileges associated with this Agreement in the following circumstances. Each of which represents a material breach of this Agreement.

- 1) If the Franchise/Association fails to perform any substantial obligations under this Agreement or other terms and provisions entered into by and between the "WFFL" and the Franchise/Association in the form of rules, by-laws, policies, procedures and terms as set forth by the "WFFL", and as interpreted by the "WFFL" executive board.
- 2) If the Franchise/Association practices any fraud or deceit upon the "WFFL"; or
- 3) If the Franchise/Association becomes defiant or disrespectful, to the "WFFL" rules, by-laws policies, procedures and terms as set forth by the "WFFL" executive board.

5.1 Policies and Powers

Franchise/Association's rights hereunder are subject to the policies and powers of the "WFFL" to adopt and enforce rules, by-laws, policies, procedures and terms, necessary to the safety, health, and welfare of the youth participants, and Franchise/Association agrees to comply with all applicable rulings enacted, or hereafter enacted, by the "WFFL" having jurisdiction over the subject matter hereof.

5.2 The WFFL reserves the right to exercise its policies and powers, notwithstanding anything in this agreement to the contrary, and any conflict between the provisions of this Agreement and any other present or future lawful exercise of the "WFFL's" policies and powers shall be resolved in favor of the "WFFL".

5.3 The WFFL shall be vested with the power and right to regulate reasonably the exercise of the privileges permitted by this Agreement in the public interest, or to delegate that power

- and right, or any part thereof, to any agent including, but not limited to the “WFFL” board members, in its sole discretion and
- 5.4 Subject to applicable law, Franchise/Association shall not be relieved of its obligations to comply, promptly and completely, with any provision of this Franchise/Association by any failure of the “WFFL” to promptly enforce compliance with this Franchise/Association.
- 6.1 General Indemnification.
Franchise/Association shall indemnify, defend and hold the “WFFL”, its officers, agents and employees, harmless from any action or claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and attorney fees of expenses, arising from any casualty or accident to person or property, including, without limitation, copy write infringement, defamation, and all other damages in any way arising out of, or by reason of, any act done under this Franchise/Association, by or for Franchise/Association, its agents or its employees, or by reason of any neglect or omission of Franchise/Association. Franchise/Association shall consult and cooperate with the “WFFL” while conducting its defense of the “WFFL”.
- 6.2 Insurance
Franchise/Association shall maintain public liability and property damage insurance that protects the Franchise/Association and the “WFFL”, its officers, agents, and employees from any and all claims for damages or personal injury including death, demands, actions, and suits brought against any of them arising from operations under this Franchise/Association or in connection therewith. 6.2 Franchise/Association shall not have any monetary recourse against the “WFFL” or its officials, board members, commissioners, agents or employees for any loss, costs, expenses or damages arising out of any provision or requirement of this Agreement or the enforcement thereof.
- 7.1 Effective Date
The effective date of this Agreement shall be June 1, 2023 (or 30 days after adoption of this Agreement by the “WFFL”, whichever occurs later). Unless the Grantee fails to file the unconditional written acceptance of this Agreement and post the security required hereunder, in which event this franchise/Association shall be null and void, and any and all right of the Grantee to operate a “WFFL” Franchise/Association under this or any other agreement is hereby terminated.
- 7.2 Franchise/Association is not relieved of its obligation to comply with any of the provisions of this Agreement or the Franchise/Association terms by reason of any failure of the “WFFL” to enforce prompt compliance. Franchise/Association’s forbearance or failure to enforce any provision of this agreement shall not serve as a basis to stop any subsequent enforcement.
- 7.3 The “WFFL” and Franchise/Association hereby waive respectively any and all rights, other than constitutional rights, to at any time or in any manner or proceeding challenge this Agreement or validity of any term or provision of this agreement, and any such challenge shall constitute a material breach of this agreement, provided, however, that “WFFL” or Franchise/Association may challenge any provision of this agreement based on a change in law, should the law pertaining to that provision change. Franchise/Association agrees that it will not challenge the “WFFL’s” authority to enter into this agreement as of the

effective date hereof.

8.1 Execution

This Agreement shall not be entered into, or biding, until fully executed by the "WFFL" in accordance with all requirements appertaining thereto, including full signature, execution and attestation in the spaces below. This Agreement shall be binding upon the heirs, successors, and assigns of the parties in case any or all of them assume authority over the operation of this Franchise/Association, and failure to agree to, or abide by, the terms of this Franchise/Association agreement by any entity or person assuming authority over the operation of the Franchise/Association shall be deemed a violation of this agreement.

Franchise/Association

Signed _____

By _____

Title _____

Wasatch Front Football League

Signed _____

by: _____

Title: _____

Exhibit A

a) Franchise/Association Area means the area within the jurisdictional boundaries of the Franchise/Association, as assigned by the "WFFL", including any areas annexed or removed by the "WFFL" during the term of this agreement.

Franchise/Association Area

Franchise/Association shall provide services, as authorized under this Franchise/Association, within the Franchise/Association area and the jurisdictional boundaries as prescribed by the "WFFL" including any areas annexed or removed during the term of this Agreement in accordance with the Area boundaries as set forth in Exhibit A.

Franchise/Association Area description and/or Map:

SOUTH OGDEN: All of South Ogden City, Uintah, and Uintah Highlands.

See Addendum B in the WFFL Policies and By-laws, 2023

Exhibit B

[For Wasatch Front Football League By-Laws, Rules, Policies, and Procedures, please visit:](https://cdn1.sportngin.com/attachments/document/59a1-2768647/WFFL_Bylaws_final_2023_Proposed-MINUS_BRACKETS_finalv2.pdf_gf=1*6bu2u6*_ga*MjAyODQ4Mzg1Ni4xNjkxNzA0Mzg0*_ga_PQ25JN9PJ8*MTY5MTcwNDM4NC4xLjAuMTY5MTcwNDM4NC4wLjAuMA..#_ga=2.11492148.1070503114.1691704386-2028483856.1691704384)

https://cdn1.sportngin.com/attachments/document/59a1-2768647/WFFL_Bylaws_final_2023_Proposed-MINUS_BRACKETS_finalv2.pdf_gf=1*6bu2u6*_ga*MjAyODQ4Mzg1Ni4xNjkxNzA0Mzg0*_ga_PQ25JN9PJ8*MTY5MTcwNDM4NC4xLjAuMTY5MTcwNDM4NC4wLjAuMA..#_ga=2.11492148.1070503114.1691704386-2028483856.1691704384

Resolution No. 23-37

**RESOLUTION OF SOUTH OGDEN CITY APPROVING A FRANCHISE
AGREEMENT WITH ALL WEST/UTAH INC. FOR A CABLE TELEVISION
SYSTEM**

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 that in conformance with Utah Code ("UC") § 10-1-401, et. seq., the governing body of the city may enter into franchise agreements with telecommunications providers; and,

WHEREAS, the City Council finds that it necessary to insure provision of adequate and effective telecommunications services for city residents; and,

WHEREAS, the City Council finds that All West/Utah Inc. has the ability to provide cable television services to meet the city's needs; and,

WHEREAS, the City Council finds that the City now desires to further those ends by entering into an agreement with All West/Utah Inc. to provide cable television services; and,

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

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

SECTION 2 - CONTRACT AUTHORIZED

The **"Franchise Agreement"** Between South Ogden City And All West/Utah Inc., Attached Hereto As **Attachment "A"** and by This Reference Fully Incorporated Herein, Is Approved And Adopted And The City Manager 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.

SECTION 3 - PRIOR ORDINANCES AND RESOLUTIONS

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

SECTION 4 - REPEALER OF CONFLICTING ENACTMENTS

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

SECTION 5 - 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 6 - DATE OF EFFECT

This Resolution shall be effective on the 15th day of August, 2023, 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 August, 2023.

SOUTH OGDEN CITY

Russell L. Porter, Mayor

ATTEST:

Leesa Kapetanov, MMC
City Recorder

ATTACHMENT "A"

Resolution No. 23-37

Resolution Of South Ogden City Approving A Franchise Agreement With All
West/Utah Inc. For A Cable Television System

15 Aug 23

**FRANCHISE AGREEMENT BETWEEN THE CITY OF SOUTH OGDEN AND ALL
WEST/UTAH, INC. REGARDING OPERATION OF A CABLE TELEVISION SYSTEM
WITHIN THE CITY OF SOUTH OGDEN**

This Franchise Agreement between the City of South Ogden and All West/Utah, Inc. ("Franchise Agreement") is made this _____ day of _____, 2023, by and between the City of South Ogden, a municipal subdivision of the State of Utah (the "City") and All West/Utah, Inc., a Utah corporation ("All West" or "Grantee") and for the purpose of granting to All West the non-exclusive right to operate and maintain a cable television system in, on, over, upon, along, and across the public rights of way of the City and for the purpose of identifying and prescribing certain rights, duties, terms, and conditions with respect thereto.

Section 1. Definitions. When used in this Franchise Agreement, unless the context otherwise requires, the following terms and their derivatives shall have the meaning herein given (and when not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural):

- (1) "Basic Cable Service" means any service tier of Cable Service which includes the retransmission of local television broadcast signals by the Grantee.
- (2) "Cable Act" means the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer protection and Competition Act of 1992, the Telecommunications Act of 1996 and any amendments thereto.
- (3) "Cable Service" means: (a) the one-way transmission to Subscribers of video programming or other programming service; and (b) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
- (4) "Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community as defined in the Cable Act. A Cable System may be composed of, without limitation, antenna, cables, wires, lines, fibers, towers, wave guides, or any other conductors, converters, equipment or facilities, designed, constructed or wired for the purpose of producing, receiving, amplifying and distributing cable radio, television or other electronic or electrical signals to and from persons, Subscribers and locations in the Franchise Area.
- (5) "City" means the City of South Ogden.
- (6) "Council" means the governing body of the City.
- (7) "Franchise Area" means that area within the corporate limits of the City as now or hereafter constituted.
- (8) "Grantee" means All West/Utah, Inc., its successors and assigns ("All West").

(9) "Grantee Property" means all property owned, installed or used by the Grantee in the provision of Cable Service in the City as described in Section 2.

(10) "Gross Subscriber Revenues" means all remuneration received directly by the Grantee from Subscribers in payment for regularly furnished Cable Service, but shall not include any franchise fee or taxes on services furnished by the Grantee imposed on any Subscriber or user by any government, governmental unit, political subdivision, agency or instrumentality, and collected by the Grantee.

(11) "Person" means any natural person, company or entity of any kind.

(12) "Street" means the surface of and the space above and below any public street, way, place, right of way, road, highway, freeway, bridge, tunnel, lane, path, bike path, alley, court, sidewalk, parkway, drive, boulevard, communications or utility easement, by whatever name called, now or hereafter existing as such within the Franchise Area.

(13) "Subscriber" means any person or entity who lawfully receives any Cable Service.

Section 2. Grant of Authority. There is hereby granted by the City to the Grantee the right and privilege to engage in the business of operating and providing a Cable System in the City, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any Street or Streets laid out or dedicated and all extensions thereof and additions thereto in the Franchise Area, such poles, wires, cable, conductors, ducts, conduit, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the Cable System (collectively "Grantee Property"); and in addition, so to use, operate, and provide similar facilities or properties rented or leased from other persons, including but not limited to any public utility or other Grantee franchised or permitted to do business in the City.

Section 3. Non-Exclusive Grant. The right to use and occupy said Streets for the purposes herein set forth, shall not be exclusive to the Grantee. The City agrees that any grant of additional franchises or other authorizations by the City to any other entity to provide video or other services similar to those provided by Grantee pursuant to this Franchise Agreement and over which the City has regulatory authority shall require that service be provided for the same territorial area of the City as required by this Franchise Agreement and shall not be on terms and conditions more favorable or less burdensome to the grantee of any such additional franchise than those which are set forth herein.

Section 4. Term of Franchise. The franchise and rights herein granted shall commence on the date of the final passage hereof and shall continue in force and effect for fifteen (15) years after said effective date, subject to such modifications as to which the City and the Grantee may hereafter agree. Thereafter, the franchise and rights granted herein shall automatically renew for successive fifteen (15) year periods unless the City revokes such franchise and rights by ordinance on or before the expiration of the initial term or any renewal period hereof.

Section 5. Conditions of Street Occupancy. (1) All transmission and distribution structures, poles, lines, and equipment installed or erected by the Grantee within the Franchise Area shall be so located as to cause minimum interference with the proper use of Streets and with the rights and reasonable convenience of property owners who adjoin any of said Streets. The Cable System shall be constructed and operated in compliance with applicable governmental construction and electrical codes.

(2) In case of disturbance of any Street or paved area, the Grantee shall, at its expense and in accordance with generally accepted construction practices, replace and restore such Street or paved area in as good condition as theretofore.

(3) The Grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same Street or other public place, or remove from the Street or other public place, any Grantee Property when lawfully required by the City by reason of traffic conditions, public safety, Street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, or water pipes, or any other type of structures or improvements by the City; but, the Grantee shall in all cases have the right of abandonment of Grantee Property, subject to City ordinances, and if public funds are available to any utility company for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to the Grantee.

(4) The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings, provided: (a) The expense of such temporary raising or lowering of wires is paid by said person, including, if required by the Grantee, making such payment in advance; and (b) The Grantee is given not less than three (3) business days advance notice to arrange for such temporary wire changes.

(5) The Grantee shall have the authority to trim trees overhanging any Streets in the Franchise Area so as to prevent branches from coming in contact with the Grantee's wires and cables, except that at the option of the City, such trimming may be done by it or under its supervision and direction at the Grantee's expense.

(6) Subject to any applicable state or federal regulations or tariffs, the City shall have the right to make additional use, for any public purpose, of any poles or conduits controlled or maintained exclusively by or for the Grantee in any Street, provided: (a) such use by the City does not interfere with the use by the Grantee; (b) such use by the City does not commercially compete with the Grantee; and (c) the City holds the Grantee harmless against and from all claims, demands, causes of actions, suits, actions, proceedings, damages, costs or liabilities of every kind and nature whatsoever arising out of such use of said poles or conduits.

Section 6. Safety Requirements. (1) The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

(2) All structures and all lines, equipment and connections in, over, under and upon all Streets of

the Franchise Area shall be kept and maintained in a safe and suitable condition and in good order and repair.

Section 7. System Construction and Extension. The Grantee is hereby authorized to extend the system within the Franchise Area to the extent that such extension is or may become technically and economically feasible. Nothing in this agreement requires Grantee to build to all areas of the Franchise Area. Grantee retains discretion to determine the scope, location, and timing of the design and construction of its network.

Section 8. Operational Standards; Force Majeure. (1) The Grantee shall operate and maintain its Cable System in full compliance with the standards set forth by the Federal Communications Commission.

(2) The Grantee shall have no obligation to construct or extend the system, nor to provide, repair, replace, maintain or operate Cable Service, for any cause beyond Grantee's control, including, without limitation, acts of God, fire, flood, earthquakes, hurricane, unavoidable casualty, extraordinary delays in transportation, strikes, lockouts, picketing, boycotts, embargoes, government orders or other requirements, acts of civil or military authorities, governmental restrictions, regulations or controls, enemy or hostile governmental action, civil commotion, energy shortages, acts or omissions of carriers, or activities or other emergency conditions including weather conditions incompatible with good quality workmanship.

Section 9. Office; Complaints. The Grantee shall maintain a business office or agent which Subscribers may telephone during regular business hours without incurring added message or toll charges, so that complaints regarding cable television operations may be promptly reported to the Grantee.

Section 10. Franchise Payments. (1) The Grantee shall pay the City a sum equal to six percent (6%) of the Gross Subscribers Revenues per annum derived by the Grantee from all Subscribers located within the City.

(2) Within 60 days after the first day of July of each year, during the term of this Franchise Agreement, the Grantee shall file with the City a report of such revenues as described within this section for the next preceding twelve (12) month period, which report shall include a computation of the franchise payment due. The City shall determine the accuracy of the franchise payment computation, and if it finds any errors, shall report the same to Grantee for correction. The records of the Grantee reflecting the information relevant in determining revenues described in this section shall be available for inspection by the City Council or its duly authorized representative at all reasonable hours and upon reasonable notice of not less than 15 days.

(3) The payments described in this section shall be in lieu of any and all other franchise, occupation, privilege, pole, wire, instrument, excise or other taxes except general ad valorem property taxes, sales taxes, City license tax and other special improvement taxes lawfully levied by the City or any other subdivision of the State of Utah pursuant to law.

(4) The business of cable television is hereby classified as a "retail business" for licensing purposes and the Grantee shall pay the annual license fee for such business at the rate in effect each year for such businesses, but it will not be singled out for tax treatment different from other members of that general class of business. The Grantee is authorized to charge and collect this franchise fee from the Subscribers in addition to the charges for Cable Services heretofore or hereafter approved by the City in the same manner as such billing and collection is authorized under the utility franchises issued by the City.

Section 11. Indemnification of City. (1) The Grantee shall at all times protect and hold the City harmless from all claims, actions, suits, liability, loss, expense or damages of every kind and description, including investigation costs, court costs, and reasonable attorney's fees, which may accrue to or be suffered or claimed by any person or persons arising out of the negligence of the Grantee in the ownership, construction, repair, replacement, maintenance and operation of said Cable System and by reason of any license, copyright, property right or patent of any article or system used in the construction or use of said system, provided the City gives the Grantee prompt notice of any such claims, actions, and suits, without limitation, in writing. The Grantee shall maintain in full force and effect during the life of any franchise, comprehensive general liability insurance with limits inclusive of umbrella or excess liability coverage of not less than (a) \$2,000,000 for bodily injury or death to each person; and (b) \$3,000,000 for property damages resulting from any one accident.

(2) The City may require that any and all investigation of claims made by any person against the City arising out of any use or misuse of privileges granted to the Grantee hereunder shall be made by, or at the expense of the Grantee or its insurer. The Grantee may bring its obligations to carry any insurance required hereby within the coverage of any so-called blanket policy or policies of insurance now or hereafter carried, by appropriate amendment, endorsement or otherwise, provided, however, the interests of the City shall be as fully protected thereby as if the Grantee had obtained individual policies of insurance.

Section 12. Procedures. (1) Any inquiry, proceeding, investigation or other action to be taken or proposed to be taken by the City in regard to the operations of the Grantee's Cable System, shall be taken only after thirty (30) days written notice to the Grantee of such action or proposed action, and the Grantee has been given an opportunity to respond in writing and at any hearing which may be specified by the City.

(2) The notice required by this section shall state clearly the action or proposed action to be taken, the time provided for response and the person or persons in authority to whom such responses should be addressed, and such other procedures as may be specified by the City. If a hearing is to be held, the notice shall give the date and the time of such hearing, whether public participation will be allowed and the procedures by which such participation may be obtained. The company shall be a necessary party to any hearing conducted in regard to its operations.

Section 13. Procedure Upon Termination. Upon expiration of the Franchise Agreement, if the Grantee shall not have acquired an extension renewal thereof and accepted the same, it may have

and it is hereby granted, the right to enter upon the Streets or other property of the City, for the purposes of removing therefrom any or all of its Grantee Property or otherwise. In so removing said Grantee Property, the Grantee shall refill, at its expense, any excavation that it shall make and shall leave said Streets in as good condition as that prevailing prior to the Grantee's removal of Grantee Property.

Section 14. Approval of Transfer. The Grantee shall not sell or transfer its plant or Cable System to another, other than a person controlling, controlled by or under common control with the Grantee, nor transfer any rights under this Franchise Agreement to another, without prior written notification to the City. No sale or transfer of the Grantee's assets used in the performance of this Franchise Agreement shall be effective until the vendee, assignee or lessee has filed in the office of the City clerk an instrument duly executed reciting the fact of such sale, assignment or lease, accepting the terms of the Franchise Agreement and agreeing to perform all the conditions thereof. Neither this section nor other sections of this Franchise Agreement shall preclude the mortgaging, hypothecating, or assigning of rights in the Cable System, or the pledge of stock by the Grantee for the purpose of financing.

Section 15. Miscellaneous Provisions. (1) When not otherwise prescribed herein, all matters herein required to be filed with the City shall be filed with the City clerk.

(2) The Grantee shall assume the cost of publication of this Franchise Agreement when such publication is required by law. A bill for publication costs shall be presented to the Grantee by the City clerk.

(3) In the case of any emergency or disaster, the Grantee shall, upon request of the City make available its facilities to the City for emergency use during the emergency or disaster period.

Section 16. Compliance with Applicable Laws and Ordinances. The Grantee shall at all times during the life of this Franchise Agreement be subject to all lawful exercise of the police power by the City. The City reserves the right to adopt from time to time in addition to the provisions herein contained such ordinances as may be necessary to the exercise of police power. Such regulation shall be reasonable and not in derogation of the rights herein granted, nor in conflict with the laws of the state or other local or federal laws or regulations.

Section 17. Violations; Penalties. (1) From and after the effective date of this title, it shall be unlawful for any person to construct, install or maintain within any public Street in the City, or within any other public property of the City, or within any privately-owned area within the City which has not yet become a public Street but is designated or delineated as a proposed public Street on any tentative subdivision map approved by the City, any equipment or facilities for distributing any television signals or radio signals through a Cable System, unless a franchise authorizing such use of such Street or property or area has first been obtained, and unless such franchise is in full force and effect.

(2) It shall be unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of the franchised Cable System within this City for the purpose of enabling anyone to receive any television signal, radio signal,

picture, sound, or other transmission, without payment to the Grantee.

(3) It shall be unlawful for any person, without the consent of the owner, willfully to tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, sound or other transmission.

(4) Any person violating or failing to comply with any of the provisions of this section shall be guilty of a class C misdemeanor.

Section 18. Line Severing. If at any time the Grantee's cable and/or other equipment is disturbed, damaged, or severed the cost of repair shall be paid by the party responsible for said damage. The Grantee may charge the responsible party for the time and materials expended for repair of said damage. The City will cooperate with the Grantee to assist in enforcing any charge or penalty arising from cable severing or other damage to Grantee Property.

Section 19. Separability. If any part of this Franchise Agreement is for any reason held invalid by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions. The invalidity of any portion of this Franchise Agreement shall not abate, reduce or otherwise affect any consideration or other obligation required of the Grantee.

Section 20. Anti-Boycott Israel.

In accordance with Utah Statute 63G-27-101, Contractor certifies that it is not currently engaged in a boycott of the State of Israel and agrees not to engage in a boycott of the State of Israel for the duration of the contract.

Section 21. Governing Law.

It is understood and agreed by the Parties hereto that this Agreement shall be governed by the laws of the State of Utah, both as to interpretation and performance. All actions, including but not limited to court proceedings, administrative proceedings, arbitration and mediation proceedings, shall be commenced, maintained, adjudicated and resolved within the jurisdiction of the State of Utah.

Section 22. Approval by City Council and Effective Date. This Franchise Agreement shall be effective upon execution by the Grantee and the City Manager and the prior approval of this Franchise Agreement by resolution of the City Council adopted at a public meeting duly noticed under Utah law

[SIGNATURE PAGE TO FOLLOW]

AGREED TO this ____ day of _____, 20__.

CITY OF SOUTH OGDEN

By: _____
Its: City Manager

ATTEST:

City Recorder

ALL WEST/UTAH, INC.

By: _____
Its: _____