

SALT LAKE COUNTY ORDINANCE

ORDINANCE NO. _____, 2022

**PROVIDING FOR REVIEW AND ADVICE AS TO FORM AND LEGALITY
BY THE SALT LAKE COUNTY DISTRICT ATTORNEY
CONSISTENT WITH UTAH STATUTE**

AN ORDINANCE OF THE LEGISLATIVE BODY OF SALT LAKE COUNTY, UTAH, AMENDING SECTIONS 2.04.160, 2.04.165, 2.08.030, 2.08.050, 2.08.060, 2.08.080, 2.09.060, 2.21.040, 2.39.030, 3.15.010, 3.20.030, 3.25.020, 3.28.020, 3.28.060, 3.28.080, 5.22.040, AND 9.73.070 OF THE SALT LAKE COUNTY CODE OF ORDINANCES, 2001, TO PROVIDE FOR REVIEW AND ADVICE AS TO FORM AND LEGALITY BY THE SALT LAKE COUNTY DISTRICT ATTORNEY IN A MANNER CONSISTENT WITH UTAH CODE

The County Legislative Body of Salt Lake County ordains as follows:

SECTION I. The amendments made herein are designated by underlining the new substituted words. Words being deleted are designated by brackets and strike-through.

SECTION II. Section 2.04.160 of the Salt Lake County Code of Ordinances, 2001, entitled "Form of action" is amended to read as follows:

2.04.160 – Form of action.

The council may take action in the form of ordinances, countywide policies, resolutions, motions upon requests or memorials.

A. Ordinances.

1. The council, except as expressly limited by statute, may adopt any ordinance to regulate, require, prohibit, govern, control or supervise any activities, business, conduct, or condition.
2. All ordinances must be in written form before a vote is taken.

3. Except for ordinances for the codification or general revision of county ordinances, no ordinance shall be passed containing more than one subject.
4. Any ordinance passed by the council shall contain and be in substantially the following order and form:
 - a. Ordinance number and date;
 - b. A short title which indicates the nature of the subject matter of the ordinance;
 - c. A long title stating the need or reason for the ordinance and summarizing its contents;
 - d. An ordaining clause which states “The County Legislative Body of Salt Lake County ordains as follows:”;
 - e. The body or subject of the ordinance;
 - f. When applicable, a statement indicating the penalty for violation of the ordinance;
 - g. A statement indicating the effective date of the ordinance;
 - h. A signature line for the chair or acting chair and for the county clerk;
 - i. An ordinance history indicating the approval or disapproval of the council members and the county mayor and final disposition of the ordinance and an ordinance summary as required by statute.
5. Except in exigent circumstances, or except when directed by a majority of council members present, all ordinances, including ordinances relating to planning and zoning matters enacted pursuant to Title 19, Salt Lake County Code of

commend persons or groups for notable activities which have been called to the attention of the council. Memorials in the form of resolutions need not be [~~approved~~] reviewed as to form by the attorney.

2. Memorials may be considered and adopted at the same meeting in which they have been proposed and in all events shall be recorded in the minutes.

D. Policies, Procedures, Rules and Regulations.

1. Policies, procedures, rules and regulations shall be considered and adopted in those matters determined to be appropriate by the council and not prohibited by statute.
2. Policies, procedures, rules and regulations shall be presented and considered in such form as directed by the council.

- E. All resolutions, policies, procedures, rules, regulations and ordinances shall be numbered, recorded and maintained in accordance with provisions of state law and applicable county ordinances.

SECTION III. Section 2.04.165 of the Salt Lake County Code of Ordinances, 2001, entitled "Legal opinions and records" is amended to read as follows:

2.04.165 – [~~Legal opinions and records~~] Review and advice as to form and legality.

- A. All resolutions, policies, procedures, rules, regulations, and ordinances, excepting memorials and commemorative resolutions, shall be reviewed by the attorney[~~'s office~~] as provided by [~~ordinance~~] law, [~~prior to final vote,~~] for [~~a legal opinion~~] advice as to proper legal form and conformity with existing county ordinances and with state and federal law.

- B. [~~Legal opinions and approval~~] Review and advice as to form and legality shall be provided to the council in writing within [~~fifteen~~] fourteen days of receipt by the attorney[~~'s office~~] of a written request for review and advice.
- C. The attorney's review and [~~opinion~~] advice shall be limited to a determination that the proposed action conforms with applicable law.
- D. All resolutions, policies, procedures, rules, regulations, and ordinances, excepting memorials and commemorative resolutions, shall reflect on the signature page that the same has been "reviewed as to form" by the attorney prior to final adoption by the council.

SECTION IV. Section 2.08.030 of the Salt Lake County Code of Ordinances, 2001, entitled "Ordinance requirements" is amended to read as follows:

2.08.030 – Ordinance requirements.

- A. The function of proposing, considering, reviewing, approving and enacting ordinances is a legislative process which lies solely within the power, authority and discretion of the council pursuant to law. The council may, at its discretion, provide for the limited delegation of certain powers and activities to other committees, persons or entities to assist in the preparation of proposed county ordinances.
- B. Proposals for county ordinances may be made by the council, the mayor, or by an elected official. A draft of the proposed ordinance should be prepared by the officer or entity making the proposal, by the attorney's office or by council staff, at the direction of the council, the mayor, or the elected official making the proposal. Draft ordinances should be in standard legislative form, including a long title and enacting clause and setting out the

matter to be deleted by brackets and interlineation and the matter to be added by underlining or by other appropriate designations.

C. Prior to submission to a council agenda, any proposed draft ordinance shall be reviewed as to form and legality by the attorney [~~and the attorney will respond in writing to the council within fourteen days of receipt of the ordinance~~] in accordance with Section 2.04.165.

D.

1. Upon receipt of a proposed ordinance or an amendment to an existing ordinance, the council may reject or adopt the proposal, conduct further public hearings on the matter, or refer the ordinance proposal to other groups or individuals for comment and input.
2. At any time the council may direct that the council be provided with information concerning a proposed ordinance or direct that action be taken on a proposed ordinance by the council's staff, the attorney's office, or other entity involved in drafting, preparing, reviewing or considering the proposed ordinance. Upon receiving such written direction, the entity shall complete its activities regarding the ordinance and within fourteen days shall produce it for action by the council.
3. Upon review, approval and adoption by the council, the proposed ordinance shall become legally effective upon being signed by the chair, attested by the county clerk, and fifteen days after its adoption unless otherwise indicated and upon at least one publication in a newspaper published and having general circulation in the county.
4. Any amendments proposed to an existing ordinance after the effective date of the ordinance by the council shall follow the procedures in this section.

5. Amendments proposed to an ordinance after it has been formally adopted by the council, but prior to the ordinance's effective date, may be considered by the council. In the event that an ordinance is amended after its formal adoption and after the publication of a newspaper notice, but prior to the expiration of fifteen days after adoption, the council shall direct that a newspaper notice be published retracting the original ordinance and substituting the amended version. The amended ordinance is effective in accordance with the provisions of subsection (E)~~(2)~~ of this section.
 6. All ordinances approved by the council shall be accompanied by an ordinance summary ~~[prepared by the attorney]~~ in accordance with state statute.
 7. An ordinance may take effect later than fifteen days after its passage if the ordinance so provides.
- E. Ordinances which in the opinion of the council are necessary for the immediate preservation of the peace, health or safety of the county and the inhabitants thereof may, if so provided in the ordinance, take effect immediately upon publication in one issue of a newspaper published in and having general circulation in the county.
- F. Departments, divisions, and other subdivisions of the executive branch shall be established, abolished, consolidated or realigned as provided in the plan.

SECTION V. Section 2.08.050 of the Salt Lake County Code of Ordinances, 2001, entitled "Council initiated countywide policies and procedures" is amended to read as follows:

2.08.050 – Council initiated countywide policies and procedures.

~~[A. Whenever a policy or procedure with countywide impact or implications is suggested by a majority of the council, the chair shall refer the matter for adoption in accordance with~~

Section 2.04.160.] Countywide policies and procedures proposed by the council shall be sent to the council chair to be placed on a council agenda for formal consideration in accordance with Section 2.04.140 and Section 2.04.160.

~~[B. The attorney shall review as to form and legality any countywide policy referred by the council or its staff and respond in writing within fourteen days of receipt of the request.]~~

SECTION VI. Section 2.08.060 of the Salt Lake County Code of Ordinances, 2001, entitled “Department, elected officer or mayor initiated countywide policies and procedures” is amended to read as follows:

2.08.060 – Department, elected officer or mayor initiated countywide policies and procedures.

Countywide policies and procedures proposed by the mayor, elected officials, officers of the executive office of the mayor, or department or division directors shall be sent to the council chair to be placed on [the agenda of the next regular council work session and regular council meeting for] a council agenda for formal consideration in accordance with Section 2.04.140 and Section 2.04.160.

SECTION VII. Section 2.08.080 of the Salt Lake County Code of Ordinances, 2001, entitled “Policies and procedures - Adoption” is amended to read as follows:

2.08.080 –Policies and procedures - Adoption.

All countywide policies and procedures adopted by the council must bear the signatures of the council chair and clerk. Countywide policies [~~may~~] shall be reviewed as to form and legality by the attorney in accordance with Section 2.04.165 [for form and legality as directed by the council prior to adoption by the council].

SECTION VIII. Section 2.09.060 of the Salt Lake County Code of Ordinances, 2001, entitled “Procurement process” is amended to read as follows:

2.09.060 –Procurement process.

- A. The process to secure the services of outside legal counsel is initiated as provided under Section 2.09.020 with the consent and approval of the attorney, in accordance with state law. Legal services contracts are executed by the mayor or purchasing agent.
- B. After the initial approval, the attorney shall send a written request to the purchasing agent to explain the need, the nature of the services, and the initial review process which has been followed to date. This written request may include the name of a specific attorney to provide services, and shall include an estimated budget and a proposed payment plan.
- C. If the request names a specific outside counsel or law firm, the written request must also include information explaining that counsel’s or firm’s qualifications and a statement that the counsel or firm possesses a high degree of professional skill and has important individual abilities and fitness. The request must further set out the criteria and process the attorney used to select the counsel or firm, explain any prior business or personal relationships the attorney or other requesting county official has with the requested counsel or firm, and explain the process followed to determine the outside counsel’s or firm’s legal fees.
- D. The written request is reviewed for form, process and content by the purchasing agent, who either endorses the request, as following appropriate procedures under this chapter, or recommendation of denial for failure to follow those processes. Any recommendation of denial by the purchasing agent is reviewed and resolved by the

mayor. The final contract is reviewed [~~and approved~~] as to form by the attorney and is executed by the mayor.

SECTION IX. Section 2.21.040 of the Salt Lake County Code of Ordinances, 2001, entitled “Powers and duties” is amended to read as follows:

2.21.040 – Powers and duties.

A. Subject to compliance with federal laws, state laws, and county ordinances and policies, the board is hereby granted responsibility for:

1. The periodic review of the expenditure of library funds;
2. Establishing and revising policies, in cooperation with the library director, for the use, operation, maintenance, and care of the library, library facilities, equipment, staff and other such resources.
3. Evaluating and recommending to the county executive the purchase, lease, exchange, or sale of land; the purchase, lease, exchange, sale or construction of buildings for the benefit of the library; and the purchase, lease, exchange or sale of personal property for the benefit of the library. No acquisition of or disposition of real estate used for or to be used for library purposes shall be undertaken by the mayor or council without a recommendation from the library board.
4. Establishing policies for the enforcement of library rules and applicable laws and ordinances, including, but not limited to, the imposition and collection of fines, fees and other charges.

B. Subject to compliance with federal and state laws regarding library material collections and other library information resources, the board shall:

1. Establish policies for the selection, acquisition, cataloging, maintenance and use of the library collections and information resources, including electronic resources.
 2. Submit such policies to the [county] attorney for review and advice [~~for compliance with state and federal law and approval~~] as to form and legality.
- C. Subject to compliance with federal laws, state laws and county ordinances and policies, the board shall:
1. Recommend to the county mayor a competent person for appointment by the mayor as the library director with those duties specified in a job description approved by the board and the mayor.
 2. Make an annual report to the county mayor on the condition and operation of the library, including a financial statement;
 3. Submit an annual report to the state library board.
 4. Furnish to the county mayor, in writing and prior to the time required by law to levy county taxes, an estimate of the amount of money necessary to establish, equip and maintain the library, and to provide library services during the next ensuing fiscal year.
 5. Perform such other duties and exercise such other powers related to the library as may be specifically assigned or delegated to the board by the mayor.

SECTION X. Section 2.39.030 of the Salt Lake County Code of Ordinances, 2001, entitled “Policies and procedures” is amended to read as follows:

2.39.030 – Policies and procedures.

It shall be the responsibility of the volunteer services advisory board to develop and maintain countywide policies and procedures dealing with volunteer programs and services.

Such policies may be subject to review and ~~[approval as to form of]~~ advice as to form and legality by the attorney~~['s-office]~~ and shall be ~~[reviewed and]~~ approved by the county council.

The volunteer services advisory board, with staff assistance from the office of volunteer program services, shall be responsible for the maintenance, upkeep and promulgation of volunteer policies and procedures.

SECTION XI. Section 3.15.010 of the Salt Lake County Code of Ordinances, 2001, entitled "Definitions" is amended to read as follows:

3.15.010 – Definitions.

As used in Chapters 3.16 through 3.28:

"Agency" means a separate and distinct unit of county government, which has its own budget. It may also be used to refer to an elected official, department, division or section.

~~["Approved as to form" means that the county may lawfully enter into the proposed contract.]~~

"Attorney" means the elected attorney of Salt Lake County, Utah and their deputy attorneys ~~[county district attorney and the district attorney's office].~~

"Award" means the approval for final procurement by the mayor or other authority.

"Best value bid" means the selection process for goods or services based on pre-determined criteria identified by the county in which objective qualitative factors along with price are considered.

"Bidder" means any person submitting a competitive bid in response to a request for bids or request for bids and resulting contract by the county.

“Bid” means an offer submitted by a bidder in response to a request for bids or request for bids and resulting contract by the county.

“Bilateral contract” is a written agreement which is signed by both parties.

“Cardholder” means the county employee issued a purchasing card or proprietary/charge card. The cardholder’s name appears on the card.

“Claim” means (i) a demand presented for money or damages; or (ii) a cause of action presented for money or damages. “Claim: does not mean a routine, uncontested, or regular payment, including a bill, purchase, or payroll.

“Committee” means the RFP selection committee established by county ordinance and policy for the review of proposals.

“Contract” means a legally binding agreement.

“Cooperative agreement” means an agreement resulting from a competitive solicitation by one or more public purchasing agencies or association of public purchasing agencies that allows other public purchasing agencies, such as the county, to procure goods or services according to the agreement.

“Cooperative procurement” means procurements conducted by, or on behalf of, two or more public purchasing agencies to procure from the same supplier or multiple suppliers using a single solicitation to bid or request for proposal in order to obtain advantages of volume procurement discounts, administrative savings and other benefits.

“Council” means the Salt Lake County Council.

“County” means Salt Lake County.

“Countywide contract” means a contract available for use by all county agencies for goods or services.

“Electronic copy” means a solicitation or document received electronically through the county’s designated system.

“Emergency” means there is a threat to public health, welfare, or safety. The existence of such an emergency creates an immediate and serious need for goods or services that precludes full and open competitive procurement.

“Emergency procurement” means a situation which creates a threat to public health, welfare or safety such as may arise by reason of floods, epidemics, riots, equipment failures, earthquakes, or other reason as proclaimed by the mayor. The existence of such conditions must seriously threaten:

- (1) The functioning of county government;
- (2) The preservation or protection of property; or
- (3) The health or safety of any person.

“Equal, or equal” means a phrase used to indicate the acceptability of goods of similar or superior function, purpose, design, or performance.

“Exigency” means the need for goods or services is of such an unusual and compelling urgency that the county would be seriously injured unless the county is permitted to preclude full and open competitive procurement.

“Exigency procurement” means procurement under an exigency.

“Expedited request for proposals” means a selection pursuant to the expedited procedures in Section 3.22.100. The cost limit for an expedited request for proposals is fifty thousand dollars.

“Formal advertised solicitation” means a solicitation for bids or proposals issued by the county for procurements greater than fifty thousand dollars formally advertised to vendors, service providers, or contractors for their response.

“GRAMA” means the Utah Government Records Access and Management Act, as defined by Utah law.

“Health care preference” means the preference granted to a vendor who currently has and will maintain the following through the term of the contract with the county: a health benefit plan, as defined by Utah law, made available to the vendor’s covered employees and their dependents.

“Interlocal agreement” means those agreements authorized by the Interlocal Cooperation Act, as defined by Utah law.

“Master agreement” means a procurement agreement established to permit county agencies to utilize the same underlying state contract or cooperative agreement for repetitive purchases. There is no maximum cost per transaction.

“Mayor” means the elected chief executive officer of the county or designee, unless a designation is prohibited by ordinance or statute.

“Mayor’s financial administration (MFA)” means the office of financial administration under the mayor’s office, including the divisions within the office of accounting, fixed and controlled assets, and budget.

“Multiple-award contract” means a contract awarded to more than one vendor for similar goods or services.

“Non-capitalized item” means a single asset with a unit cost less than the established capitalized limit.

“Official copy” means the copy of the contract kept in accordance with GRAMA.

“Preference system” means a system that encourages responsible business practices by granting preferences in procurement.

“Procurement” means the buying, purchasing, or acquisition of goods or services and all related acquisition processes.

“Professional service” means labor, effort, or work that requires an elevated degree of specialized knowledge and discretion, including but not limited to labor, effort, or work in the field of:

- (1) Accounting;
- (2) Architecture;
- (3) Construction design and management;
- (4) Engineering;
- (5) Financial services;
- (6) Information technology;
- (7) The law;
- (8) Medicine;

(9) Psychiatry; or

(10) Underwriting.

“Proposal” means a response to a request for proposals.

“Proposer” means any person submitting a proposal in response to a request for proposals by the county.

“Purchase orders (PO)” means a binding contract, which is used to accept the offer of a vendor to provide goods or services. The division of contracts and procurement is authorized to issue purchase orders.

“Purchasing agent” means the director of the division of contracts and procurement. The mayor, by executive order, will designate the purchasing agent’s signing authority.

“Purchasing card” means a charge card issued to an employee of the county for the purpose of making authorized purchases on behalf of the county.

“Purchasing card program administrator” means the employee assigned to oversee the purchasing card program for the county.

“Quote” means pricing for goods or services informally solicited from a vendor, provider or contractor.

“Request for bids (RFB)” means a solicitation for goods or services where price is the primary consideration.

“Request for bids and resulting contract (RFC)” means a RFB that includes a written description of goods or services required by the county to be purchased repetitively during a

specified contract term. This document, with all supporting terms, conditions, and specifications, and signed by the authorized county agent, becomes a written contract.

“Request for proposals (RFP)” means a solicitation for proposals when price is just one of several criteria necessary to make a decision and thus awarding the contract to the lowest responsive and responsible bidder is not necessarily advantageous to the county.

“Request for qualifications (RFQ)” means a solicitation to receive a statement of qualifications.

“Responsible proposer or bidder” means a person or company who has the ability to perform in full the contract requirements, as well as the integrity and reliability that will assure good faith performance.

“Responsive proposer or bidder” means a person or company whose bid or proposal conforms in all material respects to the terms and conditions required by the county in the formal advertised solicitation.

“Review as to form” means the attorney’s review and advice as to form and legality as required by Utah law and Salt Lake County ordinance.

“Sealed bid” means paper bids in sealed envelopes or bids received electronically through the county’s designated system.

“Sealed proposal” means paper proposals in sealed envelopes or proposals received electronically through the county’s designated system.

“Service contract” means any contract entered into by the county with a vendor for the furnishing of services to or for the county utilizing the vendor’s employees to provide the

services. A "service contract" may include the purchase of goods along with the providing of services.

“Signing authority” means the authority to sign contracts on behalf of the county as designated by the mayor or set forth in ordinance.

“Small cost blanket” means a purchase order that is issued in response to ongoing purchases made during a specific period of time to a single vendor under which a county agency may release payments for small cost purchases. Without the use of a small cost blanket, those ongoing goods and services would require the issuance of a purchase order for each and every invoice received.

“Small cost purchases” means purchases of goods or services having a cost up to and including the micro-purchase threshold set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions).

“Small, women-owned, or minority-owned emerging business enterprise preference” means the preference granted to a vendor that qualifies as a small, women-owned or minority-owned emerging business enterprise. The vendor requesting the preference shall provide current certification of such with their bid or proposal. Agencies through which vendors may obtain small, women-owned or minority-owned emerging business certifications include:

- Small Business Administration
- National Minority Supplier Development Council and regional affiliates

“Sole source procurement” means a procurement where the purchasing agent has justified in writing why a good or service is only reasonably available from a single supplier.

“Solicitation” means any request by the county for vendors to offer bids, quotes, or proposals.

“Specification” means a description of what the purchaser seeks to buy and, consequently, what a bidder or proposer must be responsive to in order to be considered for the award of a contract.

“Standard form contract” means a contract [~~approved~~] reviewed by the attorney pursuant to Section 3.28.020(D).

“Standardization” means the procurement of goods or services by the county to assure consistency of equipment and interchangeability or integration of goods or services which may require procurement without competition pursuant to Section 3.20.030(A)(5).

“State contract” means contracts established by the state of Utah and made available for use by state agencies and other political subdivisions of the state.

“Tie bids” means the low responsive bids from responsible bidders that are identical in price, delivery, and payment terms.

“Transitional costs” mean the costs of changing from an existing provider of, or type of, a procurement item to another provider of, or type of, procurement item. “Transitional costs” include: training costs; conversion costs; compatibility costs; system downtime; disruption of service; staff time necessary to put the transition into effect; installation costs; and ancillary software, hardware, equipment, or construction costs. “Transitional costs” do not include: the costs of preparing for or engaging in a procurement process; or contract negotiation or contract drafting costs.

“Vendor” means a person or company selling goods or services.

“Veteran” means a current or former member of the United States Armed Forces who is currently in good standing or has been honorably discharged and meets one of the following criteria:

- (1) Active duty service for at least one hundred eighty (180) consecutive days;
- (2) Reserve service in a campaign or expedition for which a campaign medal has been authorized; or
- (3) Service-related injury or disability incurred in the line of duty.

“Veterans hiring preference” means the preference granted to a vendor who currently has and will maintain all of the following through the term of the contract with the county:

For veterans:

- (1) A completed and signed certificate explaining its program to actively recruit and employ veterans that includes the success rate of its program by listing the percentage of its workforce that qualifies as veterans under this policy;
- (2) A completed and signed certificate verifying that a vendor has employed, and is currently employing, at least one veteran under its recruitment program;
- (3) A drug and alcohol testing policy that applies to all covered individuals employed or hired by the vendor and requires covered individuals to submit to random testing;

Companywide:

- (1) A job training program recognized by a federal, state, or local governmental entity; and

- (2) Job safety program that complies with job safety and health standards of the Occupation and Safety Health Administration (OSHA) or the state standards which are at least as effective as the federal standards.

SECTION XII. Section 3.20.030 of the Salt Lake County Code of Ordinances, 2001, entitled “Procurements not requiring competitive procurement” is amended to read as follows:

3.20.030 – Procurements not requiring competitive procurement.

A. All procurements shall be made by a request for bids, quotes or proposals, as provided in these ordinances, except the following circumstances do not require competitive procurement:

1. For purchases of goods and services under current contracts made available by governmental entities including federal, state, and local governmental entities, or by associations of governmental entities, where the goods or services were competitively procured by the governmental entity or the association in a manner substantially compliant with the provision of these ordinances, and the vendor is willing to extend the county the same or more favorable prices, terms, or conditions as established in, and within the scope of, the underlying agreement;
2. For real property, goods, or services related to construction of a public improvement project; which have been solicited via a formal advertised request for bids, but which the Purchasing Agent determines the bid prices are not reasonable and exceed the estimated construction cost by an unacceptable amount.
3. Exigency or emergency will not tolerate the delay incident to the formal advertising for a request for bids;
4. The aggregate amount involved does not exceed the small cost limit;

5. For a sole source procurement.
 - a. The determination as to whether a procurement shall be made as a sole source shall be made by the Purchasing Agent. Any agency request for a procurement to be restricted to one vendor shall be made in writing and accompanied by a sole source justification. The Purchasing Agent may specify the application of the determination and its duration. In cases of reasonable doubt, competition shall be solicited. Examples of circumstances which may necessitate sole source procurement are:
 - i. Where the most important consideration in obtaining a procurement item is the standardization or compatibility of equipment, materials, technology, software, accessories, replacement parts, or service;
 - ii. Where transitional costs are unreasonable or cost prohibitive;
 - iii. Where a procurement item is needed for trial use or testing;
 - b. Public notice for sole source procurements exceeding the formal advertised solicitation limit shall be given by the Purchasing Agent. The notice shall be published at least seven calendar days in advance of when responses must be received. The notice shall contain a brief statement of the proposed procurement, the proposed sole source supplier and the sole source justification. The notice shall invite comments regarding the proposed sole source and provide for a closing date for comments. The Purchasing Agent shall consider the comments received before proceeding with the sole source procurement.

6. Procurements that by their nature are not adapted to award by competitive procurement, such as:
 - a. Legal services or expert witnesses requested by the mayor, the council or the attorney or when the services of a medical doctor or dentist are requested by the attorney in conjunction with criminal or civil litigation, or requested by the sheriff or the human services department director, but the acquisition of legal services shall be governed by Chapter 2.09 of these ordinances;
 - b. The publication of legal notices, ordinances, resolutions, and other legal advertising;
 - c. The private placement of bonds, tax anticipation notes, or other instruments of indebtedness;
 - d. Utility services such as water, electricity, heat, and telephone, except when alternative supplies or services are available;
 - e. Dues and membership fees, non-software subscriptions, media advertising, magazines, books, trade journals, reference works, periodicals, examination or testing materials, and similar articles of an educational, informational or instructional nature. This subsection does not apply to right to use software and right to use licenses that some providers may describe as a software subscription;
 - f. Goods, materials, supplies and services utilized by the County clerk for purposes of performing the duties of the County clerk with regards to elections;
 - g. Medicines or medical supplies, which are not generic in nature;
 - h. Goods and supplies purchased for authorized resale;

- i. Perishable or nonperishable subsistence supplies;
 - j. Law enforcement service animals specially trained to assist law enforcement officers in the performance of law enforcement duties;
 - k. Entrance fees for conferences, training and seminars;
 - l. A person or entity to provide a speech, lecture, specialized training or performance;
 - m. Recreational program instructors resulting in recreational program agreements executed pursuant to county ordinance Section 3.28.020(E) provided that the division of parks and recreation adopt and follow a policy and procedure by which the recreational program instructors are selected.
7. Personal property or services, other than those outlined in subsection (A)(6), as the mayor may, upon the recommendation of the purchasing agent, determine to be, by their nature, not adapted to competitive procurement provided that these procurements be publicly noticed as set forth in 3.20.030(A)(5)(b).
8. Otherwise procurements authorized or prescribed by law.
- B. In negotiating purchase orders and other contracts for the above-referenced categories of personal property or services, the Purchasing Agent, using agencies or such other person or committee as may be designated by the Mayor, shall ensure that:
1. All aspects of the business transaction are fully resolved, to include price, delivery date, delivery terms, acceptance period, warranties, funding terms, and such other terms and conditions as are appropriate;

2. The file reflects price or cost analysis or such other evidence of reasonable pricing and other information concerning contract or award matters as will reasonably support entering into a contract with a vendor;
 3. All files relating to the award of a contract based upon public exigency reflect that the need was compelling and of unusual urgency, as when the County would be seriously injured, financially or otherwise, if the personal property or services to be purchased or contracted for were not furnished by a certain time, and when they could not be procured by that time by means of formal advertising. This applies irrespective of whether that urgency could or should have been foreseen;
 4. The purchasing agent must justify in writing why the award of a contract based upon sole source is appropriate; and
 5. Prior to submission of a bilateral contract to the mayor or designee for execution, the contract shall be reviewed and approved by the agency acquiring the personal property or services and by such other agencies as may be specified by ordinance and ~~[approved]~~ reviewed as to form by the attorney.
- C. Negotiated procurement shall be on a competitive basis to the maximum practical extent. When a proposed procurement appears to be noncompetitive, the Purchasing Agent is responsible not only for ensuring that competitive procurement is not feasible, but also for acting whenever possible to avoid the need for subsequent noncompetitive procurement.
- D. In the event bids for a construction project exceed available funds and the low responsive and responsible bid does not exceed such funds by more than twenty-five percent, the purchasing agent or agent's designee is authorized in situations where time or economic

considerations preclude re-solicitation of work of a reduced scope, to negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds.

- E. This chapter shall not apply to the acquisition of personnel pursuant to the provisions of the County Personnel Management Act, as defined by Utah law, nor shall this chapter be applicable to the granting or issuance, pursuant to powers conferred by laws, ordinances or resolutions, of franchises, licenses, permits or other authorizations by the council, or by other agencies of the County. This chapter shall not be construed as authorizing the waiver of competitive bidding when such bidding is required by the provisions of any federal or state grant or relevant federal or state statute or regulation.
- F. No purchase order or other contract greater than the Purchasing Agent's limit may be awarded pursuant to this section except by the Mayor or designee, unless it arises pursuant to the provisions of subsection (A)(7) of this section, in which event the Purchasing Agent may award the purchase order or other contract subject to the ratification of the Mayor. The Purchasing Agent will maintain in a file a document explaining in detail why a purchase order or contract has not been bid and identifying the specific provision of this section which exempts the purchase order or other contract from the bidding requirement. Any procurement without competitive acquisition shall also include a statement from the acquiring agency explaining the recommendation for acquisition.

SECTION XIII. Section 3.25.020 of the Salt Lake County Code of Ordinances, 2001, entitled "Requests for applications (RFA)" is amended to read as follows:

3.25.020 – Request for applications (RFA).

Request for applications shall be prepared by the requesting agency. The agency shall establish a format to be used for the request for applications. The attorney may assist with the preparation of a request for applications. Prior to advertising, the agency shall obtain [~~approval~~] review as to form of any required contract terms by the attorney.

The requesting agency shall establish an application review committee for review of the applications.

- A. All review committee members shall impartially review the submitted applications.
- B. The actions of individual review committee members are governed by the provisions of the Salt Lake County Ethics Ordinance, Chapter 2.07, and the Unlawful Conduct and Penalties Part of the Utah Procurement Code, (Utah Code Ann. § 63G-61-2401 et seq.).

SECTION XIV. Section 3.28.020 of the Salt Lake County Code of Ordinances, 2001, entitled “Contracts management – Powers and duties” is amended to read as follows:

3.28.020 – Contracts management – Powers and duties.

- A. The division of contracts and procurement shall act as a repository for all county contracts and purchase orders.
- B. Upon receipt of a contract or contract preparation package from a county agency, the purchasing agent will:
 - 1. Ensure that the contract is [~~approved~~] reviewed as to form by the attorney[’s office];
 - 2. Ensure that the contract is reviewed and authorized by the director or director’s designee of the requisitioning agency; and

3. Enter the contract in the county's financial system to ensure the availability of funds prior to the contract being used.

C. After the contract has been approved and entered into the financial system, the purchasing agent will send the contract to be executed by the mayor or proper signing authority. The purchasing agent will make available a fully executed copy of the contract to the appropriate agencies and to the vendor or contractor. Additionally, a copy of the fully executed contract, the contract preparation package, and any other documents relevant to the establishment of the contract will be maintained by the contracts and procurement division.

D. Under circumstances approved by the purchasing agent and agreed to by the attorney, standard form contracts may be used. Contracts using a standard format prepared by the attorney [~~'s office~~] do not need to be individually [~~approved~~] reviewed as to form. The designation, "Standard Form Contract," form number, and date the standard form was [~~approved~~] reviewed shall be included in the contract title. Any alteration of the standard form language without [~~approval~~] review of the attorney shall render the agreement void and without effect which will be stated in an appropriate part of the contract. The attorney shall [~~approve~~] review as to form any changes to the boilerplate language in standard form contracts.

E. The purchasing agent may designate certain revenue agreements that the mayor or designee may execute without processing through the division of contracts and procurement, provided they are [~~approved~~] reviewed as to form by the attorney, and delivered to contracts and procurement after execution.

Examples of such agreements include:

1. Promoter's and facility or equipment rental agreements, and contracts for providing utility services, to exhibitors at the Salt Palace, South Towne Center, and Arts and Culture facilities;
2. Planetarium show distribution, and rental of equipment and facility rental contracts;
3. Recreation facility and equipment rental agreements, recreation facility license agreements, and recreational program agreements; and
4. Library facility and equipment rental agreements.
5. Senior Center rental agreements.

F. Agreements under the Interlocal Cooperation Act shall be executed as provided therein.

G. Each agency will administer the operation of its contracts.

SECTION XV. Section 3.28.060 of the Salt Lake County Code of Ordinances, 2001, entitled "Bilateral contracts – Preparation and documentation" is amended to read as follows:

3.28.060 – Bilateral contracts – Preparation and documentation.

Where a bilateral contract will serve as the contract:

A. Whenever the purchasing agent is responsible for acquiring goods or services where a bilateral contract is required by this chapter, the purchasing agent will obtain a contract. The purchasing agent may prepare a contract preparation package for the attorney. The contract package, if prepared, shall contain those documents and materials that the purchasing agent deems necessary to assist the attorney in preparing the contract. The attorney may request additional documents from the purchasing agent as necessary to prepare a contract. The purchasing agent will retain on file, by hard copy or computer system storage, the original

requisition, request for bids or proposals, the evidence of publication, all bids or proposals submitted, a copy of any contract which is prepared and approved, and any other documents or correspondence relating to the acquisition as prescribed in retention schedule adopted pursuant GRAMA.

B. The attorney will draft the contract and [~~approve~~] review it as to form in accordance with this chapter. The purchasing agent will ensure that the contract is reviewed and approved by the requesting agency, and will have the contract executed by the vendor.

C. Whenever goods or services are to be acquired by the county pursuant to a request for proposals, the chair of the selection committee shall ensure that a contract preparation package is assembled and forwarded to the attorney[~~'s office~~] for [~~approval~~] review as to form. When a standard form contract is used without any alteration as provided in this chapter, no further [~~approval~~] review is necessary. The package shall include a copy of the request for proposals, a copy of the successful proposal, and a copy of the proper signing authority's action. The Division of Contracts and Procurement will retain on file the original agency document requesting services, the request for proposals, all proposals submitted, resulting contract and any other documents or correspondence relating to the acquisition as prescribed in retention schedule adopted pursuant to GRAMA.

D. Whenever grant or service provider funds are being allocated to qualified recipient agencies, the director of the requesting agency shall ensure that a contract preparation package is submitted to the division of contracts and procurement. The package will include the request for proposals, the approved successful proposal, and a cover letter specifying any matters which need to be covered in the contract that may not be specified in the above documents. The director of the requesting agency will retain on file the request for proposals, the affidavit of

publication, all proposals submitted, a copy of any contract which is prepared, and any other documents or correspondence relating to the acquisition of services or grant of funds.

E. Whenever public funds are to be expended for the construction of any public work or facility, the contracts and procurement division will ensure that a contract preparation package is assembled. The construction package will include the approved successful bid and a cover letter specifying any known matters which need to be covered in the contract that may not otherwise be set forth in the contract preparation documents. The contract package shall be forwarded to the attorney~~’s office~~ for ~~[approval]~~ review as to form unless an attorney-~~[approved]~~ reviewed standard form contract is used without any alteration as provided in this chapter. Standard form bid, general and special conditions, and contract forms may be used if prepared as provided in Section 3.28.020. The division of contracts and procurement will retain on file a copy of the request for the construction services, the original request for bids, all bids submitted, a copy of any contract that is prepared, and any other documents or correspondence relating to the acquisition as prescribed in retention schedule adopted pursuant to GRAMA.

F. All awards shall be subject to the execution of a satisfactory contract.

SECTION XVI. Section 3.28.080 of the Salt Lake County Code of Ordinances, 2001, entitled “Approval of contracts as to form” is amended to read as follows:

3.28.080 – ~~[Approval]~~ Review of contracts as to form.

~~[A.]~~ All contracts and contract amendments, except standard form contracts, shall reflect on each page to be signed that the same has been “~~[approved]~~ reviewed as to form” by the attorney prior to submission to the proper signing authority for execution.

SECTION XVII. Section 5.22.040 of the Salt Lake County Code of Ordinances, 2001, entitled “Application for a business license” is amended to read as follows:

5.22.040 – Application for a business license.

Application for all mobile food businesses shall be made prior to the commencement of operation. The applicant shall submit the following information:

- A. Name and address of applicant.
- B. Name and address of the approved commercial supply source and primary licensed food establishment, if applicable.
- C. License plate number.
- D. A description of the preparation methods and food product offered for sale, including the intended menu, display, and distribution containers.
- E. A description of the vehicle to be used in conducting business, and a description of any method to display food or products to be offered for sale.
- F. The anticipated volume of food to be stored, prepared, and sold.
- G. A valid copy of all necessary licenses or permits required by state or local health and transportation authorities.
- H. A certificate of insurance produced by an insurance company or association authorized to sell insurance in Utah, on standard ACORD forms or forms ~~[approved]~~ reviewed as to form by the ~~[District A]~~ attorney, evidencing that the applicant has active insurance policies as required herein in full force and effect at the time of the application. Applicants shall purchase and maintain commercial auto insurance and commercial general liability insurance, or a business owners policy (BOP) that includes auto liability, with coverage limits not less than the amounts required by Utah law. Such policy(s) shall include coverage of all motor vehicles used in connection with applicant's business. A current certificate of

insurance shall be kept on file with the county at all times that applicant is licensed by the county, verifying such continuing coverage and naming the county as an additional insured. The certificate shall contain a statement that the county will be given written notification at least thirty days prior to cancellation or material change in the coverage, without reservation of non-liability for failure to so notify the county. Cancellation shall constitute grounds for revocation of the license issued hereunder unless another insurance policy complying herewith is provided and is in effect at the time of cancellation/termination.

- I. A signed statement that the licensee shall hold the county and its officers and employees harmless from any and all liability and shall indemnify the county and its officers and employees for any claims for damage to property or injury to persons arising from any activity carried on under the business license or health or transportation permit.

SECTION XVIII. Section 9.73.070 of the Salt Lake County Code of Ordinances, 2001, entitled “Policies and procedures” is amended to read as follows:

9.73.070 – Policies and procedures.

It shall be the responsibility of the advisory committee to develop and implement informal dispute resolution policies and procedures. Such policies and procedures may be subject to review and ~~[approval]~~ advice as to form and legality by the attorney~~’s office]~~ and shall be ~~[reviewed and]~~ approved by the board of health. The voluntary informal dispute resolution procedures shall provide for an advisory decision only. The advisory decision may not be appealed to the board of health or the mayor or council.

SECTION XIX. This ordinance shall become effective fifteen (15) days after its passage and upon at least one publication in a newspaper published and having general circulation in Salt Lake County.

APPROVED and ADOPTED this _____ day of _____, 2022.

SALT LAKE COUNTY COUNCIL

By: _____
Laurie Stringham, Chair

ATTEST:

Sherrie Swensen
Salt Lake County Clerk

REVIEWED AS TO FORM
Kim Hill 5/20/22
Salt Lake County District Attorney Date

Council Member Alvord voting _____
Council Member Bradley voting _____
Council Member Bradshaw voting _____
Council Member DeBry voting _____
Council Member Granato voting _____
Council Member Snelgrove voting _____
Council Member Stringham voting _____
Council Member Theodore voting _____
Council Member Winder Newton voting _____

Vetoed and dated this ___ day of _____, 2022.

By: _____
Jennifer Wilson, Mayor

(Complete as Applicable)

Veto override: Yes ___ No ___ Date _____

Ordinance published in the newspaper: Date _____

Effective date of ordinance: _____

**SUMMARY OF
SALT LAKE COUNTY ORDINANCE NO. _____**

On the ____ day of _____, 2022, the County Council of Salt Lake County adopted Ordinance No. _____, amending various sections of the Salt Lake County Code of Ordinances, 2001, to provide for the review and advice as to form and legality by the Salt Lake County District Attorney in the manner prescribed by Utah law, and making other changes to update for consistency.

SALT LAKE COUNTY COUNCIL

By: _____
Laurie Stringham, Chair

ATTEST:

Sherrie Swensen
Salt Lake County Clerk

| | |
|-------------------------------------|-------|
| Council Member Alvord voting | _____ |
| Council Member Bradley voting | _____ |
| Council Member Bradshaw voting | _____ |
| Council Member DeBry voting | _____ |
| Council Member Granato voting | _____ |
| Council Member Snelgrove voting | _____ |
| Council Member Stringham voting | _____ |
| Council Member Theodore voting | _____ |
| Council Member Winder Newton voting | _____ |

A complete copy of the ordinance is available in the office of the Salt Lake County Clerk, 2001 South State Street, N2-100A, Salt Lake City, Utah.