PUBLIC NOTICE IS HEREBY GIVEN that the Midvale City Council will hold a regular meeting on the 4th day of September 2018 at Midvale City Hall, 7505 South Holden Street, Midvale, Utah as follows:

6:00 PM – DAHL CONFERENCE ROOM
PRE-MEETING WORKSHOP AND STAFF REPORTS

7:00 PM
REGULAR MEETING

I. GENERAL BUSINESS
   A. WELCOME AND PLEDGE OF ALLEGIANCE
   B. ROLL CALL
   C. Presentation to Boys and Girls Club
   D. Proclamation Declaring September 17-23 Constitution Week

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

III. COUNCIL REPORTS
   A. Council Member Bryant Brown
   B. Council Member Paul Hunt
   C. Council Member Dustin Gettel
   D. Council Member Paul Glover
   E. Council Member Quinn Sperry

IV. MAYOR REPORT
   A. Mayor Robert M. Hale

V. PUBLIC HEARINGS
   A. Consider Approval of a Preliminary Subdivision Plat for a 6-Lot Subdivision (Union Manor) from Greg Hansen located at 987 East 7240 South [Alex Murphy, Associate Planner]

   ACTION: Approve a Preliminary Subdivision Plat for a 6-Lot Subdivision (Union Manor) from Greg Hansen located at 987 East 7240 South
B. Consider Approval of a Final Subdivision Plat for a 2-Lot Subdivision and Road Dedication (Jordan Bluffs Lot 2 Amended) from Ben Seastrand, KC Gardner Company, located at 983 West Center Street [Alex Murphy, Associate Planner]

**ACTION:** Consider a Final Subdivision Plat for a 2-Lot Subdivision and Road Dedication (Jordan Bluffs Lot 2 Amended) from Ben Seastrand, KC Gardner Company, located at 983 West Center Street

**VI. CONSENT AGENDA**

A. Consider Minutes of August 14 & 28, 2018 [Rori Andreason, H.R. Director/City Recorder]

B. Set date and time [September 18, 2018 at 7:00 p.m.] to Consider Proposed Amendments to the Fiscal Year 2019 Budgets for the General Fund and other Funds as necessary [Laurie Harvey, Assistant City Manager/Admin Services Director]

**VII. ACTION ITEMS**

A. Consider Resolution No. 2018-R-38 appointing Glen Kennedy as Public Works Director [Kane Loader, City Manager and Robert Hale, Mayor]

B. Consider Ordinance No. 2018-O-12 Amending and Renumbering the Midvale Municipal Code 2.28, Finance Purchasing Ordinance [Laurie Harvey, Assistant City Manager/Admin Services Director]

**VIII. DISCUSSION ITEMS**

A. Discussion regarding amendments to Chapter 5 of the Midvale Municipal Code regarding food trucks [Jessie Stuart, Business License Administrator]

B. Discuss Proposed Amendment Chapter 15.12 Adoption of Building and other Related Codes to add a penalty section [Lisa Garner, City Attorney]

**IX. ADJOURN**

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

A copy of the foregoing agenda was provided to the news media by email and/or fax. The agenda was also posted at the following locations on the date and time as posted above: City Hall Lobby, on the City’s website at www.midvalecity.org and the State Public Notice Website at http://pmn.utah.gov. Council Members may participate in the meeting via electronic communications. Council Members’ participation via electronic communication will be broadcast and amplified so other Council Members and all other persons present in the Council Chambers will be able to hear or see the communication.

PLEASE MAKE SURE ALL CELL PHONES ARE TURNED OFF DURING THE MEETING

DATE POSTED: AUGUST 31, 2018

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

Public Hearing and Preliminary Subdivision Plat Approval for 6-Lot Union Manor Subdivision Located at 987 East 7240 South

SUBMITTED BY:

Alex Murphy, Associate Planner

SUMMARY:

The proposed Union Manor Subdivision consists of six (6) proposed lots, including flag lots, on a total of 0.69 acres located at the intersection of 7240 South and 1035 East. This request has been submitted by Greg Hansen, representing the owner of the properties involved, as part of an overall proposal for a trio of twin homes. The Planning Commission granted approval of the Conditional Use Permit for the proposed twin homes and flag lots, subject to the City Council’s approval of the subdivision plat.

The proposed subdivision plat has been reviewed and approved by the City Engineer and Fire Marshal. As a large subdivision request (more than 3 lots), this request is subject to and complies with the requirements of the Single Family Residential zone with Duplex Overlay (SF-1/DO) and the subdivision ordinance (Title 16), provided the recommended conditions below are satisfied.

All subdivisions require a review and recommendation from the Planning Commission and approval from the City Council with public hearings held before each body. The Planning Commission conducted a public hearing on this preliminary subdivision plat on August 8, 2018. Based on compliance with the City’s zoning and subdivision requirements, the Planning Commission forwarded a positive recommendation to the City Council to approve the preliminary subdivision plat for the Union Manor Subdivision with the following conditions:

1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer, Fire Marshal, and City Council.
2. A note shall be added to the subdivision plat indicating that a two-unit residential structure with a common wall is required to be constructed along the center lines dividing Lots 1 & 2, 3 & 4, and 5 & 6 unless the subdivision plat is officially amended.
3. All new development on the flag lots shall comply with the flag lot requirements, i.e. setbacks, height (limited to a single story), parking, and provision of a minimum 20-foot wide paved driveway. A note indicating these requirements shall be included on the final subdivision plat.
4. The flag lot driveway shall remain clear of overhanging vegetation and be posted with “No Parking” signs every fifty feet (50’) with the provision that the 8’ area may be used for parking if it can be accommodated. A note to this effect shall be included on the final subdivision plat.
5. A minimum of three (3) additional street trees are required to be planted along. These trees shall be planted or guaranteed by a cash bond prior to certificates of occupancy being issued for the units on Lots 5 & 6. A note indicating this requirement shall be added to the final plat.
6. The applicant shall obtain duty to serve letters for water and sewer and shall bond for any required public improvements prior to the subdivision plat being recorded.

7. The applicant shall provide evidence that courtesy notices have been sent to Dominion Energy, Rocky Mountain Power, Xfinity, Utopia, and Century Link regarding the utility easements on the subdivision plat prior to final approval.

8. A minimum six-foot high screening fence shall be constructed and maintained around the exterior of the project and between structures unless all affected property owners agree in writing that a fence is not necessary. This fence shall comply with the fence requirements of the applicable zone and shall be completed prior to any certificates of occupancy being issued for the twin homes. A note indicating this requirement shall be included on the final subdivision plat. The owner shall work with the neighboring property owners in replacing or enhancing the existing fences as needed.

9. Any improvements to the existing irrigation ditch required by the City Engineer or irrigation company shall be completed prior to recording the final subdivision plat.

Upon City Council approval of the preliminary plat, the applicant will be required to prepare Final Subdivision Plat application reflecting the conditions of approval imposed by the City Council. The subdivision shall not be considered approved until final action by the City Council on the final subdivision plat at a future date.

FISCAL IMPACT: N/A

STAFF RECOMMENDATION:

Staff agrees with the Planning Commission’s recommendation of approval.

RECOMMENDED MOTION – APPROVAL:

“Based on demonstrated compliance with the requirements of Midvale City Municipal Code demonstrated in the application or addressed by the inclusion of conditions of approval, I move that we approve the preliminary subdivision plat for the Union Manor Subdivision with the following conditions:

1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer, Fire Marshal, and City Council.

2. A note shall be added to the subdivision plat indicating that a two-unit residential structure with a common wall is required to be constructed along the center lines dividing Lots 1 & 2, 3 & 4, and 5 & 6 unless the subdivision plat is officially amended.

3. All new development on the flag lots shall comply with the flag lot requirements, i.e. setbacks, height (limited to a single story), parking, and provision of a minimum 20-foot wide paved driveway. A note indicating these requirements shall be included on the final subdivision plat.

4. The flag lot driveway shall remain clear of overhanging vegetation and be posted with “No Parking” signs every fifty feet (50’) with the provision that the 8’ area may be used for parking if it can be accommodated. A note to this effect shall be included on the final subdivision plat.

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9. Any improvements to the existing irrigation ditch required by the City Engineer or irrigation company shall be completed or guaranteed by a bond prior to recording the final subdivision plat.”

ALTERNATE MOTION – TABLE DECISION:

“I move that we table a decision on the proposed preliminary subdivision plat to address the following questions/comments:

1. ...
2. ...

ATTACHMENTS:

- Vicinity Map
- Zoning Map
- Preliminary Subdivision Plat
- Site Plan
- Proposed Elevations
Vicinity Map

Subject Property

North Union Ave
1000 E
7240 S
1020 E
North Union Ave
1035 E
South Union Ave
1000 E
PLAT OF SUBDIVISION:

UNION MANOR SUBDIVISION

LOCATED IN THE NORTH HALF OF SECTION 29,
TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN
MIDVALE CITY, SALT LAKE COUNTY, UTAH

SURVEYOR'S CERTIFICATE

COUNTY OF SALT LAKE

LEGEND

BOUNDARY LINE

BOUNDARY MARKERS

PIVOTAL SURVEY MARKER

WATER TOWER

PANHANDLE

PARK

SURVEYOR'S MARKER

SURVEYORS MARKER

CRAWKER MARKER

HISTORIC MARKER

FIRE HYDRANT

INFECTION LINE

PLASTIC CAP, OR NAIL STAMPED

"ENSIGN ENG. & LAND SURV."

CURVE TABLE

C1 46.88'  20.00'  N 71°46'54" E   39.70'

C2 53.55'  20.00'  S 71°46'54" E   34.39'

C3 30.00'  20.00'  S 17°00'00" W   122.92'

C3C4 50.00'  20.00'  S 71°46'54" E   46.59'

C4 50.00'  20.00'  S 71°46'54" E   46.59'

C5 30.00'  20.00'  S 17°00'00" W   122.92'

C6 50.00'  20.00'  S 71°46'54" E   46.59'

C7 50.00'  20.00'  S 71°46'54" E   46.59'

C8 50.00'  20.00'  S 71°46'54" E   46.59'

CONTENTS:

SHEET 2, DRAFT NO. 1

NOTE:

1. ALL FRONT LOT CORNERS TO HAVE A RIVET SET ON TOP OF CURB ON THE WIDE PAVED DRIVEWAY.

2. PURSUANT TO UTAH CODE ANN. § 54-3-27 THIS PLAT CONVEYS TO THE OWNER(S) OR OPERATORS OF THE PROPERTY OWNERS AND WILL NOT BE ASSUMED BY THE CITY. HOME OWNER COSTS SHALL BE INCLUSIVE OF THE PRIVATE INFRASTRUCTURE REQUIREMENTS AS DESCRIBED ON THE RECORDED COST ESTIMATE.

3. ROCKY MOUNTAIN POWER APPROVES OF THE PUBLIC UTILITY EASEMENTS IN ORDER TO SERVE THIS DEVELOPMENT. THIS APPROVAL DOES NOT CONSTITUTE A GUARANTEE OF PARTICULAR TERMS OF NATURAL GAS SERVICE. FOR FURTHER INFORMATION PLEASE CONTACT DOMINION ENERGY'S RIGHT-OF-WAY SURVEY RECORDING DATA

4. THE FLAG LOT DRIVEWAY SHALL REMAIN CLEAR OF ALL VEGETATION, INCLUDING PLANTS, SHRUBS, AND TREES. HEDGES OR SHRUBS PLANTED ALONG THE DRIVEWAY SHALL BE NO HIGHER THAN 3 FEET (36 INCHES) ABOVE GROUND LEVEL. ALL SHRUBS OR HEDGES ALONG ROADWAYS OR DRIVEWAYS MUST BE MAINTAINED IN SUCH A MANNER AS TO ALLOW FOR EASABLE ACCESS TO THE STREET PUBLIC UTILITY EASEMENTS, BUT DOES NOT WARRANT THEIR PRECISE LOCATION.

5. A MINIMUM 6-FOOT HIGH SCREENING FENCE SHALL BE CONSTRUCTED ALONG THE WIDE PAVED DRIVEWAY.

6. THREE STREET TREES ARE REQUIRED ON LOT 3. REQUIRED TREES SHALL BE PLANTED PRIOR TO A CERTIFICATE OF OCCUPANCY BEING ISSUED ON THIS LOT.

7. THE 20 FOOT PRIVATE DRIVEWAY ON LOTS 3 & 4 SHALL BE A SHARED ACCESS WIDE PAVED DRIVEWAY.

8. THE PROPERTY SHOWN ON THIS PLAT SHALL BE SUBDIVIDED INTO LOTS AS SHOWN ON THIS PLAT. THE MINIMUM LOTS AS SHOWN ON THIS PLAT SHALL BE DEVIATING FROM THE MINIMUM LOT REQUIREMENTS OF THE APPLICABLE ZONING ORDINANCES.

9. A MINIMUM 6-FOOT HIGH SCREENING FENCE SHALL BE CONSTRUCTED ALONG THE WIDE PAVED DRIVEWAY.

10. THE PROPERTY SHOWN ON THIS PLAT SHALL BE SUBDIVIDED INTO LOTS AS SHOWN ON THIS PLAT. THE MINIMUM LOTS AS SHOWN ON THIS PLAT SHALL BE DEVIATING FROM THE MINIMUM LOT REQUIREMENTS OF THE APPLICABLE ZONING ORDINANCES.

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SUBJECT:

Public Hearing and Preliminary Subdivision Plat Approval for 6-Lot Union Manor Subdivision Located at 987 East 7240 South

SUBMITTED BY:

Alex Murphy, Associate Planner

SUMMARY:

The proposed Union Manor Subdivision consists of six (6) proposed lots, including flag lots, on a total of 0.69 acres located at the intersection of 7240 South and 1035 East. This request has been submitted by Greg Hansen, representing the owner of the properties involved, as part of an overall proposal for a trio of twin homes. The Planning Commission granted approval of the Conditional Use Permit for the proposed twin homes and flag lots, subject to the City Council’s approval of the subdivision plat.

The proposed subdivision plat has been reviewed and approved by the City Engineer and Fire Marshal. As a large subdivision request (more than 3 lots), this request is subject to and complies with the requirements of the Single Family Residential zone with Duplex Overlay (SF-1/DO) and the subdivision ordinance (Title 16), provided the recommended conditions below are satisfied.

All subdivisions require a review and recommendation from the Planning Commission and approval from the City Council with public hearings held before each body. The Planning Commission conducted a public hearing on this preliminary subdivision plat on August 8, 2018. Based on compliance with the City’s zoning and subdivision requirements, the Planning Commission forwarded a positive recommendation to the City Council to approve the preliminary subdivision plat for the Union Manor Subdivision with the following conditions:

1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer, Fire Marshal, and City Council.
2. A note shall be added to the subdivision plat indicating that a two-unit residential structure with a common wall is required to be constructed along the center lines dividing Lots 1 & 2, 3 & 4, and 5 & 6 unless the subdivision plat is officially amended.
3. All new development on the flag lots shall comply with the flag lot requirements, i.e. setbacks, height (limited to a single story), parking, and provision of a minimum 20-foot wide paved driveway. A note indicating these requirements shall be included on the final subdivision plat.
4. The flag lot driveway shall remain clear of overhanging vegetation and be posted with “No Parking” signs every fifty feet (50’) with the provision that the 8’ area may be used for parking if it can be accommodated. A note to this effect shall be included on the final subdivision plat.
5. A minimum of three (3) additional street trees are required to be planted along. These trees shall be planted or guaranteed by a cash bond prior to certificates of occupancy being issued for the units on Lots 5 & 6. A note indicating this requirement shall be added to the final plat.
6. The applicant shall obtain duty to serve letters for water and sewer and shall bond for any required public improvements prior to the subdivision plat being recorded.
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8. A minimum six-foot high screening fence shall be constructed and maintained around the exterior of the project and between structures unless all affected property owners agree in writing that a fence is not necessary. This fence shall comply with the fence requirements of the applicable zone and shall be completed prior to any certificates of occupancy being issued for the twin homes. A note indicating this requirement shall be included on the final subdivision plat. The owner shall work with the neighboring property owners in replacing or enhancing the existing fences as needed.
9. Any improvements to the existing irrigation ditch required by the City Engineer or irrigation company shall be completed prior to recording the final subdivision plat.

Upon City Council approval of the preliminary plat, the applicant will be required to prepare Final Subdivision Plat application reflecting the conditions of approval imposed by the City Council. The subdivision shall not be considered approved until final action by the City Council on the final subdivision plat at a future date.

FISCAL IMPACT: N/A

STAFF RECOMMENDATION:

Staff agrees with the Planning Commission’s recommendation of approval.

RECOMMENDED MOTION – APPROVAL:

“Based on demonstrated compliance with the requirements of Midvale City Municipal Code demonstrated in the application or addressed by the inclusion of conditions of approval, I move that we approve the preliminary subdivision plat for the Union Manor Subdivision with the following conditions:

1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer, Fire Marshal, and City Council.
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ALTERNATE MOTION – TABLE DECISION:

“I move that we table a decision on the proposed preliminary subdivision plat to address the following questions/comments:

1. ...
2. "...

ATTACHMENTS:

- Vicinity Map
- Zoning Map
- Preliminary Subdivision Plat
- Site Plan
- Proposed Elevations
SUBJECT:
Public Hearing and Subdivision Plat Approval for 2-lot Jordan Bluffs Lot 2 Amended Subdivision located at 983 West Center Street

SUBMITTED BY:
Alex Murphy, Associate Planner

SUMMARY:
The proposed Jordan Bluffs Lot 2 Amended Subdivision plat consists of two (2) proposed lots on a total of 223.41 acres located on Jordan Bluffs between Center Street, Main Street, and the Jordan River. This request was submitted by Ben Seastrand, representing KC Gardner Company, for the purpose of dedicating the road rights-of-way for the extensions of Bingham Junction Boulevard and Ivy Drive onto the former Sharon Steel site. These roads are already under construction; no new development is proposed as part of this subdivision request.

This property is located in the Jordan Bluffs zoning district (JB). A complete ordinance for the JB zone is not currently in place and, as a result, no lot standards have been adopted for this zone. The current JB zone ordinance allows subdivision plats to be considered prior to approval of specific development plans and dedication of the public streets is necessary as part of the construction process.

All subdivisions require a review and recommendation from the Planning Commission and approval from the City Council. Public hearings are required to be held by each body. The Planning Commission conducted a public hearing on this subdivision plat on July 25, 2018. Based on compliance with the City’s zoning and subdivision requirements, the Planning Commission forwarded a positive recommendation to the City Council to approve the subdivision plat for the Jordan Bluffs Lot 2 Amended Subdivision with the following conditions:

1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer, Fire Marshal, and City Council.
2. Street trees along Bingham Junction Boulevard and Ivy Drive shall be installed as part of individual development proposals at a rate determined by the to-be adopted Jordan Bluffs zoning ordinance. A note to this effect shall be added to the plat.

The applicant has prepared and submitted the final plat (see attached). The proposed subdivision plat was reviewed and approved by the City Engineer and Fire Marshal, although some minor technical changes are required prior to completing the Mylar.

As a minor subdivision request, this request is subject to and complies with the requirements of the JB zone and the subdivision ordinance (Title 16), subject to the recommended conditions below.

FISCAL IMPACT: N/A
STAFF RECOMMENDATION:

Staff recommends the City Council approve the final subdivision plat for the Jordan Bluffs Lot 2 Amended Subdivision with the following conditions:

1. Street trees along Bingham Junction Boulevard and Ivy Drive shall be installed as part of individual development proposals at a rate determined by the to-be adopted Jordan Bluffs zoning ordinance. A note to this effect shall be added to the plat.
2. The applicant shall obtain all required signatures on the final subdivision plat Mylar.

RECOMMENDED MOTION – APPROVAL:

“Based on compliance with the requirements of the Midvale City Municipal Code demonstrated in the application or addressed by conditions of approval, I move that we approve the final subdivision plat for the Jordan Bluffs Lot 2 Amended Subdivision with the following conditions:

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RECOMMENDED MOTION – TABLE DECISION:

“I move that we table decision on the Jordan Bluffs Lot 2 Amended Subdivision to address the following questions/comments:

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2. ...

ATTACHMENTS:

- Vicinity Map
- Final Subdivision Plat
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SUBMITTED BY:
Alex Murphy, Associate Planner

SUMMARY:
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RECOMMENDED MOTION – TABLE DECISION:

“I move that we table decision on the Jordan Bluffs Lot 2 Amended Subdivision to address the following questions/comments:

1. ...
2. ...

ATTACHMENTS:

- Vicinity Map
- Final Subdivision Plat
Mayor Hale called the meeting to order at 6:30 p.m.

I. INFORMATIONAL ITEMS
   A. DEPARTMENT REPORTS

Chief Randy Thomas said he wanted to share his condolences with his fire fighter brother’s loss to the California wild fires. He said Harvest Days was great. They are planning to conduct a post operation debrief, and they also built an operation plan for Harvest Days. They would like to pass this information on for next year. He invited the council to the bid party on August 22, 2018 from 5:00 to 7:00 p.m. which will be a family event over at the bowery in the park. They will have awards and recognition for the officers. He reviewed the stats for the last month with the council. They are currently working on the good landlord reports and stats. He reported Back on May 9th there was a fire on Wood Street. Three of our officers bravely performed. He put the officers in for an incentive award, which they will receive tomorrow.

Council Member Bryant Brown thanked Chief Thomas for his hard work with Harvest Days.

Council Member Dustin Gettel said a resident that reported CD activity on 6th avenue. She has been sending pictures on this again. He asked if there was any information on this. Chief Thomas said he has an officer working on it.

Chief Brad Larson expressed sincere condolences for the fallen Battalion Chief Matt Burchett who died fighting the fires in California. He also expressed his condolences for the West Valley City
Code Enforcement Officer who was killed. He updated the Council on the call volumes for the stations as well as the July 4th holiday. He reviewed resource allocations, UFA recruitment challenges and a City & Township survey that has been sent to all the entities. He asked that everyone fill it out and return as soon as possible. He reviewed the school safety messages regarding back to school safety. He said they have some really good points for drivers and kids going back to school. He discussed a new program to help escape the heat cool zone. He said Chief Peterson road in 14 parades and was very excited to get the best vehicle entry award from Midvale.

Laurie Harvey congratulated Laura Magness for her great efforts on Harvest Days. She asked Laura to report on Harvest Days. Laura Magness said it started with incredible neighborhood block parties. There were over 1000 people attending bingo. There were over 4000 people that attended the Harvest Day celebration. Every one of the food trucks sold out and were excellent. She thanked UPD and UFA for their support. She thanked all of the vendors that provided activities, sold products and gave information. She thanked the entire Harvest Days Committee who did a lot of hard work. She thanked Council Member Dustin Gettel for getting the food trucks. Melanie Beardall did an incredible job organizing the Junction 89 and Bellamy Brothers making them feel very welcomed and meeting their needs. Suzanne Walker who put together all of the activities. Wade Walker who helped set up the performances on the stage. She thanked Stephen Brown who met all the needs of the food truck vendors and spent all day with them. Lyndzi Elsmore who did a great job of planning the parade. She thanked Chris Butte and Tyler Sharp for their input and information.

Brian Berndt updated the Council on the Jordan Bluffs Project. He said they started the discussion with the Planning Commission last week. One of the primary concerns with the project is the increase in traffic. They are working with Sandy City on how the Bingham Junction Blvd will connect. He would like to get the master development agreement and zoning code completed sometime next month. The Planning Commission left the public hearing open and are still taking comments. He discussed his meeting with UDOT regarding the 7200 South North and South end I-15 construction projects. He invited everyone to the open house public hearing regarding the UDOT Northbound I-15 project being held at the Senior Center on August 21, 2018, from 4:00 to 7:00 p.m.
Matt Dahl discussed the tax increment on Bingham Junction for the audience.

**Bingham Junction: Value Growth**

![Value Growth Graph]

2017 Value Difference: $556,448,873

**Bingham Junction: Taxing Entity Revenue**

![Taxing Entity Distribution Graph]

2017 Property Tax Difference: $1,555,919

2004-2017 Property Tax Difference: $6,190,759
Bingham Junction: Midvale Revenue

2017 Property Tax Difference: $141,176


Bingham Junction: School District Revenue

2017 Property Tax Difference: $652,651

2004-2017 Property Tax Difference: $2,447,245
**Bingham Junction: Total Tax Increment**

![Graph showing Total Property Tax and Tax Increment from 2004 to 2017.]

**2017 Property Tax Difference: $8,113,581**

Council Member Bryant Brown thanked Matt for answering questions about Main Street improvements and the RDA, during the Art Walk at Harvest Days.

Alan Hoyne reported that the pedestrian activated school signs will be here and installed before school starts. He also reported that the water and street projects are all on schedule. He discussed the sanitary sewer report he just received which came back with minor deficiencies, which have already been addressed. He reported on the water pressure calls. He said the best time to water is early evening to 2:00 a.m. He recognized Jed Bell and Brian Hullinger who did a great job with Harvest Days, especially since it was their first experience with Harvest Days.

Rori Andreason asked the Council if they would be interested in starting the meeting earlier with dinner provided by the City. The Council said they would not be interested.

**II. CITY MANAGER’S REPORT**

Kane Loader said Harvest Days was amazing and thanked everyone for all their hard work. He said the City was successful in our request from the State Homeless Committee for a grant for 2019 and 2020. The City will be getting six more police officers in October and they will be assigned to the Homeless Shelter and the 7200 South Corridor. He said in response to Council Member Bryant Brown’s request for additional parking for the Performing Arts building, the adjacent property parking is used for a staging area for the taco carts so that is not available. However, the area where the old city hall was can be used for additional parking. He is meeting with S L County Mayor Ben McAdams this week regarding the swimming pool and the possibility for the county to reconsider the use of Union Park.

**III. GENERAL BUSINESS**

**A. Welcome and Pledge of Allegiance**
Mayor Hale asked for a moment of silence for the three public officials who recently passed away, West Valley Code Enforcement Officer, Jill Robinson; Draper Fire Battalion Matt Chief Burchett; and UFA Battalion Chief, Curtis Day.

B. Roll Call - Council Members Paul Hunt, Bryant Brown, Dustin Gettel, and Paul Glover were present at roll call. Council Member Quinn Sperry was excused.

C. Employee of the Year Recognition
Kane Loader said each month Midvale City employees nominate one of their peers who they feel have gone above and beyond for that month. At the end of the year each of the employees nominated for employee of the month are eligible for employee of the year. This year Gaylene Nichols, Code Enforcement Officer, has been chosen. She was nominated in September last year. Her peers nominated her for her positive attitude and being kind and friendly to those around her. She came to work every day with a positive attitude while battling chemo and radiation for her cancer. She offered to lend a hand to others and showed genuine kindness despite her own challenging circumstances. She is an excellent example of dedication and perseverance. The City would like to recognize her for a job well done.

Gaylene Nichols was presented with a plaque and gift certificate.

Gaylene Nichols thanked all her fellow employees for all of their support and all that they do. It means a lot.

Mayor Hale thanked Gaylene for her hard work and dedication.

D. Recognition of Youth Ambassadors
Laura Magness said the Midvale Youth Ambassador program is a service-based leadership scholarship program for young adults. The program rewards students for their academic achievements, leadership abilities, community involvement and peer inspiration. It enables you to make a positive influence on the community. The 2018 Youth Ambassadors were inducted on August 8th and will serve as representatives of Midvale City for a full year. They have already been in 10 parades. As part of their service, each youth ambassador selects a community project that impacts Midvale City. Morgan Miller’s goal is keeping youth active project. Amelia Slama Catron’s goal is healthy choices and healthy eating. Kosha Hansen’s goal is setting goals for the future.

Candy Tippetts has mentored Midvale’s Youth Ambassador program for over 13 years. Over the years Candy has empowered young woman and men to achieve their goals. We are grateful to Candy who has volunteered countless hours to the youth ambassador program.

E. Proclamation Declaring Year of 2018 as “Great Salt Lake Council 100th Scouting Anniversary Year”
Mayor Hale read the proclamation declaring the year of 2018 as “great Salt Lake Council 100th Scouting Anniversary Year”

Tony Patterson, District Chairman, Great Salt Lake Council, expressed his sincere appreciation for this proclamation. He said they recognize these youth value-based programs that help benefit the community and are only successful through the efforts of many individuals. He expressed appreciation for the great support Midvale has offered to the scouting program. An example is the scouting for food. They have collected a million pounds of food donated to the food bank. They have also allowed many eagle projects throughout the years.

Mayor Hale explained the new sign in sheet for public comments.

IV. PUBLIC COMMENTS
Mont Millerberg said he agreed with what was said about Harvest Days. He had a great time with his grand kids at that parade in the morning. He said there needs to be more to Harvest Days than just great fireworks. He said he plans on having a meeting with the board of education regarding the swimming pool. He is also concerned with bicycle safety in Midvale City. He read a letter he wrote for the record:

Re: Establishment of Bicycle Lanes and Safe Bicycle Corridors

The purpose of this letter is to put into writing some of the major points of discussion we have had over the last several weeks. These discussions have centered on bicycle safety and the lack of safety enhancements in the City of Midvale.

For close to 20 years I have advocated for the implementation of bicycle lanes in our city. In the last 20 years little has changed. There is now a bicycle lane in place on 7th East as it swings up to 9th East. To my knowledge, little else has changed.

A year ago, I spoke to the City Council about being hit on my bicycle on Center Street. It is my firm belief that had a proper bicycle lane in place that this accident would not have occurred. Quoting you, Mayor Hale, “The reason I was hit was because I was riding in the road”. You leave cyclists with no other option.

Since that time, we have had road construction on Center Street west of Holden down to the Jordan River. The construction on the south side had ground to a standstill for over 6 weeks. Cones and barriers have been placed so all cycle traffic is forced into the lanes of traffic. Two weeks ago, a large sign was placed to block the shoulder to announce Harvest Days that forced cycle traffic off the shoulder and into traffic lanes as well.

Surrounding cities have been able to add cycle lanes. Surrounding cities have posted signs and painted the roads to indicate that “bikes may use entire lane”. Why not in Midvale? Even a few share the road signs would be appreciated.
Mayor, I am very concerned for my safety and for the safety of all bike riders. My fear is that some of our citizens will be severely injured or worse. Please, let’s get this problem addressed and taken care of.

Best regards,

Mont L. Millerberg

Sophia Hawes-Tingey, Vice Chair Community Council, said on Wednesday night or Thursday morning at 1:00 a.m. she heard shots outside her door. She called the police and they did a great job. She said the road home gave a presentation at their last meeting which was incredibly moving. When asked what the Community Council could do for them, they said volunteer. She said five campaigns came out to serve the breakfast during Harvest Days. Any political candidate that signed up to be in the parade was informed a candidate forum night will be held on September 5th.

Heidi Miller said she was one of two people to show up at the Planning Commission regarding the development on Jordan Bluffs. She was so disgusted with the turnout. She went to the open house and feels blindsided with the amount of units going in there. The roadway comes up to Ivy Street; a four-lane highway connecting to little Ivy Street. She was told the impact of those cars won’t make a difference. With 2,500 units, 2 people per household, means an additional 5,000 people. What is going to happen when it snows? Where are the cars going to go, and how are they going to plow the streets? She asked the Council to please look at the traffic. Ivy Street should have never been connected there.

V. COUNCIL REPORTS

A. Council Member Quinn Sperry – Excused

B. Council Member Bryant Brown – asked if the Arts Council needed to provide an invoice for the funding they receive from the City. Laurie Harvey said yes along with what they will be providing with that funding.

Council Member Bryant Brown said the custodians are not cleaning the Performing Arts Center and haven’t for quite some time. He said they are considering adding a marquee in front of the Arts building; however, the property needs to be rezoned in order to allow the marquee. A few comments from block parties: The house on Taft that was taken down, the city owns it and another lot UTA owns. He was asked which lot is owned by the City and which one is owned by UTA. For a while it was mowed but now it is full of weeds. He would like to make it somewhere kids can play. He said there are only two homes in Council District 4 that can access Utopia. There’s cabinets in his district but no one has access to it. He said they need to find a way to fund the buildout without issuing another bond. Utopia’s next project area needs to be in District 4. It is not fair to his constituents. There is a bell at the Arts Center that no one knows why it’s there. The bushes need to be cleared around it, so people can see it from the road. He said the contractor building the town homes on Center Street had double parked their trucks on Roosevelt Street without closing the road. A resident turning left onto Roosevelt Street had to back up into Center Street which could have caused an accident.
C. Council Member Paul Hunt – thanked everyone involved in planning and executing Harvest Days. He received so many compliments on the event.

D. Council Member Dustin Gettel – said one of the most common themes people are upset about is code enforcement. A few people said they called and code enforcement came out but there was no follow-up. One gentleman said his neighbor is raising a lot of pigeons that smell bad and bringing rats into the neighborhood. He called code enforcement, and nothing happened, so he called Salt Lake County and they are now involved. He went to a meeting for the Jordan River Commission. They are having an event called Get into the Water on September 15, 2018 at 3:00 p.m. He will get the information to Laura Magness. He would also like to follow up and discuss the confederate flag parade entry in the future.

E. Council Member Paul Glover – said Harvest Days was great. He also had some comments on how we can improve and will get those to Kane. Jefferson Street would either like a 4-way stop going into the park to slow the traffic down or speed bumps. He has had some experiences in last week that have bothered him about the homeless shelter. There is a family they were helping, and they came back with lice and bed bugs bites. A lot of the kids going to school from the shelter have lice and bed bug bites. This needs to be addressed with the homeless shelter. West Nile virus found seven samples of mosquitoes that have had the virus. He said to remember to get rid of standing water and use caution.

VI. MAYOR REPORT

Mayor Robert Hale – said Harvest Days was absolutely fantastic. Police and fire did a great job. The Community Council’s breakfast was well done. He thanked every group and thanked Public Works who are there long before and after everyone else. He met with the State Homeless Coordination Committee meeting with South Salt Lake. They were excited the financing was approved for the next year and year after that. He participated in the Canyons School District fair for the northern school districts. They had many buses and trailers full of school supplies and food for those students that cannot afford them.

MOTION: Council Member Paul Glover MOVED to open a public hearing. The motion was SECONDED by Council Member Dustin Gettel. Mayor Hale called for discussion on the motion. There being none, he called a vote. The motion passed unanimously.

VII. PUBLIC HEARINGS

A. CONSIDER A FINAL SUBDIVISION PLAT FOR A 2-LOT SUBDIVISION FROM MARK SNOW AND BRAD HEAPS LOCATED AT 7777 SOUTH 300 EAST

Alex Murphy said the proposed Cottages at 7777 Subdivision plat consists of two (2) proposed lots on a total of 0.33 acres located north of 7800 South on 300 East and is being submitted by Mark Snow and Brad Heaps for the purpose of dividing a proposed duplex into a twin home, allowing separate ownership of each unit.

The proposed subdivision plat was reviewed and approved by the City Engineer and Fire Marshall. As a minor subdivision request, this request is subject to and complies with the requirements of
the Single Family Residential Zone with Duplex Overlay (SF-1/DO) and the subdivision ordinance (Title 16), subject to the recommended conditions below.

He said all subdivisions require a review and recommendation from the Planning Commission and approval from the City Council. Public hearings are required to be held by each body. The Planning Commission conducted a public hearing on this subdivision plat on June 27, 2018. Based on compliance with the City’s zoning and subdivision requirements, the Planning Commission forwarded a positive recommendation to the City Council to approve the subdivision plat with the following conditions:

1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer and City Council.
2. A note shall be added to the subdivision plat indicating that a two-unit residential structure with a common wall is required to be constructed along the center line dividing Lots 1 and 2 unless the subdivision plat is officially amended.
3. A minimum of two (2) additional street trees are required to be planted along 300 East, one on each parcel. These trees shall be planted or guaranteed by a cash bond prior to recording of the final plat. A note indicating this requirement shall be added to the final plat.
4. The applicant shall complete the sidewalk along the property frontage, tying into the existing sidewalk to the north, and make necessary improvements to the curb and gutter, as required by the City Engineer. This work shall be completed and approved by the City Engineer prior to a certificate of occupancy being issued for the units.
5. The applicant shall obtain duty to serve letters for water and sewer and a fire hydrant flow verification letter prior to the subdivision plat being recorded.
6. The applicant shall provide evidence that courtesy notices have been sent to Dominion Energy, Rocky Mountain Power, Xfinity, Utopia and Century Link regarding the utility easements on the subdivision plat prior to final approval.

The applicant has prepared and submitted the final plat. The applicable notes regarding the two-unit residential structure and street tree requirements have been added. Proof that notices have been sent to the local utility companies has been provided.

The subdivision plat dedicates a portion of the 300 East right-of-way to the City. The applicant will need to install curb, gutter, and sidewalk prior to a certificate of occupancy being issued for the building. No water and sewer duty to serve letters or fire flow confirmation have been provided.

Council Member Paul Hunt asked why it was decided to make this a duplex rather than a single-family home.

Mark Snow, applicant, said they develop property and build homes. They’ve done several projects in Midvale. To find a piece of property that is already zoned as multiple housing is rare. They decided to go with a twin home rather than a duplex, so each side would have individual ownership, so they can sell each side. Council Member Dustin Gettel asked what is going to happen to the tree. Mark Snow said there are no plans to take it down. He has had interest from a woodworker that would like to take it down to do wood work with it.
Council Member Paul Hunt said he is having a hard time with this. He can’t understand why they didn’t do a single-family home, instead of a twin home.

Council Member Paul Glover said it is a great project because it is a for sale project rather than a rental.

Mayor Hale opened the hearing to public comment. There was no one who desired to speak.

Alex Murphy said he would like to point out for Council Member Paul Hunt that there are a few properties that are duplex overlay.

Council Member Paul Hunt said he would like to protect the single-family neighborhoods we currently have.

**MOTION:** Council Member Paul Glover MOVED to close the public hearing. The motion was SECONDED by Council Member Bryant Brown. Mayor Hale called for discussion on the motion. There being none, he called a vote. The motion passed unanimously.

**MOTION:** Council Member Bryant Brown MOVED based on compliance with the requirements of the Midvale City Municipal Code demonstrated in the application or addressed by the inclusion of conditions of approval, I move that we approve the subdivision plat for the Cottages at 7777 Subdivision with the following conditions:

1. The applicant shall complete the sidewalk along the property frontage, tying into the existing sidewalk to the north, and make necessary improvements to the curb and gutter, as required by the City Engineer. This work shall be completed and approved by the City Engineer prior to a certificate of occupancy being issued for the units.

2. The applicant shall obtain duty to serve letters for water and sewer and a fire hydrant flow verification letter prior to the subdivision plat being recorded.

3. The applicant shall obtain all required signatures on the final subdivision plat Mylar."

The motion was SECONDED by Council Member Paul Glover. Mayor Hale called for discussion on the motion. There being none then he called for roll call vote. The voting was as follows:

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<th>Council Member</th>
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<tr>
<td>Quinn Sperry</td>
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<tr>
<td>Paul Glover</td>
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<tr>
<td>Paul Hunt</td>
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<tr>
<td>Bryant Brown</td>
<td>Aye</td>
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<tr>
<td>Dustin Gettel</td>
<td>Aye</td>
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The motion passed 3-1 in favor.

VIII. CONSENT AGENDA
   A. CONSIDER MINUTES OF JULY 17, 2018
Council Member Bryant Brown said there is a motion on page 17 that has him voting against the motion, and it should show him in favor.

   MOTION: Council Member Paul Glover MOVED to approve the consent agenda with the change noted. The motion was SECONDED by Council Member Dustin Gettel. Mayor Hale called for discussion on the motion. There being none then he called for roll call vote. The voting was as follows:

   Council Member Quinn Sperry  Absent
   Council Member Paul Glover  Aye
   Council Member Paul Hunt  Aye
   Council Member Bryant Brown  Aye
   Council Member Dustin Gettel  Aye

   The motion passed unanimously.

IX. DISCUSSION ITEMS
   A. DISCUSSION OF AMENDMENTS TO PURCHASING ORDINANCE
Laurie Harvey discussed the proposed amendments to the Purchasing Ordinance as follows:

   Improving Midvale’s Purchasing process
   - Contracts/procurement Specialist position authorized for FY 2018
     - Shane Clement – 9/2017 to 12/2017
     - Fawn Hullinger – 2/26/2018
   - Responsibilities include:
     - Managing contracts database
     - Approving purchase requisitions
     - Providing staff assistance with quotes and bids
     - Reviewing/approving all Requests for Proposal and/or Invitations to Bid
     - Reviewing/approving all Contracts

   Balancing Regulations and Efficiency
   - Last review of City’s Purchasing Ordinance – 2004
   - Due diligence for all purchasing is vital
     - Keeps costs as low as possible
     - Keep employees and vendors honest
   - Strict regulations can result in a bottleneck for staff
   - Currently, purchase orders are required for any purchase > $1,000

   Time and paperwork for small purchases
   - Approximately 400 requisitions for purchase orders processed last year
     - 40% between $1,000 - $3,000
     - 40% between $3,000 - $25,000
     - 20% greater than $25,000
   - Approximately $22 million in purchase orders issued last year
     - 6% between $1,000 - $3,000
4% between $3,000 - $25,000
90% greater than $25,000

Staff recommendation – increase threshold for solicitation of quotes from $1,000 to $3,000
- Reduce number of requisitions processed by 40%
- Reduce $ amount of open market quotes by only 6%
- Purchases less than $3,000
  - Computer equipment
  - Wiring projects for electronics
  - Contract labor small jobs – paving and concrete, auto repair
  - Supplies for buildings, grounds, utilities maintenance

Comparison of cities
Small purchases exempt from open market solicitation

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Proposed modifications for small purchases

Existing Ordinance
- No solicitation or purchase order required for purchases under $1,000
- 3 bids required for purchases between $1,000 and $25,000
  - Oral for <$10,000
  - Written for $10,000 - $25,000

Proposed Ordinance
- No solicitation or purchase order required for purchases under $3,000
- 3 written quotes required for purchases between $3,000 and $25,000. Purchase order required.

Modifications to definitions
Existing Ordinance
- Small purchase – between $1,000 and $10,000
- Medium purchase – between $10,000 - $25,000
- Large purchase – greater than $25,000
Proposed Ordinance
- Small purchase – between $3,000 and $25,000
- Medium purchase – definition eliminated
- Large purchase – greater than $25,000 (no change)

Comparison of cities
Threshold for sealed bid requirement

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Staff recommendation - expanding definition of “Professional Services”
- Current definition – auditing, banking, insurance, engineering, legal, architectural, financial advisory, bond underwriting, and other forms of professional consulting
- Proposed definition – Professional Service providers:
  - Are skilled in the practice of a learned and/or technical discipline
  - Have undergone prolonged and specialized intellectual training
  - Profess attainments in special knowledge as distinguished from mere skills
  - Added examples to the list: accounting, construction design and management, information technology, materials testing, medicine, planning, and surveying

Reclassifying Purchasing Ordinance
- Purchasing Ordinance is classified under Title 2 – Administration
- Staff recommends reclassification to Title 3 – Revenue and Finance
  - Requires renumbering of paragraphs

Other modifications
- Enhanced the “definitions” section
- Expanded from 25 to 68 – examples:
  - Bid package, change order, design-build
  - Various types of contracts – fixed price, indefinite quantity, etc.
  - Changed responsibility of evaluating bids and determining lowest responsive responsible bidder from “department head” to “award committee”
  - Added a section for “procurement procedures”
  - Added a section for “Construction Related Projects”
  - Guidance for Construction Management and selection, different types of contracts available
• Added a section for modifying contracts

Next Steps
• Consider Resolution on August 21, 2018
• Additional training for departments

Laurie Harvey said in March she discussed allowing the procurement specialist to approve piggy backing on other city or intergovernmental contracts with the Council. She said they have decided to leave that the way it is.

Council Member Dustin Gettel said when you increase a small purchase from 10,000 to 25,000 that is 2.5 times of what the small purchase used to be.

Laurie said the requirements for small purchases have gotten stricter. Right now, anything between 1,000 and 10,000 only requires a verbal quote. The proposal is to require written quotes from the vendor on those purchases between 1,000 and 10,000. Anything over 25,000 becomes a sealed bid process.

Council Member Dustin Gettel said he would have liked to have this information prior to the meeting so he could review it. It is difficult to grasp everything. Council Member Bryant Brown agreed.

Council Member Paul Glover said he was concerned with the smaller amounts. He believes that single purchases will be made, so that they won’t have to do the bidding process.

Laurie Harvey said that is addressed in the ordinance. One of the changes made was that they will have a committee rather than a single individual involved in the bidding process.

B. DISCUSSION OF AMENDMENTS TO CHAPTER 5.54, WIRELESS COMMUNICATION SERVICES, AND CHAPTER 12.14, INSTALLATIONS WITH CITY RIGHTS-OF-WAY

Garrett Wilcox said this is in regards to the SB189 small wireless facilities deployment act. The state preempted municipalities the ability to regulate the small cell companies that are entering the right of way. The ordinance the City passed back in January was to help regulate that. A number of our tools were gutted with the SB189. He reviewed the changes.

Mr. Wilcox said the law says the City cannot require them to attach to certain types of poles. We also had minimum distance for new poles. The new law said we are not allowed to set separation distances between things within the right of way. The current ordinance is currently 36 pages. With the law changes we are down to 25 pages with the revisions made to come into compliance. The City is allowed to have reasonable design standards. He believes that the design standard the Council chose has reasonable design standards. One of the big changes was on the volume size of the antennas. The City is now required to allow antennas up to 6 cubic feet. The City’s ordinance only allowed 17 cubic feet of equipment. The law is 28 cubic feet. One of the requirements is that the City’s requirements need to be on all of the communication providers. The providers specifically prevented cities from being able to be grandfathered in. The law specifically states that cities need to be in compliance by September 1st. He felt the changes made will bring the City
into compliance with SB189. There were a number of tools lost, but the ordinance will still allow us to have more control of what comes into our right of way than if we allow it to default to the state minimum standards.

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

The Council adjourned the meeting at 9:25 p.m.

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

The Council reconvened into open session at 9:56 p.m.

**X. CLOSED SESSION TO DISCUSS PENDING OR REASONABLY IMMINENT LITIGATION**

**MAYOR:** Mayor Robert Hale

**COUNCIL MEMBERS:** Council Member Quinn Sperry- Excused
Council Member Bryant Brown
Council Member Paul Hunt
Council Member Dustin Gettel
Council Member Paul Glover

**STAFF:** Kane Loader, City Manager; Brian Berndt, Asst. City Manager/CD Director; Laurie Harvey, Asst. City Manager/Admin. Services Director; Rori Andreason, H.R. Director/City Recorder; Lisa Garner, City Attorney; Matt Dahl, Redevelopment Agency Director; Garrett Wilcox, Deputy Attorney; and Matt Pierce, IT Manager.

**MOTION:** Council Member Paul Glover MOVED to go into closed session to discuss pending or reasonably imminent litigation. The motion was SECONDED by Council Member Bryan Brown. Mayor Hale called for discussion on the motion. There being none the he called for a roll call vote. The voting was as follows:

<table>
<thead>
<tr>
<th>Council Member</th>
<th>Vote</th>
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<tbody>
<tr>
<td>Council Member Paul Hunt</td>
<td>Aye</td>
</tr>
<tr>
<td>Council Member Dustin Gettel</td>
<td>Aye</td>
</tr>
<tr>
<td>Council Member Paul Glover</td>
<td>Aye</td>
</tr>
<tr>
<td>Council Member Quinn Sperry</td>
<td>Absent</td>
</tr>
<tr>
<td>Council Member Bryant Brown</td>
<td>Aye</td>
</tr>
</tbody>
</table>

The motion passed unanimously.
The Council went into closed session at 10:00 p.m.

MOTION: Council Member Paul Glover MOVED to reconvene into open session. The motion was SECONDED by Council Member Dustin Gettel. Mayor Hale called for discussion on the motion. There being none then he called for a vote. The motion passed unanimously.

The Council reconvened into open session at 10:12 p.m.

XI. ADJOURN

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

The meeting adjourned at 10:13 p.m.

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

Approved this 4th day of September 2018.
Mayor Hale called the meeting to order at 6:31 p.m.

I. GENERAL BUSINESS
   A. Welcome and Pledge of Allegiance
   B. Roll Call - Council Members Paul Hunt, Quinn Sperry, Bryant Brown, Dustin Gettel, and Paul Glover were present at roll call.

II. ACTION ITEMS
   A. CONSIDER ORDINANCE NO. 2018-O-10 AMENDING MIDVALE MUNICIPAL CODE, CHAPTER 5.54 WIRELESS COMMUNICATIONS SERVICES

Garrett Wilcox said on January 16, 2018, the Council adopted Chapter 5.54 ‘Wireless Communications Services.’ This ordinance put a regulatory scheme in place that allows wireless providers to install small wireless facilities in the City’s right-of-way under certain conditions. This ordinance had been negotiated with several providers who were ultimately supportive of the adoption of the ordinance.

Earlier that day, the Legal Department attended a meeting at the State Capitol in which they were told that S.B. 189 ‘Small Wireless Facilities Deployment Act’ would likely be introduced and passed that legislative session. In coordination with the Utah League of Cities and Towns, the Legal Department assisted in negotiating with wireless providers, state legislators, and others in improving the bill. The passed version of the bill was an improvement from the original draft, but it had the unfortunate effect
of a limiting municipalities’ ability to regulate and control the deployment of small wireless facilities within their right-of-way. This bill specifically prohibited grandfathering existing ordinances. Any municipality with an existing ordinance, such as Midvale, is required under the bill to have an ordinance that is compliant with S.B. 189 before the ‘Small Wireless Facilities Deployment Act’ goes into effect on September 1.

The proposed ordinance makes the necessary changes to the City’s Chapter 5.54 ‘Wireless Communications Services.’ As mentioned above, under S.B. 189 the City became limited in what requirements it could impose on providers of small wireless facilities. To the extent possible, the proposed ordinance attempts to keep the most important requirements in place. The City is still requiring that small wireless facilities are steaphed and that the impact on the right-of-way from their associated ground equipment is minimized. The amendment specifically requires heightened aesthetic standards in Downtown Midvale, State Street, Bingham Junction, Jordan Bluffs, and Transit-Oriented zones. The amendment also requires providers to bring their small wireless facilities up to existing requirements every 10 years as a condition of renewal. And to the extent permitted under federal law, the amended ordinance continues to prohibit the installation of any wireless facility or utility pole that does not meet the requirements of a permitted use in the ‘Small Wireless Facilities Deployment Act.’

Unfortunately, because of the ‘Small Wireless Facilities Deployment Act,’ the proposed ordinance loses some a number of tools the City had put in place to incentivize certain kinds of installation. First, the state required definition of small wireless facilities is nearly double in volume from that adopted by the City. Second, municipalities are prohibited from requiring placement of small wireless facilities on specific structures. Third, municipalities are prohibited from requiring minimum separation distances. As a result of these prohibitions, the City’s current scheme to incentivize providers to install their facilities on existing infrastructure has largely been gutted. The City must now allow noticeably larger facilities in the right-of-way without much control over the type of installation or their placement.

With the ‘Small Wireless Deployment Act’ taking effect on September 1, the staff recommends adopting the proposed ordinance to bring Chapter 5.54 into compliance with the law. Although the proposed amendments will reduce the City’s control over its right-of-way, the amended Chapter 5.54 will provide more control, especially over aesthetics, than relying on the minimal default standards established in the ‘Small Wireless Deployment Act.’

The Council discussed the regulations and the possibility of lobbying for changes. Lisa Garner said it is regulated by the federal government.

Kane Loader commended Garrett Wilcox and Lisa Garner for their diligence in getting the City up to speed on this issue and ahead of many other cities in preparing these ordinances.
MOTION: Council Member Quinn Sperry MOVED to approve Ordinance No. 2018-O-10 Amending Chapter 5.54 Wireless Communications Services. The motion was SECONDED by Council Member Paul Hunt. Mayor Hale called for discussion on the motion. There being none then he called for roll call vote. The voting was as follows:

- Council Member Quinn Sperry Aye
- Council Member Paul Glover Aye
- Council Member Paul Hunt Aye
- Council Member Bryant Brown Aye
- Council Member Dustin Gettel Aye

The motion passed unanimously.


Garrett Wilcox said Midvale has historically used Chapter 12.12 'Excavations Within City Rights-of-Way' to regulate all activity within the City’s rights-of-way. This was sufficient when the right-of-way was being utilized by a small number of users, and those users were installing predictable kinds of installations. However, in the last several years, the number of users and the types of installations have increased substantially. As a result, Chapter 12.12 is no longer sufficient to regulate all activity in the City’s right-of-way.

The proposed Chapter 12.14 'Installations Within City Rights-of-Way' is an attempt to modernize the City’s regulation of the right-of-way. With this new chapter, activity in the right-of-way will now be regulated by whether such intrusions are permanent or temporary. Chapter 12.12 will regulate temporary intrusions such as excavations, road cuts, the installation of conduit, etc. Chapter 12.14 will regulate anything that is installed in the right-of-way on a permanent basis such as boxes, cabinets, poles, etc.

The proposed Chapter 12.14 will serve the City in two ways. First, it will standardize the type of information collected by the City for installations within the right-of-way. This improved, standardized information will better assist our City Engineer and other City staff in planning right-of-way projects. It will also place the requirement on installation owners to maintain an inventory of such installations for the City to check its information against. Second, it will also standardize the types, sizes, placement, and aesthetic requirements for installations within the right-of-way. These requirements are based heavily on the requirements established in Chapter 5.54 for small wireless facilities.

Lastly, under S.B. 189 the 'Small Wireless Facilities Deployment Act,' the State has mandated that municipalities must treat all users of the right-of-way in a nondiscriminatory fashion. Additionally, it also mandates that municipalities may not collect additional information from a small cell provider that it does not also collect
from communications providers. If municipalities are not completely compliant with S.B. 189 before its effective date on September 1, 2018, a municipality’s ordinance is considered invalid and a wireless provider must only comply with the minimum protections of the ‘Small Wireless Facilities Deployment Act.’ The City wants to maintain the greatest control possible over its own property. Chapter 12.14 will bring the City into compliance with S.B. 189 and will allow the City to maintain the greatest amount of control over its right-of-way.

With the increasing congestion and multiple uses in the City’s right-of-way, the proposed Chapter 12.14 will better help the City manage its right-of-way by collecting improved information, establishing general standards for installations, and establishing complete compliance with S.B. 189.

MOTION: Council Member Paul Hunt MOVED to approve Ordinance No. 2018-O-11 creating the Midvale Municipal Code Chapter 12.14, Installations within the City Rights-of-Way. The motion was SECONDED by Council Member Bryant Brown. Mayor Hale called for discussion on the motion. There being none then he called for roll call vote. The voting was as follows:

Council Member Quinn Sperry Aye
Council Member Paul Glover Aye
Council Member Paul Hunt Aye
Council Member Bryant Brown Aye
Council Member Dustin Gettel Aye

The motion passed unanimously.

III. ADJOURN

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

The meeting adjourned at 6:43 p.m.

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

Approved this 4th day of September 2018.
SUBJECT: Resolution Appointing Glen Kennedy as the Midvale Public Works Director

SUBMITTED BY: Kane Loader, City Manager

SUMMARY:
With the retirement of Larry Wright in the end of July we have been searching for a qualified person to fill the position of Public Works Director. After interviewing and considering several candidates I am recommending to the Mayor that he appoint Glen Kennedy to that position.

Glen is a highly qualified and skilled leader in Public Works services. He has 23+ years of experience and most recently served as the Associate Director of Public Works for South Jordan City. He has a Bachelor’s Degree in Business Management and has a Grade IV certification in Water Distribution and Treatment. Prior to being appointed as an Associate Director he served as the Stormwater and Sanitation Divisions Manager for South Jordan.

Glen went through an interview process with myself, Mayor Hale, Laurie Harvey and Rori Andreason. We have checked references on his background and work performance and he has been highly recommended for this position.

STAFF’S RECOMMENDATION AND MOTION:

I move that we approve Resolution No. 2018-R-38 Appointing Glen Kennedy as the Midvale City Public Works Director.

Attachments: Proposed Resolution
Glen Kennedy Resume
MIDVALE CITY, UTAH
RESOLUTION NO. 2018-R-38

A RESOLUTION APPOINTING GLEN KENNEDY AS THE MIDVALE CITY PUBLIC WORKS DIRECTOR

WHEREAS, the Mayor is authorized to appoint, with the advice and consent of the City Council, a qualified person to serve as the City’s Public Works Director; and

WHEREAS, the City Manager has determined that Glen Kennedy is qualified and has the skills and ability to perform as the City’s Public Works Director; and

WHEREAS, the City Manager has recommended to the Mayor the appointment of Glen Kennedy as the City’s Public Works Director; and

WHEREAS, the Mayor has sought the advice and consent of the City Council concerning such appointment; and

WHEREAS, the Mayor desires to appoint Glen Kennedy as the Public Works Director; and

WHEREAS, the City Council desires to consent to this appointment,

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF MIDVALE, UTAH:

Section 1. The City Council hereby confirms the City Manager’s recommendation and the Mayor’s appointment of Glen Kennedy as the Public Works Director.

Section 2. This Resolution shall take effect immediately.

APPROVED AND ADOPTED this 4th day of September 2018.

______________________________
Robert Hale, Mayor

ATTEST:

______________________________
Rori L. Andreason, MMC
City Recorder

Voting by the City Council “Aye” “Nay”
Dustin Gettel       _______    _______
Paul Glover        _______    _______
Quinn Sperry       _______    _______
Paul Hunt          _______    _______
Bryant Brown      _______    _______
Glen Kennedy
4767 W Cinnamon Tree Cir.
West Valley, Utah 84120
(801) 301 8797
Gkennedy120@gmail.com

Public Works Professional

A manager of physical assets, policies, budgeting and most importantly the personnel necessary to sustain structures and services essential to the welfare and quality of life of citizens.

Experience

**Associate Director of Public Works – South Jordan City**

*July 2017 – present*

- Assist with the annual budget planning process and monitor fiscal controls to assure conformity with established financial constraints and compliance.
- Manage department infrastructure asset management program and GIS data. Work with division managers to optimize asset management and replacement decisions.
- Establish and maintain working relationships with other departments, City officials, outside agencies and the general public.
- When required act as the Public Works Director in their absence, including attending City Council Meetings.

**Stormwater and Sanitation Divisions Manager – South Jordan City**

*October 2009 – July 2017*

- Created Storm Water Management Plan in accordance and compliance with UPDES and MS4 requirements.
- Implemented storm system TV inspection and cleaning programs.
- Instituted Divisional Safety Plan
- Established street sweeping program.
- Produced the City’s Solid Waste Management Plan
- Implemented glass recycling program, leaf collection program and residential ROW of tree trimming program.
- Completed National APWA Accreditation in both Storm and Sanitation Divisions - Created and implemented all SOPs, policies, and programs associated.

Perform managerial and administrative duties pertaining to all phases of Public Works including Fleet, Streets, Stormwater, Sanitation/Recycling, Culinary and Secondary Water, Fleet, Cemetery and Operations Support.

Directly manage 11 employees and all programs pertaining to storm water and sanitation services management including regulatory compliance, asset management and maintenance, budgeting, and equipment.
Glen Kennedy

**Water Division Lead Worker - South Jordan City**
February 2005 – October 2009

- Set proper zones for the current water system and brought online new zones with development.
- Provided input on the design, construction, testing, and put into service the first six water tanks and associated transmission systems of the City.
- Oversaw the installation and start-up of the City’s first water SCADA system.
- Started State compliant water sampling program.
- Created unaccounted water tracking program.
- Trained staff on all aspects of items listed above.
- Worked closely with JVWCD, the contracted water provider for the City.

**Water System Operator II - Jordan Valley Water Conservancy District**
May 1995 – February 2005

- Controlled and monitored system wide water deliveries making adjustments to maintain proper pressures, flows, and reservoir levels.
- Calculated water demands to direct treatment plant and well productions.
- Ran daily reports and provided accurate data of well production, system pressures and overall system water demands.
- Trained new operators and assigned daily work and scheduling of operations staff.

**EDUCATION AND PROFESSIONAL DEVELOPMENT**

- Bachelor of Science in Business Management - University of Phoenix 2010
- Utah State Certified Water Operator IV - Distribution
- Utah State Certified Water Operator IV – Treatment
- FEMA Certified IS – 100, 200, 700, and 800
- Registered Storm Water Inspector
- Job Safety Analysis - Utah Safety Council
REFERENCES

Jason Rasmussen – South Jordan City Public Works Director
(801)-254-3742

Jed Bell – Midvale City Streets and Parks Division Manager
(801)-567-7235
SUBJECT: Consider Ordinance No. 2018-O-12, Amending and Renumbering the Midvale Municipal Code Section 2.28, Finance

SUBMITTED BY: Laurie Harvey, Asst. City Manager/Admin. Services Dir.

SUMMARY:

With the hiring of a Procurement Specialist, staff has met with City departments regarding the efficiency and effectiveness of the procurement system. The most common issue raised was the time and effort involved in soliciting quotes for relatively small dollar items.

Upon analysis of purchases made during a recent twelve-month period, we discovered that about 40% of purchase orders issued were for purchases of less than $3,000. Staff compared Midvale’s $1,000 threshold with procedures of neighboring cities and found that our threshold was relatively low. The last adjustment was in FY 2010, from $750 to $1,000. Staff recommends amending the purchasing ordinance to require an informal bidding process for expenditures exceeding $3,000, (an increase of $2,000).

Our Procurement Specialist will work with employees to encourage the use of State contracts whenever possible.

Midvale City’s legal staff recommended moving the Finance ordinances from Chapter 2 (Administration) to Chapter 3 (Finance and Revenue) of Midvale City Code. The proposed amendment accomplishes this, as well as separating ordinances for Surplus Property and the Municipal Fee Schedule.

A printed copy of the power point presentation summarizing other recommended changes to the ordinance is attached.

FISCAL IMPACT: While difficult to measure, these amendments will save time for those employees purchasing equipment and supplies costing less than $3,000. Additional oversight of the purchasing process by the Procurement Specialist and ad-hoc committees will add objective cost analysis to larger purchases.
RECOMMENDED MOTION:

“I move we approved Ordinance 2018-O-12, amending and renumbering the Midvale Municipal Code Chapter 2.28, Finance”

ATTACHMENTS:

Printed copy of power point presentation
Ordinance 2018-O-12
Redline of Ordinance Amendments
Clean copy of Amended Ordinance
MIDVALE CITY, UTAH

ORDINANCE NO. 2018-O-12

AN ORDINANCE RECLASSIFYING FINANCE, CHAPTER 2.28 OF THE MIDVALE MUNICIPAL CODE FROM ADMINISTRATION, TITLE 2, TO REVENUE AND FINANCE, TITLE 3; AMENDING DEFINITIONS AND PROCEDURES FOR PROCUREMENT BASED ON DOLLAR AMOUNT AND NATURE OF ITEMS;

WHEREAS, pursuant to Midvale Municipal Code (MMC) Section 2.28.230, the Midvale City Procurement Officer has the authority to administer and maintain the procurement system of the City; and

WHEREAS, the Procurement Officer also has the duty to keep informed of current developments in the field of procurement, and to recommend to the City Council from time to time new or revised procurement rules; and

WHEREAS, the Procurement Officer has determined that to maintain efficiency in the procurement process of the City, and to obtain full and open competition on all purchases, amendments to Chapter 2.28 are necessary; and

WHEREAS, the placement of Chapter 2.28 of the MMC, relating to Finance, would be more appropriately classified under Chapter 3 of the MMC, titled Revenue and Finance.

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

Section 1. The City Council desires to amend and reclassify Midvale Municipal Code Chapter 2.28, as set forth in Exhibit A.

Section 2. This ordinance shall be effective upon date of first publication.

PASSED AND APPROVED this ____ day of ____, 2018.

_____________________________________
Robert M. Hale, Mayor

ATTEST:

_______________________________________
Rori Andreason, MMC
City Recorder

Published this ___ day of ____, 2018.
<table>
<thead>
<tr>
<th>Voting by the City Council</th>
<th>“Aye”</th>
<th>“Nay”</th>
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<tbody>
<tr>
<td>Paul Glover</td>
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<tr>
<td>Paul Hunt</td>
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<td>Dustin Gettel</td>
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<td>Bryant Brown</td>
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Chapter 2.283.02

FINANCERePORTUREMENT

Sections:

Article I. Generally (Reserved)

Article II. Procurement

23.2802.200 010 Procurement system.
23.2802.210 020 Compliance.
3.02.030 2.28.220 Definitions.
3.02.040 2.28.230 Procurement officer.
3.02.050 2.28.240 Budget limitation.
3.02.060 2.28.250 Classification of expenditures. Purchase orders.
3.02.070 2.28.260 Classification of expenditures. Purchase orders.
3.02.080 2.28.270 Emergency procedures. Procurement procedures.
3.02.090 2.28.272 Prequalification of potential vendors.
3.02.110 2.28.280 Formal bidding procedure.
3.02.120 2.28.290 Informal bidding procedure. Approved potential vendor list.
3.02.130 2.28.300 Request for Proposals (Professional Services). Request for quotes procedure.
3.02.140 2.28.320 Construction-related projects.
3.02.150 2.28.330 Request for proposals (professional services).
3.02.160 2.28.340 Delivery.
3.02.170 Ethics.
3.02.180 Records.
3.02.190 Appeals.

2.28.330 Petty cash.
2.28.340 Disposal of surplus.

2.28.350 Ethics.
2.28.360 Records.
2.28.370 Appeals.

2.28.380 Lowest responsive responsible bidder.

Article III. Midvale Municipal Fee Schedule

2.28.400 Title.
2.28.410 Purpose.
2.28.420 Definition of reasonable costs.
2.28.430 Delegation of authority to city manager.
2.28.440 Annual review of fees.
Article I. Generally (Reserved)

Article II. Procurement

2.28.03.02.010 Procurement system.
There is hereby established a procurement system to provide procedures and guidelines for the procurement of supplies, services, and construction for the city, and to ensure that all such purchases or encumbrances are made equitably, efficiently and economically. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A) (2.7.201), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.010)

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

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

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

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

B. Conflict with City Regulations or Ordinances. If the provisions of this chapter are inconsistent with one another or if they conflict with provisions found in other adopted ordinances, resolutions, or regulations of the city, the more restrictive provision shall control. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A) (2.7.202), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.020)

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

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

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

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

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

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

“Business” means any corporation, partnership, limited liability company, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
“Change order” means a written alteration in specifications, delivery point, drates of delivery, period of performance, price, quantity, or provisions of a contract, upon a mutual agreement of the parties, to the contract.

“City” means Midvale City.

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

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

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

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

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

“Contractor” means a person who is awarded a contract with the City.

“Cooperative procurement” means a procurement conducted by, or on behalf of the City and a cooperative purchasing organization.

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

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

“Department head” means the individual who administers a department or his/her designee, or, in the absence of a department head, the City Manager.

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

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

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

“Emergency purchases” means purchases of supplies, material, equipment or services to mitigate a threat to avoid a lapse in critical government service, protect the legal interest of the City, or mitigate a circumstance that is likely to have a negative impact on public health, welfare, or safety, or public property.
“Exempt Purchases” means purchases which may be made without formal or informal bidding procedures in accordance with 3.02.060(E).

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

“Fixed price contract” means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except when the contract provides, under circumstances specified in the contract, for an adjustment in prices that is not based on cost to the contractor, or an adjustment is required by law.

“Fixed price contract with price adjustment” means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that is based on the consumer price index or another commercially accepted index, source, or formula; and is not based on the percentage of the cost to the contractor.

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

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

“Indefinite quantity contract” means a fixed price contract that is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit and does not require a minimum purchase amount or a maximum purchase limit.

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

“Invitation for bids to Bid” or “ITB” means a formal bidding document utilized for seeking competition for purchases of supplies and/or services that are defined by the City.

“Joinder Agreements” means an agreement authorizing the City to join or use contracts of local governments within or outside the State with the authorization of the contracting vendor. This includes national cooperative agreements with local governments. The originating contracting agency is not liable for the obligations of the City when using or joining a contract means all documents, whether attached or incorporated by reference, used for soliciting bids.

“Labor hour contract” is a contract under which the supplies and materials are not provided by, or through, the contractor, and the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

“Large Purchase” or “Large Expenditure” means a purchase in excess of $25,000.

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

“Minor Purchase” or “Minor Expenditure” means a purchase that is less than $3,000.

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

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

“Performance bond” means a contract of guaranty executed subsequent to award by a successful bidder to protect the city from loss due to the inability of the bidder to complete the contract as agreed.
“Person” means any business, individual, union, committee, club, other organization, or group of individuals.

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

“Procurement officer” means the City Manager or his/her designee authorized to perform the duties set forth in Section 2.28.230.3.02.040.

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

“Proposal” means an offer to provide services.

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

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

“Public facility” means a building, structure, infrastructure, improvement, or other facility of a public entity, means the furnishing of services for auditing, banking, insurance, engineering, legal, architectural, financial advisory services, bond underwriting, and other forms of professional consulting.

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

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

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

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

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

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

“Request for quote” means a document used to solicit procurement items and/or services through the informal process. Includes the City’s general terms and conditions, a description of the requirement, a quantity (if applicable), shipping details (if applicable), and contact information of the department head and/or procurement officer requesting the quote, forms used by departments providing detailed information as to description of services needed or desired.

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

“Responsible bid” means a bid to furnish supplies, services or construction for the City pursuant to and in accordance with the terms and conditions set forth in this chapter, which conforms in all material respects to the invitation for bids.
“Responsive Responsible bidder” means a person who furnishes, when requested, a conforming solicitation and demonstrates the ability to fully perform all aspects of the contract requirements with the experience, integrity, reliability, and capacity which will ensure good faith performance; and who has not violated or attempted to violate any provisions in this chapter.

“Sealed” means manually or electronically secured to prevent disclosure. “Responsible bidder” means a person who submits a responsible bid; who furnishes, when requested, sufficient information and data to prove his or her financial resources, production or service facilities, service reputation and experience are adequate to make satisfactory delivery of the supplies, services or construction on which he/she has bid; and who has not violated or attempted to violate any provisions of this chapter.

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

“Small Purchase” or “Small Expenditure” means a purchase greater than $3,000 but less than $25,000.

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

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

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

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

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

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

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


3.02.0402.28.230 Procurement officer

The procurement officer shall be subject to the direction and supervision of the mayor and city City Council and shall have the powers and duties as established in this chapter, including but not limited to:

A. Administer and maintain the procurement system provided herein, in accordance with any rules and regulations established by the city City;

B. Supervise the procurement of all supplies, services, and construction needed by the city City, including preparation of specifications and negotiation of contracts connected therewith;
C. Exercise general supervision and control over all inventories or supplies of the city and the accounting for all such inventories or supplies;

D. Prepare and maintain forms and reports as are reasonably necessary to the operation of this chapter and other rules and regulations of the city;

E. Keep informed of current developments in the field of procurement;

F. Recommend to the city council from time to time such new or revised procurement rules and regulations as are required to conform to statutory requirements;

G. With respect to public improvements, work with the engineer, attorney and other professional persons retained by the city to assist in the preparation of plans and specifications, and to discharge other related duties. The professional persons may direct bid openings, conduct investigations of lowest responsive responsible bidders, supervise construction work and perform such other tasks as are provided for by their prospective contracts;

H. Seek to obtain full and open competition on all purchases as reasonably possible;

I. Establish and maintain programs for the inspection, testing and acceptance of all supplies, services and construction to assure conformance with specifications;


3.02.0502.28.240 Budget limitation.
No expenditure or encumbrance shall be made for any supplies, services or construction for the city in excess of total appropriations in the budget, as adopted or subsequently amended by the city, without prior written approval from the city manager or the city council. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.205), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.050)

3.02.0602.28.250 Purchase orders.
Before any order shall be placed for the purchase of any supply, service or construction, a purchase order shall be executed if the purchase is for more than one thousand dollars. The department head must review all purchase orders and determine whether the expenditure requested is for a city purpose, properly budgeted, and in compliance with city ordinances and state law. If the department head determines the expenditure requested complies with these requirements, he or she shall approve the purchase order and initiate the appropriate procedures set forth herein for procurement of the supply, service or construction. (Ord. 8/10/2010O-6 § 1 (Exh. A) (part), 2010: Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.206), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.060)

2.28.260 Classification of expenditures.
A. Small Expenditures. Except as otherwise provided herein, any expenditure by the City for supplies, services or construction for more than three thousand dollars and less than twenty-five thousand dollars shall be referred to as a “small expenditure” and shall be made pursuant to the informal bidding procedures set forth in Section 3.02.100. Pursuits may also be allowed using the State of Utah or other cooperative agreements. Large Expenditures. Except as otherwise provided herein, any expenditure by the city for supplies, services or construction of twenty-five thousand dollars or more to be paid out of the funds of the city shall be referred to as a “large expenditure” and shall be made pursuant to formal bidding set forth in Section 2.28.280. No large expenditure shall be made without written approval from the city manager. Any expenditure of one hundred thousand dollars or more must be approved by the city council.

B. Large Expenditures. Except as otherwise provided herein, any expenditure by the City for supplies, services or construction for more than twenty-five thousand dollars shall be referred to as a “large expenditure” and shall be made pursuant to the formal bidding procedures set forth in Section 3.02.110. No large expenditure shall be made without the written approval from the City Manager or his/her designee. Any expenditure of one hundred thousand dollars or more must be approved by the City Council.

Medium Expenditures. Except as otherwise provided herein,
any expenditure by the city for supplies, services or construction for ten thousand dollars or more, but less than twenty-five thousand dollars, shall be referred to as a “medium expenditure” and shall be made pursuant to the formal bidding procedures set forth in Section 2.28.280 or the informal bidding procedures set forth in Section 2.28.290.

C. Construction and Public Works Projects. As determined by the City Council and/or the City Manager, projects relating to construction projects shall be directed by the department head and follow the procedures as set forth in this Chapter. Small Expenditures. Except as otherwise provided herein, any expenditure by the city for supplies, services or construction for less than ten thousand dollars shall be referred to as a “small expenditure” and shall be made pursuant to the formal bidding procedures set forth in Section 2.28.280, the informal bidding procedures set forth in Section 2.28.290, or the request for quotes procedures set forth in Section 2.28.300.

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

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

1. Minor. Any expenditure amounting to less than one three thousand dollars.

2. Sole Source. Any expenditure for goods supplies or services which are clearly by their nature not reasonably adapted to award by competitive bidding. These expenditures include, but are not limited to, goods supplies or services which can only be purchased from a sole source, contracts for additions to and/or repair and maintenance of equipment already owned by the city which may be more efficiently added to, repaired or maintained by a certain person or firm, and equipment which, by reason of the training of the personnel or an inventory of replacement parts, is compatible with the existing equipment owned by the city. Sole source procurements must be approved in writing by the department head, the procurement officer, and either another department head or a representative from Finance or Legal.

3. Emergency. See Section 3.02.0702.28.270 for procedures to follow.

4. State Bidding. Any expenditure for which competitive bidding or price negotiation has already occurred on the state level.

5. Interlocal Cooperation. Any expenditure made in conjunction with an agreement approved by resolution of the City Council between the city and another governmental entity.

6. Joinder. Any expenditure made by joining or using a contract originated by another government entity or national cooperative organization with the approval of the City Council.

7. Professional Services. Any expenditure for professional services which by their nature are not reasonably adapted to award by competitive bidding. Such contracts for such expenditures shall be awarded at the discretion of the Manager based on the recommendation of the department head and/or procurement officer. If the Manager determines that competitive bidding for certain professional services would benefit the city, the procedures set forth in Section 2.28.3103.02.130 must be followed.

8. Special Sale. Any expenditure made in conjunction with any public auction, closeout sale, bankruptcy sale or other similar sale when the procurement officer determines in writing that such purchase may be made at a cost below the market cost for the same or similar goods and such determination is reviewed and approved by the City Council.
89. Exchanges. Any exchange of supplies, materials, property, or equipment between the City and any other public or private party made by mutual agreement of the respective parties.


3.02.0702.28.270 Emergency procedure expenditures.
A. Emergency Procurements. When the Mayor makes a determination of “local emergency” under the provisions of Section 53-2a-208 of the Utah Code Annotated, the provisions of this chapter are suspended for a period not to exceed thirty days. Emergency purchases shall be made in accordance with Section 63G-6a-803 of the Utah Code Annotated. When the mayor makes a determination of “local emergency” under the provisions of Section 63-5a-6 of the Utah Code Annotated, the provisions of this chapter are suspended for a period not to exceed thirty days. Emergency purchases shall be made in accordance with Section 63-5b-411 of the Utah Code Annotated and with subsection (B) of this section.

B. Notwithstanding any other provision of this chapter, when there exists a threat to public health, welfare, or safety, the procurement officer may make or authorize others to make emergency purchases if the purchases are necessary to avoid a lapse in a critical government service, protect the legal interest of the City, or mitigate a circumstance that is likely to have a negative impact on public health, safety, welfare, or property, provided, such emergency purchases shall be made with as much competition as practicable under the circumstances. A written determination of the basis for the emergency purchase and for the selection of the particular contractor or vendor shall be included in the contract or purchase order file. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.208), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.080)

3.02.080 Procurement Procedures.
A. General Purchasing Procedures. Except as otherwise stated within this Chapter, a purchase order is required for the purchase of any supply, service, or construction project that is greater than three thousand dollars. Such purchases shall be reviewed by the procurement officer to determine whether the expenditure requested is for a City purpose, properly budgeted, and in compliance with City ordinances and policies and state law.

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

C. Splitting Procurements. Department head and/or procurement officer shall not split or separate procurements into smaller orders for the purpose of evading the competitive bidding or request for proposal provisions set forth in this chapter.

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

E. Approvals. All expenditures over $25,000 must be approved by the City Manager. All approvals over $100,000 must be approved by the City Council.

3.02.0902.28.272 Prequalification of potential vendors.
A. Prequalification Procedures. The procurement officer may prequalify potential vendors for a one-time bid or a request for proposal to provide a procurement item or service specified by the department. To prequalify potential vendors, the procurement officer shall issue a request for statement of qualifications. The following procedures are required:
1. The request for statement of qualifications shall be published in a newspaper of general circulation within the City limits, and/or posted on the City website, at least ten days prior to the deadline for submission, and/or posted on the City website.

2. Stated in the request for statement of qualifications shall be the following:
   a. The specific procurement item or service to which the request for statement of qualifications relates;
   b. The scope of work to be performed;
   c. The instructions and deadline for submitting a statement of qualifications;
   d. The criteria by which the department will evaluate statements of qualifications;
   e. Any prequalification requirements unique to the procurement; and
   f. May include performance rating criteria.

3. The process of prequalifying potential vendors must comply with the following conditions:
   a. The request for statement of qualifications may not be so restrictive that the criteria limits competition;
   b. The procurement officer may request potential vendors to provide additional information to clarify responses pertinent to the request for statement of qualification;
   c. The invitation for bids or request for proposals shall be limited to the potential vendors that are prequalified to provide the specified procurement item or service;
   d. If a request for statement of qualifications results in only one potential vendor being placed on the list of prequalified potential vendors, the request for statement of qualifications will be cancelled and the list shall not be used;
   e. Before making the list of prequalified potential vendors available to the public, the procurement officer shall provide each potential vendor who provided information in response to the request, but who did not meet the minimum qualifications for placement on the list, a written justification statement describing why the potential vendor did not meet the criteria for inclusion on the list; and
   f. The list of prequalified potential vendors shall be made available to the public within thirty days after completing the evaluation process.

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

   1. Basic information about the vendor;
   2. The vendor’s experience and work history;
   3. Information about the vendor’s management and staff;
   4. Information about the vendor’s licenses, certifications, and other qualifications;
   5. Any applicable performance ratings;
   6. Financial statements reporting the vendor’s financial condition; and
7. Other pertinent information. A. As used in this section, “vendor” means:
   1. A bidder;
   2. An offeror; or
   3. A contractor, including an architect, an engineer, or other professional service provider.

B. A department may, in accordance with this section:
   1. Prequalify potential vendors for a one-time bid or request for proposal process to provide a procurement item or service specified by the department; or
   2. Limit participation in a standard procurement process to the prequalified potential vendors for the specified procurement item or service.

C. To prequalify potential vendors, a department shall issue a request for statement of qualifications.

D. A department that issues a request for statement of qualifications:
   1. Shall publish the request for statement of qualifications in a newspaper of general circulation within the city limits at least ten days prior to the deadline for submission; and
   2. Shall state in the request for statement of qualifications:
      a. The specific procurement item or service to which the request for statement of qualifications relates;
      b. The scope of work to be performed;
      c. The instructions and deadline for submitting a statement of qualifications;
      d. The criteria by which the department will evaluate statements of qualifications;
      e. That a department will limit participation in the invitation for bids or request for proposals to the potential vendors that are prequalified to provide the specified procurement item or service; and
      3. May request the vendor to provide:
         a. Basic information about the vendor;
         b. The vendor’s experience and work history;
         c. Information about the vendor’s management and staff;
         d. Information about the vendor’s licenses, certifications, and other qualifications;
         e. Any applicable performance ratings;
         f. Financial statements reporting the vendor’s financial condition; and
         g. Any other pertinent information.

E. The criteria described in subsection (D)(2) of this section:
   1. Shall include the prequalification requirements unique to the procurement;
   2. May include performance rating criteria; and
   3. May not be so restrictive that the criteria unreasonably limit competition.
F. A department may, before making a final list of prequalified vendors, request additional information to clarify responses made to the request for statement of qualifications.

G. A potential vendor shall be included on the list of prequalified vendors if the potential vendor:

1. Submits a timely, responsive response to the request for statement of qualifications; and

2. Meets the criteria for qualification described in subsection (D)(2) of this section.

H. If a request for statement of qualifications will result in only one potential vendor being placed on the list of prequalified potential vendors:

1. The department shall cancel the request for statement of qualifications; and

2. The list may not be used by the department.

I. The department shall:

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

2. Make the list of prequalified potential vendors available to the public within thirty days after completing the evaluation process. (Ord. 2014-07 § 1 (Exh. A) (part))

3.02.100 Informal bidding procedure.

A. Except as otherwise stated in this chapter, small purchases of the City shall be awarded to the responsive responsible bidder according to the following procedure.

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

1. The terms and conditions of the City;

2. Specifications of the requirement;

3. Shipping terms (if applicable); and

4. Any additional information needed to procure the requirement.

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

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

E. A public bid opening is not required.

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

G. Once the vendor has been selected, the procurement officer shall issue a purchase order.
2.28.274 Approved potential vendor list.
A. As used in this section, "vendor" has the same meaning as defined in Section 2.28.272.
B. An approved potential vendor list may only be compiled from timely, responsive responses received under Section 2.28.272. (Ord. 2014-07 § 1 (Exh. A) (part))

3.02.1102.28.280 Formal bidding procedure.

Except as stated otherwise within this chapter, all large expenditures shall be made by written contract and the responsive responsible bidder shall be selected through the formal bidding process. As determined by Section 3.02.060, either an invitation to bid or a request for proposal, shall be used to select the potential vendor when the use of a state of Utah or other cooperative agreement is not in the best interest of the City. The City may utilize a prequalified potential vendor list as described in Section 3.02.090. Except as otherwise provided herein, all large expenditures shall be made by written contract between the city and the lowest responsible bidder according to the following procedure:

A. Specifications. Specifications shall be prepared by or under direction of the department head.

B. Invitation for Bids. An invitation for bids shall be prepared by or under the direction of the department head. A prequalified potential vendor list as described in Section 2.28.274 may be utilized. The invitation shall:

1. Describe the goods or services to be purchased or work to be performed;
2. Set forth all contract terms, conditions and bond requirements applicable to the purchase or work:
   a. Set forth the criteria that will be used to evaluate the bid;
   b. State where plans, specifications and other information may be obtained;
   c. State the time and place of the bid opening; and
   d. Reserve to the city the right to reject any and all bids for any reason without liability.

C. Notice. The invitation for bids shall be published in a newspaper of general circulation within the city limits at least ten days prior to the opening of bids.

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

E. Sealed Bids. All bids shall be received by the city in sealed envelopes labeled "Bid for (item)" which shall not be opened prior to the time set for opening of the bids, except as provided in subsection (F) of this section.

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

G. Opening Bids. The bids shall be opened publicly by the city recorder and the department head in the presence of one or more witnesses at the time and place designated in the invitation for bids.

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

I. Evaluating Bids. The bids shall be evaluated within a reasonable time by the department head to determine the lowest responsible bidder based upon the following objectively measurable criteria as set forth in the invitation for bids:

1. Price. The total price of the bid.
2. **Quality.** The overall quality of the goods or work to be provided and/or the ability, capacity and skill of the bidder to provide any services or work required.

3. **Conditions.** The number and scope of any conditions or qualifications set forth in the bid.

4. **Time.** The time limit within which the bidder shall provide the goods, services, or work.

5. **Reputation.** The character, integrity, reputation, judgment, experience, and efficiency of the bidder and the quality of previous goods, services, or work obtained from the bidder.

6. **Compliance.** The previous and existing compliance by the bidder with laws and ordinances relating to the goods, services or work.

7. **Financial Resources.** The sufficiency of the financial resources and ability of the bidder to provide the goods, services, or work.

8. **Future Service.** The ability of the bidder to provide future maintenance and service and the local availability of parts, materials, etc.

9. **Local Bidder.** When possible, preference shall be given to local bidders.

J. **Determination.** The department head shall determine the lowest responsible bidder. All information relating to the selection of the lowest responsible bidder shall be retained by the city in accordance with the city government records access and management ordinance.

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

L. **Tie Bids.** If two or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of re-advertising for bids, the procurement officer shall negotiate with the tie bidders after the time of the bid opening until such time as the lowest responsible bid is obtained.

M. **Single Bid.** In the event only one bid is received, the bidder may be required to furnish a detailed cost proposal for review and the bid award may be subject to subsequent negotiation.

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

O. **Responsibility of Bidder.** The department head may request additional information with respect to the responsibility of a bidder. The failure of a bidder to promptly supply information in connection with a request of the department head regarding responsibility shall be grounds for a determination of nonresponsibility and/or nonresponsiveness of the bidder. (Ord. 2014-07 § 1 (Exh. A) (part); Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010; Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009; Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.2007), 2007; Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.090)

### 3.02.120 Invitation to Bid, 2.28.290 Informal bidding procedure.

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

B. Specifications. Specifications for the requirement shall be prepared by or under direction of the procurement officer and attached to the bid package.
C. Solicitation. Prior to soliciting bids, the procurement officer shall ensure that an invitation to bid:

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

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

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

F. Sealed Bids. All bids shall be received by the City in sealed envelopes labeled “Bid for (item)” which shall not be opened prior to the time set for opening of the bids.

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

H. Pre-bid Conferences. The City may hold a meeting prior to the time of opening bids to allow interested persons to discuss a solicitation. The City must notify all persons who obtained solicitation materials of the meeting and hold it at least 48 hours prior to the time bid package submissions are due. Verbal or other statements will not change an invitation to bid package except when the City modifies the document in question in writing by addendum to include such statement.

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

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

K. Evaluating Bids. The bids shall be evaluated within a reasonable time by the department head, procurement officer, and a third Midvale City employee, such as another department head, or a representative of Finance or Legal, to determine the responsive responsible bidder based upon the following objectively measurable criteria as set forth in the invitation for bids:

1. Price. The total price of the bid.
2. Quality. The overall quality of the goods or work to be provided and/or the ability, capacity and skill of the bidder to provide any services or work required.
3. Conditions. The number and scope of any conditions or qualifications set forth in the bid.
4. Time. The time limit within which the bidder shall provide the goods, services, or work.
5. **Reputation.** The character, integrity, reputation, judgment, experience, and efficiency of the bidder and the quality of previous goods, services, or work obtained from the bidder.

6. **Compliance.** The previous and existing compliance by the bidder with laws and ordinances relating to the goods, services or work.

7. **Financial Resources.** The sufficiency of the financial resources and ability of the bidder to provide the goods, services, or work.

8. **Future Service.** The ability of the bidder to provide future maintenance and service and the local availability of parts, materials, etc.

9. **Local Bidder.** When possible, preference shall be given to local bidders.

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

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

**N. Tie bids.** If two or more bids or quotes received are for the same total amount or unit prices, quality and service being equal, and if the public interest will not permit the delay of re-soliciting bids, the procurement officer shall resolve a tie bid by favoring the:

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

2. Favoring the bidder who received the previous similar award;

3. Favoring the bidder who will provide the earliest delivery date;

4. Drawing lots; or

5. Any other reasonable method.

6. The City reserves the right to negotiate with the tie bidders after the time of bid opening until the responsive responsible bidder is obtained.

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

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

**Q. Records.** All information relating to the selection of the responsive responsible bidder shall be retained by the City in accordance with the City government records access and management ordinance.
R. Bonds. Bid performance and/or payment bonds may be required in conjunction with any bid or contract entered hereunder in such form and amounts as required by law and by the City Council as reasonably necessary to protect the best interest of the City.

S. Responsibility of Bidder. The procurement officer may request additional information with respect to the responsibility of a bidder. The failure of a bidder to promptly supply information in connection with a request of the procurement officer regarding responsibility shall be grounds for a determination of nonresponsibility and/or nonresponsiveness of the bidder. Except as otherwise provided herein, all medium expenditures of the city shall be awarded to the lowest responsible bidder according to the formal bidding procedure set forth in Section 2.28.280 or, according to the following procedure:

A. Invitation for Bids. The department head shall invite bids from at least three potential, responsible providers of the supplies, services or construction needed or desired. Such invitations and bids must be made in writing, including fax or electronic means, and shall be made without favoritism or bias. A prequalified potential vendor list as described in Section 2.28.274 may be utilized. A record of all invitations and bids made hereunder shall be kept by the department head.

B. Evaluation. The department head shall evaluate the bids to determine the lowest responsible bidder based upon the criteria set forth in Section 2.28.280(I). A public bid opening is not required.

C. Determination. The department head shall determine the lowest responsible bidder and award a written contract to such bidder. If only one bid is received, the bidder may be required to furnish a detailed cost proposal for review and the bid award may be subject to subsequent negotiation. All information relating to the bids obtained and the selection of the lowest responsible bidder shall be retained by the city in accordance with the city government records access and management ordinance. (Ord. 2014-07 § 1 (Exh. A) (part)); Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010; Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009; Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.210), 2007; Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.100)

2.28.300 Request for quotes procedure.
Except as otherwise provided herein, all small expenditures of the city shall be awarded to the lowest responsible bidder according to the formal bidding procedure in Section 2.28.280, the informal bidding procedure in Section 2.28.290, or according to the following procedure:

A. Request for Quotes. The department head shall request quotes from at least three potential responsible providers of the supplies, services or construction needed or desired. Such requests and quotes may be made in writing or orally, including by telephone, and shall be made without favoritism or bias. A prequalified potential vendor list as described in Section 2.28.274 may be utilized. A record of all requests for quotes made hereunder shall be kept by the department head.

B. Evaluation. The department head shall evaluate the quotes to determine the lowest responsible bidder based upon the criteria set forth in Section 2.28.280(I). A public bid opening is not required.

C. Determination. The department head shall determine the lowest responsible bidder and award the contract to such bidder. If only one quote is received, the bidder may be required to furnish a detailed cost proposal for review and the bid award may be subject to subsequent negotiation. All information relating to the quotes obtained and the selection of the lowest responsible bidder shall be retained by the city in accordance with the city government records access and management ordinance. (Ord. 2014-07 § 1 (Exh. A) (part)); Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010; Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009; Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.211), 2007; Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.110)

3.02.130 Request for proposals (professional services).
A. The City Manager may determine that it is either not practicable or not advantageous to the City to procure professional services through a competitive process. When such a determination is not made, a Request for Proposal package shall be prepared by or under the direction of the procurement officer. The City may use a prequalified potential vendor list as described in Section 3.02.090.

B. Specifications. Specifications for the requirement shall be prepared by or under direction of the procurement officer and attached to the bid package.
C. Solicitation. Prior to soliciting bids, the procurement officer shall ensure that the request for proposal:

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

D. Notice. For large expenditures, the request for proposal shall be advertised at least ten days prior to the bid due date in a newspaper of general circulation within the City limits and/or posted on the City website.

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

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

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

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

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

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

9. Local Bidder. When possible, preference shall be given to local bidders.

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

K. Determination. The procurement officer shall determine the responsive responsible bidder and award the contract to such bidder. If only one quote is received, the bidder may be required to furnish a detailed cost proposal for review and the bid award may be subject to subsequent negotiation. All information relating to the proposals obtained and the selection of the lowest responsive responsible bidder shall be retained by the City in accordance with the City government records access and management ordinance. All large expenditures must be approved in writing by the City Manager. Contracts of $100,000 or more must be approved by the City Council.

L. Inspections and Tests. The City may perform inspections, tests, and other evaluations in any manner conducive to the City’s interests, including the use of third parties. All prospective and actual recipients of a bid or agreement shall provide all reasonable assistance and information required by the City to perform an inspection, test, or evaluation. The city manager may determine that it is either not practicable or not advantageous to the city to procure professional services through a competitive process. When such a determination is not made, professional services shall be awarded to the lowest responsible bidder according to the following procedures: The department head shall request proposals from at least three potential, responsible providers of the professional services needed or desired. For large and medium expenditures, the request for proposals and the proposal shall be in writing, including fax or electronic means. For small expenditures, the request for proposals and the proposals may be made in writing or orally, including by telephone, and shall be made without favoritism or bias. A prequalified potential vendor list as described in Section 2.28.274 may be utilized. A record of all requests for proposals made hereunder shall be kept by the department head.

A. Request for Proposals. A request for proposals shall be prepared by or under the direction of the department head. The request for proposals shall:

1. Describe the professional services to be performed;

2. Set forth the criteria that will be used to evaluate the proposal;

3. State where additional information may be obtained; and

4. Reserve to the city the absolute right to reject any and all proposals for any reason the city shall determine.

B. Notice. For large expenditures, the request for proposals shall be published once in a newspaper of general circulation within the city limits at least ten days prior to the date proposals are due.

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

D. Opening Proposals. The proposals shall be opened by the department head as soon as possible after the specified due date. A public opening is not required.

E. Recording Proposals. The amount of each proposal and the name of the bidder shall be recorded and open to public inspection during regular business hours for a period of not less than thirty days after the proposals are opened.
F. Evaluating Proposals. The proposals shall be evaluated within a reasonable time by the department head to determine the lowest responsible bidder based upon the following objectively measurable criteria as set forth in the request for proposals:

1. Price. The total price of the proposal.

2. Time. The time limit within which the bidder can provide the services.

3. References. The character, integrity, reputation, judgment, experience and efficiency of the bidder and the quality of previous services received from the bidder.

4. Local Bidder. Preference shall be given to local bidders.

5. Other. Any other measurable criteria as set forth in the request for proposals.

G. Determination. The department head shall determine the lowest responsible bidder and award the contract to such bidder. If only one quote is received, the bidder may be required to furnish a detailed cost proposal for review and the bid award may be subject to subsequent negotiation. All information relating to the proposals obtained and the selection of the lowest responsible bidder shall be retained by the city in accordance with the city government records access and management ordinance. All contracts of twenty-five thousand dollars or more (large expenditures) must be approved in writing by the city manager. (Ord. 2014-07 § 1 (Exh. A) (part): Ord. 8/10/2010O-6 § 1 (Exh. A) (part), 2010: Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.212), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.120)

3.02.140 Construction-related projects.

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

1. Construction and maintenance must be made pursuant to plans, specifications, and estimates that shall be created under the supervision of the procurement officer and/or contracted consultant.

2. Bid Security. Contracts for construction-related projects may provide for a bid security in the amount equal to at least 5% of the amount of the bid.

3. Bonds. Construction contractors must deliver performance and payment bonds for the full contract price. The procurement officer may waive this requirement after consultation with the City Attorney's Office if bonds are unnecessary for the protection of the City.

4. Rejection. The City may reject any or all the bids submitted. If, after twice advertising, no satisfactory bid is received, the City Council may proceed to negotiate or make the improvement or acquisition or enter such other agreements as it deems necessary or desirable.

5. Exempt Expenditures. The formal bidding procedures do not apply to exempt expenditures or small expenditures for construction-related projects.

6. Withheld or Retained Payments. The City may withhold payments for poor performance or other work-related reasons. Special requirements apply to retainage, where sums are withheld as security under the contract. To implement retainage, first consult with the Attorney's Office.

B. Contractor Licensing and Requirements. When evaluating any construction-related bid, the following shall apply:
1. To receive a contract award, a contractor must be licensed in the State of Utah at the time of submitting a bid with an appropriate license to perform the work.

2. In accordance with Utah Code Ann. § 72-6-110, the work must be prepared and performed under the direct supervision of a registered professional engineer, who must certify to the City that the project conforms to the design and construction standards currently adopted by the American Association of State Highway and Transportation Officials.

3. The City may impose other licensing requirements, and when appropriate, may regard a lack of subcontractor licensing at the time of the general contractor's bid as a matter relating to the responsibility of the general contractor.

4. The contractor and subcontractor, if any, must demonstrate to the City’s satisfaction that the contractor has and will maintain a drug and alcohol testing policy during the period of the contract that applies to all covered individuals employed or hired by the contractor or subcontractor and subjects the covered individuals to random testing under the drug and alcohol testing policy.

5. The contractor and subcontractor, if any, must demonstrate to the City’s satisfaction that the contractor and subcontractor have and will maintain a program to actively recruit and/or employ veterans.

6. The contractor and subcontractors, if any, must demonstrate to the City’s satisfaction that the contractor and subcontractor have and will maintain a job training program, such as, by way of example and not limitation, a federal, state and/or City recognized job training program.

7. The contractor and subcontractors, if any, must demonstrate to the City’s satisfaction that the contractor and subcontractor have, and will maintain, a safety program.

C. Construction Management and Selection. The procurement officer shall select the type of construction management that will protect and be in the best interest of the City. Factors to be considered are:

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

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

   1. Single Prime Contractor. A single general contractor is responsible to complete an entire project in accordance with the contract and may subcontract portions of the work.
   2. Multiple Prime Contractors. A number of specialty contractors complete portions of the project pursuant to contracts with the City. The City or one of the contractors may have primary responsibility for completion or coordination of the entire project.
   3. Design-Build or Turnkey. A single contractor or team is responsible to both design and construct the project to meet performance criteria specified by the City.
   4. Construction Manager. A qualified person is responsible to coordinate the design and construction of the project and may oversee a variety of functions such as time, cost, quality and administration of change orders. The person may have some construction responsibilities as well.
5. Sequential Design and Construction. The project's design is substantially completed before construction begins.

6. Phased Design and Construction or Fast Track Construction. The project's construction begins after portions of the design are substantially complete, but design continues during the construction.

3.02.150 Contracts.
A. The procurement officer shall select the type of contract or contract modification that is appropriate for the purchasing requirement and in the best interest of the City.

B. Selecting Contract Type. Without limitation, the following factors may be considered in selecting a contract type:

1. Meeting the City’s needs including quality of performance, costs, time for performance, and completion date.

2. The type and complexity of the supply or service requirement and the stability of markets and prices.

3. The difficulty of estimating performance costs, such as when the City is unable to develop definitive specifications, identify the contractor’s risks inherent in performing the work, or otherwise clearly establish contract requirements.

4. The amount of risk imposed by a contract type on both parties. The degree of risk should not jeopardize any material interests of the City, or the satisfactory performance of the contract.

5. The administrative impacts to both parties, such as administration costs, the degree to which the City must provide technical coordination during the performance of the contract, and the ability to meet any federal requirements.

6. The effect of the choice of contract type on the amount of competition expected.

C. Contracting Methods for Establishing Price. The procurement officer may structure a contract in any manner, but shall not issue a cost-plus-a-percentage-of-cost contract. The following are some methods of establishing price in a contract.

1. Fixed-Price Contracts. The contractor performs for a price that is fixed in the contract, or that is subject to contractually specified adjustments.

   a. Price adjustments. Price adjustments, if allowed, are specified in the contract based on conditions such as changes in labor rates, periodic increases in an economic index, increases by an agreed percentage, or specified changed conditions. The contract should provide for the time and manner of any adjustments.

   b. When Not Appropriate. Fixed-price contracts can result in inflated prices and poor performance when risks are unknown or not readily measurable, or the type or amount of work is not known.

2. Cost-Reimbursement Contracts. This type of contract allows the City to reimburse the contractor for allowable and incurred costs as specified in detail in the contract. It may establish a target performance cost and/or a ceiling the contractor cannot exceed and may provide for payment of a fee.

   a. When to use. Cost reimbursement contracts are most appropriate when it is difficult to reasonably estimate the cost of performance. They require careful contract management to verify performance, price, and allowable costs, and the contractor must have in place a suitable accounting system consistent with generally accepted accounting principles.

3. Cost-Plus-Fixed-Fee Contracts. Fees in cost reimbursement contracts are generally negotiated as a fixed sum which does not vary unless the scope of work increases.
4. Cost Incentive Contracts. This type of contract allows the City to make cost-effective performance a priority and to share cost risks with the contractor. The City sets a target cost and will reimburse allowable and incurred costs up to a ceiling amount; under a formula established in the contract, the contractor is rewarded or penalized for performing below or exceeding a target cost or the ceiling amount. Profit or fee is dependent on how effectively the contractor controls costs.

a. When to Use. These contracts are most appropriate when it is difficult to reasonably estimate the cost of performance, when uncertainties and contingencies may exist, or when monetary incentives will benefit the performance. They require careful monitoring, accounting, and determining of what costs are allowable as with cost-reimbursement contracts.

5. Fixed Price Cost Incentive Contracts. The contract establishes (a) a target cost, (b) a target profit, (c) a ceiling price, and (d) a formula that increases or decreases the target profit by a specified percentage if costs go above or below the target cost or ceiling price. However, the final total of reimbursed costs and the contractor’s fee may not exceed the ceiling price despite the actual cost of complete performance.

6. Cost-Reimbursement Contract with Cost Incentive Fee. The contract establishes the same elements as a fixed-price cost incentive contract and also establishes maximum and minimum fee limitations. The final price of costs reimbursed under the contract may not exceed the ceiling price, but profit varies depending on whether the target cost or ceiling price were exceeded.

7. Time and Materials Contracts. The City reimburses the contractor for materials at cost and labor performed at an hourly rate, which includes overhead and profit. These contracts provide no incentives to minimize costs, and they should be managed carefully and used with a not-to-exceed amount.

8. Unit Price Contracts. The City contracts to pay a fixed price for a defined unit of materials, and the final contract price is calculated based on the number of units used in the performance.

D. Other Contracting Methods. Without limitation, the following describes other contracting methods available to the City:

1. Definite Quantity Contracts. The contractor must deliver a specified quantity of supplies or services either at specified times or when ordered.

2. Indefinite Quantity Contracts (“Open Contracts”). The contractor must deliver an indefinite quantity of supplies or services as ordered over a fixed period of time. The contract may provide for minimum or maximum quantities, price adjustments, not-to-exceed amounts and delivery methods.

3. Requirements Contracts. A department obtains all of its requirements for a specified supply or service from a contractor during a specified period of time. The contract may reserve the right to publicly solicit for particular matters, such as for other than ordinary needs.

4. Performance Incentives. The contract provides a formula for paying additional compensation if the contractor meets or exceeds specific performance goals, such as early completion.

5. Time and Materials Work. The contract permits specified types or portions of the work to be performed on a time and materials basis, such as where the contractor is required to perform regardless of a dispute, or for matters submitted under a contractual allowance.

6. Allowances. The contract creates allowances to pay for the performance of certain types of work. The contract must specify all work that is compensable under the allowance, a system of accounting for payment, and a maximum dollar amount that may be charged to the allowance. Allowances may be increased by amendment to accommodate matters reasonably within the scope of the original solicitation at the discretion of the procurement officer.

7. Not-to-Exceed Amounts. Any contract, or portions of any contract, may be limited to an amount which may not be exceeded. Not to exceed amounts may be increased by amendment to accommodate matters reasonably within the scope of the original solicitation at the discretion of the procurement officer.
Progressive Awards. The procurement officer may award portions of a definite quantity requirement to more than one contractor as appropriate, such as when the City's quantity needs exceed what one contractor can supply at the needed times.

Multiple Awards. The procurement officer may award an indefinite quantity contract for one or more similar supplies or services to more than one bidder or offeror. Multiple awards should not be made solely for the purpose of dividing business or accommodating a user's preference, but may be made when determined to provide a benefit to the City with respect to needs for quantity, delivery, style, price, quality, or other features.

Time and Dollar Bidding Awards. The procurement officer may solicit bids for the cost of performing a project (part A), and the time to complete the project using an established cost per day based on an appropriate analysis by the City (part B). Award is made to the lowest combined bidder (A+B).

Exclusive/Nonexclusive Basis. Awards may be made on an exclusive or nonexclusive basis. Where nonexclusive, the City is not required to fill all similar needs from one contractor, but may solicit as it determines. Where a contract does not specifically state it is exclusive, it shall be deemed nonexclusive.

Appropriation of Funds. Contracts extending beyond the current fiscal period shall be subject to termination for nonappropriation of funds for departments or divisions which rely on the general fund.

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

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

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

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

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

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

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

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

7. Modifications to Small Purchase Contracts. Contracts solicited under the small expenditures procedures, as set forth in this chapter, may not be modified in excess of the maximum dollar amounts permissible for such purchases, and may not be renewed on a successive basis, unless approved by the department head and/or procurement designee.
F. Terminating Contracts. No contract procured in connection with this chapter shall be terminated without the authorization of the City official who signed the contract or that persons' successor (the Mayor is the only City official who can legally bind the City), or the Procurement Officer.

2.28.3203.02.160 Delivery.
When supplies ordered are delivered, the department head shall inspect the supplies received to assure that the correct quantity and quality have been delivered. If in the sole discretion of the department head the supplies delivered are satisfactory, the supplies shall be accepted, and a copy of the packing slip, invoice, or other delivery document shall be stapled to the request for payment and forwarded to the appropriate employee for review, payment and filing. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.213), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.130)

3.02.170 Ethics.
A. Conflicts of Interest. Any officer or employee of the City with a direct or indirect pecuniary interest in any contract entered into by the City must disclose such conflict of interest to the City Manager. All officers and employees are required to comply with applicable provisions of state law regarding ethics including, but not limited to, the Utah Municipal Officers' and Employees' Ethics Act set forth at Section 10-3-1301, et seq., of the Utah Code Annotated, as amended and adopted by the City.

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

C. Personal Use. Any purchase of supplies or equipment by the City for the personal use of any officer or employee of the City is prohibited.

D. Advance Disclosures. Any disclosure in advance of the opening of bids, whether in response to advertising or any informal request for bids, made or permitted by a member of the City Council or City employee shall render void the advertisement or request for bids.

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

1. An occasional nonpecuniary gift having a value of less than fifty dollars;

2. An award publicly presented;

3. Any bona fide loan made in the ordinary course of business; or

4. Political campaign contributions actually used in a political campaign.

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

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

H. Violation. Any violation of this chapter by an officer or employee of the City shall be cause for disciplinary action, up to and including termination, in accordance with the disciplinary procedures of the City, and/or criminal
3.02.180 Records.

A. All procurement records of the City shall be retained and disposed of in accordance with the Utah Municipal General Records Retention Schedule.

B. The City may, at reasonable times, audit the books, accounting and any applicable records of any contractor or subcontractor if applicable.

3.02.190 Appeals.

A. Appeal. Any person aggrieved of a determination of the City or in connection with the provisions of this chapter may appeal the determination or action within ten working days after the aggrieved person knows or should have known of the facts giving rise thereto by filing a written protest and the reasons therefor with the City Manager. A protest with respect to an invitation for bids shall be submitted in writing prior to the opening of bids unless the aggrieved person did not know or could not have reasonably known of the facts giving rise to the protest prior to bid opening. Any protest shall list the pertinent facts giving rise to the protest.

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

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

Chapter 3.03
PUBLIC PROPERTY

3.03.010 Inventory management.
3.03.020 Surplus property
3.03.030 Definitions
3.03.040 Disposal of surplus property

2.28.3303.03.010 Petty cash Inventory Management.
Department heads shall exercise supervision of all inventories of tangible City property within the control of or assigned to their departments. All City property located in warehouse(s) or storage areas shall be inventoried annually, and accountability for the property shall reside with the respective department head.

A. Petty Cash Fund. The city shall maintain a petty cash fund. The total aggregate amount of cash, vouchers, and receipts shall not exceed eight hundred fifty dollars, which funds shall be kept in locked boxes. The finance department shall maintain a balance of four hundred dollars, the fire department shall maintain two hundred dollars, and the police department shall maintain two hundred fifty dollars.

B. Limits. Any employee of the city may receive up to fifty dollars from the petty cash fund for any lawful and necessary expenditure to be made on behalf of the city. Employees shall not receive any money from the petty cash fund for personal use.

C. Procedure. Any employee receiving money from the petty cash fund shall sign a petty cash voucher showing the amount received and an explanation of the intended use of the money. Within two business days after making the expenditure, the employee shall return any excess money to the petty cash fund and staple the receipt for the expenditure to the petty cash voucher.

D. Replenishing Fund. When money in any petty cash fund becomes less than one hundred dollars, the custodian shall request a check to the petty cash fund to increase the amount of currency in the fund to the amount specified above. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.214), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.140)

2.28.3403.03.020 Surplus property
City property that is so used, obsolete, depreciated, excess or is no longer necessary to current and projected needs as to be unfit or undesirable for use or retention by the City may be declared “surplus property”. Such property may be sold, exchanged, or disposed of by the City as provided by Section 10-8-2 of the Utah Code Annotated, as amended. No provision of this section shall be construed to require or to invalidate any sale, conveyance, transaction, or transfer by the City, nor to vest rights of action of any kind against the City, its officers, agents or employees.

3.03.030 Definitions.
As used in this section, the following words shall mean:

“Dispose” or “disposal” means to sell, lease, trade, gift, convey, or encumber surplus property.

“Exchange” means transactions where surplus property is transferred as a full or partial consideration for the transfer to the City of other property.

“Highest and best return” means maximizing economic return to the City as estimated by one or more of the following methods:
(A) Competitive bid which may include electronic auction;
(B) Evaluation by a qualified and disinterested appraiser;
(C) Other professional publications and valuation services; or
(D) An informal market survey by the City’s procurement officer in the case of items of property possessing readily-discernible market value.
“Property” means real and personal property.

“Reasonable notice” means publication in a newspaper or newsletter of general circulation within the City, posting in public places within the City, Internet posting on the City’s website, or other means of notification accessed by City residents.

“Significant parcel of real property” means a parcel having been owned by the City for a period of at least one year, which exceeds one acre and/or has a reasonably estimated value exceeding $100,000.

3.03.040 Disposal of surplus property.
The City’s procurement officer shall dispose of surplus property pursuant to existing State law and as follows:

A. All department heads shall, from time to time, identify and give notice in writing to the City Manager and the procurement officer of surplus property within the control of that department.

B. Whenever the surplus property is real property, or personal property with a reasonable estimated value of more than $3,000, the City Council must approve of its disposal.

C. Before any disposal of a significant parcel of real property, the City shall allow an opportunity for public comment on the proposed disposal providing reasonable notice at least 14 days before such public comment.

D. The procurement officer shall dispose of the surplus property in a method likely to produce the highest and best return unless in the opinion of the procurement officer:

1. The value of the surplus property is considered negligible in relation to the time, labor and expense of competitive bidding or bidding procedures are deemed unlikely to produce a competitive offer; or

2. The surplus property is disposed to units of government or other public or charitable organizations pursuant to existing State law. Disposal of surplus.
The city shall have the authority to sell, lease, convey and dispose of public property for the benefit of the city as provided by Section 10-8-2 of the Utah Code Annotated, as amended. All disposal, leases, or subleases of such public property shall be made, as nearly as possible, under the same conditions and limitations as required by this chapter for the purchase of property including notice and bidding procedures.
The city council may also authorize, at its discretion and under such terms and conditions as it may deem desirable, fair, and appropriate considering intended use, property tax value, and the interests of the city, the sale of any surplus property at public auction, the trade or exchange of any surplus property, and the lease or sublease of any surplus property.


2.28.350 Ethics.

A. Conflicts of Interest. Any officer or employee of the city with a direct or indirect pecuniary interest in any contract entered into by the city must disclose such conflict of interest to the city manager. All officers and employees are required to comply with applicable provisions of state law regarding ethics including, but not limited to, the Utah Municipal Officers’ and Employees’ Ethics Act set forth at Section 10-3-1301, et seq., of the Utah Code Annotated, as amended and adopted by the city.

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

C. Personal Use. Any purchase of supplies or equipment by the city for the personal use of any officer or employee of the city is prohibited.
D. Advance Disclosures. Any disclosure in advance of the opening of bids, whether in response to advertising or any informal request for bids, made or permitted by a member of the city council or city employee shall render void the advertisement or request for bids.

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

1. An occasional nonpecuniary gift having a value of less than fifty dollars;

2. An award publicly presented;

3. Any bona fide loan made in the ordinary course of business; or

4. Political campaign contributions actually used in a political campaign.

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

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

H. Violation. Any violation of this section by an officer or employee of the city shall be cause for disciplinary action, up to and including termination, in accordance with the disciplinary procedures of the city, and/or criminal charges. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010; Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009; Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.216), 2007; Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.160)


2.28.370 Appeals. A. Appeal. Any person aggrieved of a determination of the city or in connection with the provisions of this chapter may appeal the determination or action within ten working days after the aggrieved person knows or should have known of the facts giving rise thereto by filing a written protest and the reasons therefor with the city manager. A protest with respect to an invitation for bids shall be submitted in writing prior to the opening of bids unless the aggrieved person did not know or could not have reasonably known of the facts giving rise to the protest prior to bid opening. Any protest shall list the pertinent facts giving rise to the protest.

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

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

D. Settlement. The city council shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve the protest. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010; Ord.
2.28.380 Lowest responsive responsible bidder.

The municipal council of Midvale City hereby determines that the lowest responsive responsible bidder means, among other things, a prime contractor who satisfies the city's criteria relating to financial strength, past-performance, integrity, reliability, and other factors that the local entity uses to assess the ability of the bidder to perform fully and in good faith the contract's requirements.

A. The municipal council of Midvale City further determines that the term “lowest responsive responsible bidder” shall include evaluation of the following criteria:

1. That the contractor and subcontractor, if any, demonstrate to the city's satisfaction that the contractor has and will maintain a drug and alcohol testing policy during the period of the contract that applies to all covered individuals employed or hired by the contractor or subcontractor and subjects the covered individuals to random testing under the drug and alcohol testing policy.

2. That the contractor and subcontractor, if any, demonstrate to the city's satisfaction that the contractor and subcontractor have and will maintain a program to actively recruit and/or employ veterans.

3. That the contractor and subcontractors, if any, demonstrate to the city's satisfaction that the contractor and subcontractor have and will maintain a job training program, such as, by way of example and not limitation, a federal, state and/or city recognized job training program.

4. That the contractor and subcontractors, if any, demonstrate to the city's satisfaction that the contractor and subcontractor have and will maintain a safety program.

B. As used herein:

1. “Contractor” means a person or entity who is or may be awarded a construction contract for building improvements and public works projects.

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

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

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

5. “Subcontractor” means any person or entity who may be awarded a contract with a contractor or another subcontractor to provide services or labor for the construction of building improvements and public works projects. Subcontractor includes a trade, contractor, or specialty contractor but does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor.

6. “Veteran” means an individual who has served on active duty in the armed forces for more than one hundred eighty consecutive days, or was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized and who has been separated or retired under honorable conditions, or any individual incurring an actual service-related injury or disability in the line of duty, whether or not that person completed one hundred eighty consecutive days of active duty. (Ord. 2013-12)
Chapter 3.30

Article III. Midvale Municipal Fee Schedule

3.30.010 Title
3.30.020 Purpose
3.30.030 Definition of reasonable costs
3.30.040 Delegation of authority to City Manager
3.30.050 Annual review of fees

2.28.4003.30.010 Title.
This article chapter shall be known as the “Midvale Municipal Fee Schedule.” (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.301), 2007. Formerly 2.28.190)

2.28.4103.30.020 Purpose.
A. It is the intent of the city Council to require the ascertainment and recovery of reasonable costs from fees, charges and regulatory license fees levied in providing the regulation, products, or services enumerated in this article chapter.

B. The fee and service charge revenue/cost comparison system set forth in this article chapter provides a mechanism for ensuring that fees adopted by the city for services rendered do not exceed the reasonable cost for providing the services for which the fees are charged and that tax subsidies to the services for which such fees and charges are made are pursuant to policy established by the city Council. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.302), 2007. Formerly 2.28.190)

2.28.4203.30.030 Definition of reasonable costs.
Reasonable costs, as used and ordered to be applied in this article chapter, shall be determined as set forth in this article section and shall consist of the following elements:

A. All applicable direct costs, including but not limited to salaries, wages, overtime, employee fringe benefits, services and supplies, maintenance and operation expenses, contracted services, special supplies, and any other direct expense incurred.

B. All applicable indirect costs, including but not restricted to building maintenance and operations, equipment maintenance and operations, communications expenses, computer costs, printing and reproduction, vehicle expenses, insurance, debt service, and like expenses when distributed by a documented proration system of accounting.

C. Fixed asset recovery expenses, consisting of depreciation of fixed assets, and additional fixed asset expense recovery charges calculated on the current estimated cost of replacement, divided by the approximate life expectancy of the fixed asset. A further additional charge to make up the difference between book value depreciation not previously recovered and reserved in cash and the full cost of replacement also shall be calculated and considered a cost so as to recover such unrecovered costs between book value and cost of replacement over the remaining life of the asset.

D. General overhead, expressed as a percentage, distributing and charging the expenses of the city Council, city attorney, city Manager, city Recorder, finance department, personnel office, and all other staff and support services provided to the entire city organization, which costs are not otherwise directly distributed to service centers. Overhead shall be prorated between tax-financed services and fee-financed services on the basis of such percentage so that each of the taxes and fees and charges shall proportionately defray such overhead costs.

E. Departmental overhead, expressed as a percentage, distributing and charging the cost of each department head and his/her supporting expenses as enumerated in subsections (A), (B), (C) and (F) of this section.
F. Debt service costs, consisting of repayment of principal, payment of interest, and trustee fees and administrative expenses for all applicable bond, certificate or securities issues or loans of whatever nature or kind. Any required coverage factors or required or established reserves beyond basic debt service costs also shall be considered a cost if required by covenant within any securities ordinance, resolution, indenture or general law applicable to the city. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.303), 2007. Formerly 2.28.210)

Cross reference(s)
—Definitions generally, § 1-1-102 of the Utah Code Annotated.

2.28.4303.30.040 Delegation of authority to city manager.
The city manager is delegated the authority and directed to provide documents to the city council to implement the policy enumerated in this article to adjust fees and charges to recover the percentage of reasonable costs as established in this article, in providing the regulation, product or service enumerated in this article in the percentage of reasonable costs and on the schedule of rate review and revision as established in this article. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.304), 2007. Formerly 2.28.220)

2.28.4403.30.050 Annual review of fees.
A. The city manager, and each city department head, under the direction of the city manager, shall review annually the fees and service charges adopted pursuant to resolution of the city council, and provide an adjusted fee or charge schedule to the city council for its consideration so as to recover the listed percentage of reasonable costs necessary to provide the listed regulation, product or service.

B. The schedule of frequency of rate adjustments may be varied by the city manager to adjust revenues sufficient to meet debt service coverage requirements of any bond, certificate or ordinance, resolution, indenture, contract or action under which securities have been issued by the city, which contain any coverage factor requirement.

C. The city council manager may vary the review fee schedule listed in this section if, in the judgment of the city manager and a directly affected and requesting department head, a gross inequity would be perpetrated by not revising the rate fee schedule. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.305), 2007. Formerly 2.28.230)
Chapter 3.02

PROCUREMENT

Sections:
3.02.010 Procurement system.
3.02.020 Compliance.
3.02.030 Definitions.
3.02.040 Procurement Officer.
3.02.050 Budget limitation.
3.02.060 Classification of expenditures.
3.02.070 Emergency expenditures.
3.02.080 Procurement procedures.
3.02.090 Prequalification of potential vendors.
3.02.100 Informal bidding procedure.
3.02.110 Formal bidding procedure.
3.02.120 Invitation to Bid.
3.02.130 Request for Proposals (Professional Services).
3.02.140 Construction-related projects.
3.02.150 Contracts.
3.02.160 Delivery.
3.02.170 Ethics.
3.02.180 Records.
3.02.190 Appeals.

3.02.010 Procurement system.
There is hereby established a procurement system to provide procedures and guidelines for the procurement of supplies, services, and construction for the City, and to ensure that all such purchases or encumbrances are made equitably, efficiently and economically. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (2.7.201), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.010)

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

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

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

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

B. Conflict with City Regulations or Ordinances. If the provisions of this chapter are inconsistent with one another or if they conflict with provisions found in other adopted ordinances, resolutions, or regulations of the City,

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

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

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

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

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

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

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

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

“City” means Midvale City.

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

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

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

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

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

“Contractor” means a person who is awarded a contract with the City.

“Cooperative procurement” means a procurement conducted by, or on behalf of the City and a cooperative purchasing organization.

“Cooperative purchasing organization” means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchaser by engaging in procurements.
“Covered individual” means an individual who, on behalf of a contractor or subcontractor, provides services directly related to design or construction contract and is in a safety sensitive position, including a design position that has responsibilities that directly affect the safety of a building improvement or public works project.

“Department head” means the individual who administers a department or his/her designee, or, in the absence of a department head, the City Manager.

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

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

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

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

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

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

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

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

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

“Invitation to Bid” or “ITB” means a formal bidding document utilized for seeking competition for purchases of supplies and/or services that are defined by the City.

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

“Large Purchase” or “Large Expenditure” means a purchase in excess of $25,000.

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

“Minor Purchase” or “Minor Expenditure” means a purchase that is less than $3,000.
“Multiple award contracts” means the award of a contract for an indefinite quantity of a procurement item to more than one person.

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

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

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

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

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

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

“Proposal” means an offer to provide services.

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

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

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

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

“Public works project” includes but is not limited to the construction of a park or recreational facility; or a pipeline, culvert, dam, canal, or other system for water, sewage, storm water, or flood control; but does not include the replacement or repair of existing infrastructure on private property. “Purchase order” means a binding agreement used in committing City funds toward the purchase of supplies, services, or construction.

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

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

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

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

“Requisition” means a written request by any City employee to purchase supplies, services or construction.
“Responsible bid” means a bid to furnish supplies, services or construction for the City pursuant to and in accordance with the terms and conditions set forth in this chapter, which conforms in all material respects to the invitation for bids.

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

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

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

“Small Purchase” or “Small Expenditure” means a purchase greater than $3,000 but less than $25,000.

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

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

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

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

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

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

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


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

A. Administer and maintain the procurement system provided herein, in accordance with any rules and regulations established by the City;

B. Supervise the procurement of all supplies, services, and construction needed by the City, including preparation of specifications and negotiation of contracts connected therewith;
C. Exercise general supervision and control over all inventories or supplies of the City and the accounting for all such inventories or supplies;

D. Prepare and maintain forms and reports as are reasonably necessary to the operation of this chapter and other rules and regulations of the City;

E. Keep informed of current developments in the field of procurement;

F. Recommend to the City Council from time to time such new or revised procurement rules and regulations as are required to conform to statutory requirements;

G. With respect to public improvements, work with the engineer, attorney and other professional persons retained by the City to assist in the preparation of plans and specifications, and to discharge other related duties. The professional persons may direct bid openings, conduct investigations of responsive responsible bidders, supervise construction work and perform such other tasks as are provided for by their prospective contracts;

H. Seek to obtain full and open competition on all purchases as reasonably possible;

I. Establish and maintain programs for the inspection, testing and acceptance of all supplies, services and construction to assure conformance with specifications;


3.02.050 Budget limitation.
No expenditure or encumbrance shall be made for any supplies, services or construction for the City in excess of total appropriations in the budget, as adopted or subsequently amended by the City, without prior written approval from the City Manager or the City Council. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.205), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.050)

3.02.060 Classification of expenditures.
A. Small Expenditures. Except as otherwise provided herein, any expenditure by the City for supplies, services or construction for more than three thousand dollars and less than twenty-five thousand dollars shall be referred to as a “small expenditure” and shall be made pursuant to the informal bidding procedures set forth in Section 3.02.100. Purchases may also be allowed using the State of Utah or other cooperative agreements.

B. Large Expenditures. Except as otherwise provided herein, any expenditure by the City for supplies, services or construction for more than twenty-five thousand dollars shall be referred to as a “large expenditure” and shall be made pursuant to the formal bidding procedures set forth in Section 3.02.110 No large expenditure shall be made without the written approval from the City Manager or his/her designee. Any expenditure of one hundred thousand dollars or more must be approved by the City Council.

C. Construction and Public Works Projects. As determined by the City Council and/or the City Manager, projects relating to construction projects shall be directed by the department head and follow the procedures as set forth in this Chapter.

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

E. Exempt Expenditures. The following expenditures of the City shall be referred to as “exempt expenditures” and may be made without formal or informal bidding procedures, but should be made with as much competition as practicable under the circumstances. Except where noted, the procurement officer shall determine that an expenditure falls within one of these exemptions. All exempt expenditures shall be reviewed by the City Council on at least a monthly basis.
1. **Minor.** Any expenditure amounting to less than three thousand dollars.

2. **Sole Source.** Any expenditure for supplies or services which are clearly by their nature not reasonably adapted to award by competitive bidding. These expenditures include, but are not limited to, supplies or services which can only be purchased from a sole source, contracts for additions to and/or repair and maintenance of equipment already owned by the City which may be more efficiently added to, repaired or maintained by a certain person or firm, and equipment which, by reason of the training of the personnel or an inventory of replacement parts, is compatible with the existing equipment owned by the City. Sole source procurements must be approved in writing by the department head, the procurement officer, and either another department head or a representative from Finance or Legal.

3. **Emergency.** See Section 3.02.070 for procedures to follow.

4. **State Bidding.** Any expenditure for which competitive bidding or price negotiation has already occurred on the state level.

5. **Interlocal Cooperation.** Any expenditure made in conjunction with an agreement approved by the City Council between the City and another City or governmental entity.

6. **Joinder.** Any expenditure made by joining or using a contract originated by another government entity or national cooperative organization with the approval of the City Council.

7. **Professional Services.** Any expenditure for professional services which by their nature are not reasonably adapted to award by competitive bidding. Contracts for such expenditures shall be awarded at the discretion of the City Manager based on the recommendation of the department head and/or procurement officer. If the City Manager determines that competitive bidding for certain professional services would benefit the City, the procedures set forth in Section 3.02.130 must be followed.

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

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


### 3.02.070 Emergency expenditures.

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

**B. Notwithstanding any other provision of this chapter, the procurement officer may make or authorize others to make emergency purchases if the purchases are necessary to avoid a lapse in a critical government service, protect the legal interest of the City, or mitigate a circumstance that is likely to have a negative impact on public health, safety, welfare, or property.** Such emergency purchases shall be made with as much competition as practicable under the circumstances. A written determination of the basis for the emergency purchase and for the selection of the particular contractor or vendor shall be included in the contract or purchase order file. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.208), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.080)
3.02.080 Procurement Procedures.
A. General Purchasing Procedures. Except as otherwise stated within this Chapter, a purchase order is required for the purchase of any supply, service, or construction project that is greater than three thousand dollars. Such purchases shall be reviewed by the procurement officer to determine whether the expenditure requested is for a City purpose, properly budgeted, and in compliance with City ordinances and policies and state law.

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

C. Splitting Procurements. Department head and/or procurement officer shall not split or separate procurements into smaller orders for the purpose of evading the competitive bidding or request for proposal provisions set forth in this chapter.

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

E. Approvals. All expenditures over $25,000 must be approved by the City Manager. All approvals over $100,000 must be approved by the City Council.

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

1. The request for statement of qualifications shall be published in a newspaper of general circulation within the City limits, and/or posted on the City website, at least ten days prior to the deadline for submission.

2. Stated in the request for statement of qualifications shall be the following:
   a. The specific procurement item or service to which the request for statement of qualifications relates;
   b. The scope of work to be performed;
   c. The instructions and deadline for submitting a statement of qualifications;
   d. The criteria by which the department will evaluate statements of qualifications;
   e. Any prequalification requirements unique to the procurement; and
   f. May include performance rating criteria.

3. The process of prequalifying potential vendors must comply with the following conditions:
   a. The request for statement of qualifications may not be so restrictive that the criteria limits competition;
   b. The procurement officer may request potential vendors to provide additional information to clarify responses pertinent to the request for statement of qualification;
   c. The invitation for bids or request for proposals shall be limited to the potential vendors that are prequalified to provide the specified procurement item or service;
d. If a request for statement of qualifications results in only one potential vendor being placed on the list of prequalified potential vendors, the request for statement of qualifications will be cancelled and the list shall not be used;

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

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

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

1. Basic information about the vendor;
2. The vendor’s experience and work history;
3. Information about the vendor’s management and staff;
4. Information about the vendor’s licenses, certifications, and other qualifications;
5. Any applicable performance ratings;
6. Financial statements reporting the vendor’s financial condition; and
7. Other pertinent information.

3.02.100 Informal bidding procedure.
A. Except as otherwise stated in this chapter, small purchases of the City shall be awarded to the responsive responsible bidder according to the following procedure.

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

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

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

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

E. A public bid opening is not required.

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

G. Once the vendor has been selected, the procurement officer shall issue a purchase order.

3.02.110 Formal bidding procedure.
Except as stated otherwise within this chapter, all large expenditures shall be made by written contract and the responsive responsible bidder shall be selected through the formal bidding process. As determined by Section 3.02.060, either an invitation to bid or a request for proposal, shall be used to select the potential vendor when the use of a state of Utah or other cooperative agreement is not in the best interest of the City. The City may utilize a prequalified potential vendor list as described in Section 3.02.090.

3.02.120 Invitation to Bid.
A. If it is determined that the appropriate formal bidding process is an invitation to bid, the procedures shall be followed under the supervision of the procurement officer:

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

C. Solicitation. Prior to soliciting bids, the procurement officer shall ensure that an invitation to bid:

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

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

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

F. Sealed Bids. All bids shall be received by the City in sealed envelopes labeled “Bid for (item)” which shall not be opened prior to the time set for opening of the bids.

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

H. Pre-bid Conferences. The City may hold a meeting prior to the time of opening bids to allow interested persons to discuss a solicitation. The City must notify all persons who obtained solicitation materials of the meeting and hold it at least 48 hours prior to the time bid package submissions are due. Verbal or other statements will not change an invitation to bid except when the City modifies the document in question in writing by addendum to include such statement.

I. Opening Bids. The bids shall be opened publicly at the time and place designated in the invitation for bids by at least two of the following: the City recorder, the department head, and/or the procurement officer. Altering or writing on the bid documents before or after opening is prohibited.
J. Recording Bids. The amount of each bid and the name of the bidder shall be read aloud as the bids are opened, and such information shall be recorded and open to public inspection during regular business hours for a period of not less than thirty days after the bid opening.

K. Evaluating Bids. The bids shall be evaluated within a reasonable time by the department head, procurement officer, and a third Midvale City employee, such as another department head, or a representative of Finance or Legal, to determine the responsive responsible bidder based upon the following objectively measurable criteria as set forth in the invitation for bids:

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

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

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

N. Tie bids. It two or more bids or quotes received are for the same total amount or unit prices, quality and service being equal, and if the public interest will not permit the delay of re-soliciting bids, the procurement officer shall resolve a tie bid by:

1. Favoring the bidder closest to the point of delivery;
2. Favoring the bidder who received the previous similar award;
3. Favoring the bidder who will provide the earliest delivery date;
4. Drawing lots; or
5. Any other reasonable method.

6. The City reserves the right to negotiate with the tie bidders after the time of bid opening until the responsive responsible bidder is obtained.

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

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

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

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

S. Responsibility of Bidder. The procurement officer may request additional information with respect to the responsibility of a bidder. The failure of a bidder to promptly supply information in connection with a request of the procurement officer regarding responsibility shall be grounds for a determination of nonresponsibility and/or nonresponsiveness of the bidder.

3.02.130 Request for proposals

A. The City Manager may determine that it is either not practicable or not advantageous to the City to procure professional services through a competitive process. When such a determination is not made, a Request for Proposal package shall be prepared by or under the direction of the procurement officer. The City may use a prequalified potential vendor list as described in Section 3.02.090.

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

C. Solicitation. Prior to soliciting bids, the procurement officer shall ensure that the request for proposal:

1. Sets forth all contract terms, conditions and bond requirements applicable to the purchase or work;

2. Sets forth the criteria that will be used to evaluate the proposal;

3. States where additional information may be obtained;

4. Sets forth the City’s terms and conditions; and

5. Sets forth the bid opening date.

D. Notice. For large expenditures, the request for proposals shall be advertised at least ten days prior to the bid due date in a newspaper of general circulation within the City limits and/or posted on the City website.

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

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

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

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

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

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

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

K. Determination. The procurement officer shall determine the responsive responsible bidder and award the contract to such bidder. If only one quote is received, the bidder may be required to furnish a detailed cost proposal for review and the bid award may be subject to subsequent negotiation. All information relating to the proposals obtained and the selection of the lowest responsive responsible bidder shall be retained by the City in accordance
with the City government records access and management ordinance. All large expenditures must be approved in writing by the City Manager. Contracts of $100,000 or more must be approved by the City Council.

L. Inspections and Tests. The City may perform inspections, tests, and other evaluations in any manner conducive to the City’s interests, including the use of third parties. All prospective and actual recipients of a bid or agreement shall provide all reasonable assistance and information required by the City to perform an inspection, test, or evaluation. (Ord. 2014-07 § 1 (Exh. A) (part); Ord. 8/10/2010O-6 § 1 (Exh. A) (part), 2010; Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010; Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009; Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.212), 2007; Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.120)

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

1. Construction and maintenance must be made pursuant to plans, specifications, and estimates that shall be created under the supervision of the procurement officer and/or contracted consultant.

2. Bid Security. Contracts for construction-related projects may provide for a bid security in the amount equal to at least 5% of the amount of the bid.

3. Bonds. Construction contractors must deliver performance and payment bonds for the full contract price. The procurement officer may waive this requirement after consultation with the City Attorney's Office if bonds are unnecessary for the protection of the City.

4. Rejection. The City may reject any or all bids submitted. If, after twice advertising, no satisfactory bid is received, the City Council may proceed to negotiate or make the improvement or acquisition or enter such other agreements as it deems necessary or desirable.

5. Exempt Expenditures. The formal bidding procedures do not apply to exempt expenditures or small expenditures for construction-related projects.

6. Withheld or Retained Payments. The City may withhold payments for poor performance or other work-related reasons. Special requirements apply to retainage, where sums are withheld as security under the contract. To implement retainage, first consult with the Attorney's Office.

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

1. To receive a contract award, a contractor must be licensed in the State of Utah at the time of submitting a bid with an appropriate license to perform the work.

2. In accordance with Utah Code Ann. § 72-6-110, the work must be prepared and performed under the direct supervision of a registered professional engineer, who must certify to the City that the project conforms to the design and construction standards currently adopted by the American Association of State Highway and Transportation Officials.

3. The City may impose other licensing requirements, and when appropriate, may regard a lack of subcontractor licensing at the time of the general contractor's bid as a matter relating to the responsibility of the general contractor.
4. The contractor and subcontractor, if any, must demonstrate to the City’s satisfaction that the contractor has and will maintain a drug and alcohol testing policy during the period of the contract that applies to all covered individuals employed or hired by the contractor or subcontractor and subjects the covered individuals to random testing under the drug and alcohol testing policy.

5. The contractor and subcontractor, if any, must demonstrate to the City’s satisfaction that the contractor and subcontractor have and will maintain a program to actively recruit and/or employ veterans.

6. The contractor and subcontractors, if any, must demonstrate to the City’s satisfaction that the contractor and subcontractor have and will maintain a job training program, such as, by way of example and not limitation, a federal, state and/or City recognized job training program.

7. The contractor and subcontractors, if any, must demonstrate to the City’s satisfaction that the contractor and subcontractor have, and will maintain, a safety program.

C. Construction Management and Selection. The procurement officer shall select the type of construction management that will protect and be in the best interest of the City. Factors to be considered are:

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

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

1. Single Prime Contractor. A single general contractor is responsible to complete an entire project in accordance with the contract and may subcontract portions of the work.
2. Multiple Prime Contractors. A number of specialty contractors complete portions of the project pursuant to contracts with the City. The City or one of the contractors may have primary responsibility for completion or coordination of the entire project.
3. Design-Build or Turnkey. A single contractor or team is responsible to both design and construct the project to meet performance criteria specified by the City.
4. Construction Manager. A qualified person is responsible to coordinate the design and construction of the project and may oversee a variety of functions such as time, cost, quality and administration of change orders. The person may have some construction responsibilities as well.
5. Sequential Design and Construction. The project’s design is substantially completed before construction begins.
6. Phased Design and Construction or Fast Track Construction. The project’s construction begins after portions of the design are substantially complete, but design continues during the construction.

3.02.150 Contracts.
A. The procurement officer shall select the type of contract or contract modification that is appropriate for the purchasing requirement and in the best interest of the City.
B. Selecting Contract Type. Without limitation, the following factors may be considered in selecting a contact type:

1. Meeting the City’s needs including quality of performance, costs, time for performance, and completion date.
2. The type and complexity of the supply or service requirement and the stability of markets and prices.
3. The difficulty of estimating performance costs, such as when the City is unable to develop definitive specifications, identify the contractor’s risks inherent in performing the work, or otherwise clearly establish contract requirements.
4. The amount of risk imposed by a contract type on both parties. The degree of risk should not jeopardize any material interests of the City, or the satisfactory performance of the contract.
5. The administrative impacts to both parties, such as administration costs, the degree to which the City must provide technical coordination during the performance of the contract, and the ability to meet any federal requirements.
6. The effect of the choice of contract type on the amount of competition expected.

C. Contracting Methods for Establishing Price. The procurement officer may structure a contract in any manner, but shall not issue a cost-plus-a-percentage-of-cost contract.

D. Other Contracting Methods. Without limitation, the following describes other contracting methods available to the City:

1. Progressive Awards. The procurement officer may award portions of a definite quantity requirement to more than one contractor as appropriate, such as when the City's quantity needs exceed what one contractor can supply at the needed times.
2. Multiple Awards. The procurement officer may award an indefinite quantity contract for one or more similar supplies or services to more than one bidder or offeror. Multiple awards should not be made solely for the purpose of dividing business or accommodating a user's preference, but may be made when determined to provide a benefit to the City with respect to needs for quantity, delivery, style, price, quality, or other features.
3. Exclusive/Nonexclusive Basis. Awards may be made on an exclusive or nonexclusive basis. Where nonexclusive, the City is not required to fill all similar needs from one contractor, but may solicit as it determines. Where a contract does not specifically state it is exclusive, it shall be deemed nonexclusive.
4. Appropriation of Funds. Contracts extending beyond the current fiscal period shall be subject to termination for nonappropriation of funds for departments or divisions which rely on the general fund.
5. Options to Extend Term. Contracts may include provisions to extend a contract term for specified periods at the City's option.

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

1. Generally. All modifications to contracts must be in writing and signed by all parties. Modifications shall modify only the specific terms set forth, and all other contract provisions shall remain as originally entered.
2. Modifications Not Affecting Scope, Price or Term. Any contract provisions not affecting the scope, price or term of the contract may be modified as determined appropriate by the department head and/or procurement officer, and they shall consult with the City Attorney's Office as necessary.
3. Modifications Affecting Price. The procurement officer shall review any proposed modification that significantly increases price to determine whether there has been a material change in the scope of the work originally solicited, or whether the modified price may be unreasonable.

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

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

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

7. Modifications to Small Purchase Contracts. Contracts solicited under the small expenditures procedures, as set forth in this chapter, may not be modified in excess of the maximum dollar amounts permissible for such purchases, and may not be renewed on a successive basis, unless approved by the department head and/or procurement designee.

F. Terminating Contracts. No contract procured in connection with this chapter shall be terminated without the authorization of the City official who signed the contract or that persons' successor (the Mayor is the only City official who can legally bind the City), or the Procurement Officer.

3.02.160 Delivery. When supplies ordered are delivered, the department head shall inspect the supplies received to assure that the correct quantity and quality have been delivered. If in the sole discretion of the department head the supplies delivered are satisfactory, the supplies shall be accepted, and a copy of the packing slip, invoice, or other delivery document shall be stapled to the request for payment and forwarded to the appropriate employee for review, payment and filing. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.213), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.130)

3.02.170 Ethics.

A. Conflicts of Interest. Any officer or employee of the City with a direct or indirect pecuniary interest in any contract entered into by the City must disclose such conflict of interest to the City Manager. All officers and employees are required to comply with applicable provisions of state law regarding ethics including, but not limited to, the Utah Municipal Officers’ and Employees’ Ethics Act set forth at Section 10-3-1301, et seq., of the Utah Code Annotated, as amended and adopted by the City.

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

C. Personal Use. Any purchase of supplies or equipment by the City for the personal use of any officer or employee of the City is prohibited.

D. Advance Disclosures. Any disclosure in advance of the opening of bids, whether in response to advertising or any informal request for bids, made or permitted by a member of the City Council or City employee shall render void the advertisement or request for bids.
E. No employee, officer, elected officials or board members shall knowingly receive, accept, take, seek or solicit, directly or indirectly, any gift or loan for himself/herself or for another person, except under the following circumstances:

1. An occasional nonpecuniary gift having a value of less than fifty dollars;

2. An award publicly presented;

3. Any bona fide loan made in the ordinary course of business; or

4. Political campaign contributions actually used in a political campaign.

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

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

H. Violation. Any violation of this chapter by an officer or employee of the City shall be cause for disciplinary action, up to and including termination, in accordance with the disciplinary procedures of the City, and/or criminal charges. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.216), 2007: Ord. 1/20/2004O-15 (part), 2004. Formerly 2.28.160)

3.02.180 Records.

A. All procurement records of the City shall be retained and disposed of in accordance with the Utah Municipal General Records Retention Schedule.

B. The City may, at reasonable times, audit the books, accounting and any applicable records of any contractor or subcontractor if applicable.

3.02.190 Appeals.

A. Appeal. Any person aggrieved of a determination of the City or in connection with the provisions of this chapter may appeal the determination or action within ten working days after the aggrieved person knows or should have known of the facts giving rise thereto by filing a written protest and the reasons therefor with the City Manager. A protest with respect to an invitation for bids shall be submitted in writing prior to the opening of bids unless the aggrieved person did not know or could not have reasonably known of the facts giving rise to the protest prior to bid opening. Any protest shall list the pertinent facts giving rise to the protest.

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

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

Chapter 3.03
PUBLIC PROPERTY

3.03.010 Inventory management.

Department heads shall exercise supervision of all inventories of tangible City property within the control of or assigned to their departments. All City property located in warehouse(s) or storage areas shall be inventoried annually, and accountability for the property shall reside with the respective department head.

3.03.020 Surplus property

City property that is so used, obsolete, depreciated, excess or is no longer necessary to current and projected needs as to be unfit or undesirable for use or retention by the City may be declared “surplus property”. Such property may be sold, exchanged, or disposed of by the City as provided by Section 10-8-2 of the Utah Code Annotated, as amended. No provision of this section shall be construed to require or to invalidate any sale, conveyance, transaction, or transfer by the City, nor to vest rights of action of any kind against the City, its officers, agents or employees.

3.03.030 Definitions.

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

“Dispose” or “disposal” means to sell, lease, trade, gift, convey, or encumber surplus property.

“Exchange” means transactions where surplus property is transferred as a full or partial consideration for the transfer to the City of other property.

“Highest and best return” means maximizing economic return to the City as estimated by one or more of the following methods:

(A) Competitive bid which may include electronic auction;
(B) Evaluation by a qualified and disinterested appraiser;
(C) Other professional publications and valuation services; or
(D) An informal market survey by the City’s procurement officer in the case of items of property possessing readily-discernible market value.

“Property” means real and personal property.

“Reasonable notice” means publication in a newspaper or newsletter of general circulation within the City, posting in public places within the City, Internet posting on the City’s website, or other means of notification accessed by City residents.

“Significant parcel of real property” means a parcel having been owned by the City for a period of at least one year, which exceeds one acre and/or has a reasonably estimated value exceeding $100,000.

3.03.040 Disposal of surplus property.

The City’s procurement officer shall dispose of surplus property pursuant to existing State law and as follows:

A. All department heads shall, from time to time, identify and give notice in writing to the City Manager and the procurement officer of surplus property within the control of that department.

B. Whenever the surplus property is real property, or personal property with a reasonable estimated value of more than $3,000, the City Council must approve of its disposal.
C. Before any disposal of a significant parcel of real property, the City shall allow an opportunity for public comment on the proposed disposal providing reasonable notice at least 14 days before such public comment.

D. The procurement officer shall dispose of the surplus property in a method likely to produce the highest and best return unless in the opinion of the procurement officer:

1. The value of the surplus property is considered negligible in relation to the time, labor and expense of competitive bidding or bidding procedures are deemed unlikely to produce a competitive offer; or

2. The surplus property is disposed to units of government or other public or charitable organizations pursuant to existing State law.

Chapter 3.30

Midvale Municipal Fee Schedule

3.30.010 Title
3.30.020 Purpose
3.30.030 Definition of reasonable costs
3.30.040 Delegation of authority to City Manager
3.30.050 Annual review of fees

3.30.010 Title.

3.30.020 Purpose.
A. It is the intent of the City Council to require the ascertainment and recovery of reasonable costs from fees, charges and regulatory license fees levied in providing the regulation, products, or services enumerated in this chapter.

B. The fee and service charge revenue/cost comparison system set forth in this chapter provides a mechanism for ensuring that fees adopted by the City for services rendered do not exceed the reasonable cost for providing the services for which the fees are charged and that tax subsidies to the services for which such fees and charges are made are pursuant to policy established by the City Council. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.302), 2007. Formerly 2.28.200)

3.30.030 Definition of reasonable costs.
Reasonable costs, as used and ordered to be applied in this chapter, shall be determined as set forth in this section and shall consist of the following elements:

A. All applicable direct costs, including but not limited to salaries, wages, overtime, employee fringe benefits, services and supplies, maintenance and operation expenses, contracted services, special supplies, and any other direct expense incurred.

B. All applicable indirect costs, including but not restricted to building maintenance and operations, equipment maintenance and operations, communications expenses, computer costs, printing and reproduction, vehicle expenses, insurance, debt service, and like expenses when distributed by a documented proration system of accounting.

C. Fixed asset recovery expenses, consisting of depreciation of fixed assets, and additional fixed asset expense recovery charges calculated on the current estimated cost of replacement, divided by the approximate life expectancy of the fixed asset. A further additional charge to make up the difference between book value depreciation not previously recovered and reserved in cash and the full cost of replacement also shall be calculated and considered a cost so as to recover such unrecovered costs between book value and cost of replacement over the remaining life of the asset.

D. General overhead, expressed as a percentage, distributing and charging the expenses of the City Council, City attorney, City Manager, City recorder, finance department, personnel office, and all other staff and support services provided to the entire City organization, which costs are not otherwise directly distributed to service centers. Overhead shall be prorated between tax-financed services and fee-financed services on the basis of such percentage so that each of the taxes and fees and charges shall proportionately defray such overhead costs.

E. Departmental overhead, expressed as a percentage, distributing and charging the cost of each department head and his/her supporting expenses as enumerated in subsections (A), (B), (C) and (F) of this section.

F. Debt service costs, consisting of repayment of principal, payment of interest, and trustee fees and administrative expenses for all applicable bond, certificate or securities issues or loans of whatever nature or kind.
Any required coverage factors or required or established reserves beyond basic debt service costs also shall be considered a cost if required by covenant within any securities ordinance, resolution, indenture or general law applicable to the City. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.303), 2007. Formerly 2.28.210)

3.30.040 Delegation of authority to City Manager.

The City Manager is delegated the authority and directed to provide documents to the City Council to implement the policy enumerated in this chapter to adjust fees and charges to recover the percentage of reasonable costs as established in this chapter, in providing the regulation, product or service enumerated in this chapter in the percentage of reasonable costs and on the schedule of rate review and revision as established in this chapter. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.304), 2007. Formerly 2.28.220)

3.30.050 Annual review of fees.

A. The City Manager, and each City department head, under the direction of the City Manager, shall review annually the fees and service charges adopted pursuant to resolution of the City Council, and provide an adjusted fee or charge schedule to the City Council for its consideration so as to recover the listed percentage of reasonable costs necessary to provide the listed regulation, product or service.

B. The schedule of frequency of rate adjustments may be varied by the City Manager to adjust revenues sufficient to meet debt service coverage requirements of any bond, certificate or ordinance, resolution, indenture, contract or action under which securities have been issued by the City, which contain any coverage factor requirement.

C. The City Council may vary the fee schedule listed in this section if, in the judgment of the City Manager a gross inequity would be perpetrated by not revising the fee schedule. (Ord. 2/16/2010O-2 § 1 (Exh. A) (part), 2010: Ord. 4/21/2009O-7 § 1 (Exh. A) (part), 2009: Ord. 10/02/2007O-14 § 1 (Exh. A)(2.7.305), 2007. Formerly 2.28.230)