

**CITY OF SOUTH JORDAN
CITY COUNCIL MEETING AGENDA
CITY COUNCIL CHAMBERS
TUESDAY, JUNE 18, 2024 at 6:30 PM**



Notice is hereby given that the South Jordan City Council will hold a City Council Meeting at 6:30 p.m. on Tuesday, June 18, 2024, in person in the City Council Chambers, located at 1600 W. Towne Center Drive, South Jordan, Utah, and virtually via Zoom phone and video conferencing. Persons with disabilities requesting assistance should contact the City Recorder at least 24 hours prior to the Meeting. The Agenda may be amended and an Executive Session may be held at the end of the Meeting. Times listed are approximate and may be accelerated or delayed.

In addition to in-person attendance, individuals may join virtually, using Zoom. Attendees joining virtually may not comment during public comment. Virtual participants may only comment on items scheduled for a public hearing. Video must be enabled during comment period. Attendees who wish to present photos or documents to the City Council must attend in person.

In the event the Meeting is disrupted in any way that the City in its sole discretion deems inappropriate, the City reserves the right to immediately remove the individual(s) from the Meeting and, if needed, end virtual access to the Meeting. Reasons for removing an individual or ending virtual access to the Meeting include but are not limited to the posting of offensive pictures, remarks, or making offensive statements, disrespectful statements or actions, and other any action deemed inappropriate.

Ability to participate virtually is dependent on an individual's internet connection. To ensure comments are received regardless of technical issues, please have them submitted in writing to the City Recorder, Anna Crookston, at acrookston@sjc.utah.gov by 3:00 p.m. on the day of the meeting. Instructions on how to join virtually are below.

Join South Jordan City Council Meeting Virtually:

- Join on any device that has internet capability.
- Zoom link, Meeting ID and Password will be provided 24 hours prior to meeting start time.
- Zoom instructions are posted <https://ut-southjordan.civicplus.com/241/City-Council>.

Regular Meeting Agenda: 6:30 p.m.

- A. Welcome, Roll Call, and Introduction:** By Mayor, Dawn R. Ramsey
- B. Invocation:** By Council Member, Jason McGuire
- C. Pledge of Allegiance:** By Communications Manager, Rachael Van Cleave
- D. Minute Approval:**
 - [D.1.](#) June 4, 2024 City Council Study Meeting
 - [D.2.](#) June 4, 2024 City Council Meeting
- E. Mayor and Council Reports: 6:35 p.m.**

F. Public Comment: 6:50 p.m.

This is the time and place on the agenda for any person who wishes to comment. Any person or group 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 their name and address for the record. Note, to participate in public comment you must attend City Council Meeting in-person. Comments should be limited to not more than three (3) minutes, unless additional time is authorized by the Chair. Groups wishing to comment will be asked to appoint a spokesperson. 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. Time taken on non-agenda items, interrupts the process of the noticed agenda. In rare cases where it is determined appropriate to address items raised from public comments, these items will be noted and may be brought back at the conclusion of the printed agenda.

G. Public Hearing Items: 7:00 p.m.

G.1. Resolution R2024-37, Increasing the amount of the City portion of Employer “Pick-Up” of Public Safety Employee Retirement Contributions. RCV *(By Director of Human Resources, Teresa Cook)*

G.2. Ordinance 2024-13, Vacating a portion of a Municipal Waterline Easement located on Lot 8A of the Daybreak Commerce Park Plat 5A Amended Subdivision. RCV *(By Director of Planning, Steven Schaefermeyer)*

G.3. Ordinance 2024-16, Vacating a segment of Dockerside Drive from approximately 7130 W. to the South Valley Water Reclamation Facility property line, approximately 557 feet containing 0.674 acres. RCV *(By Director of Planning, Steven Schaefermeyer)*

H. Presentation Item: 7:30 p.m.

H.1. 2024 Victim Advocate Report. *(By Chief of Police, Jeff Carr)*

I. Discussion Item: 7:35 p.m.

I.1. Municipal Justice Court. *(By City Attorney, Ryan Loose)*

J. Staff Reports and Calendaring Items: 8:00 p.m.

ADJOURNMENT

CERTIFICATE OF POSTING

STATE OF UTAH)

COUNTY OF SALT LAKE)

I, Anna Crookston, the duly appointed City Recorder of South Jordan City, Utah, certify that the foregoing City Council Agenda was emailed to at least one newspaper of general circulation within the geographic jurisdiction of the public body. The agenda was also posted at the principal office of the public body and also posted on the Utah State Public Notice Website <http://www.utah.gov/pmn/index.html> and on South Jordan City’s website at www.sjc.utah.gov. Published and posted June 14, 2024.

SOUTH JORDAN CITY
CITY COUNCIL STUDY MEETING

June 4, 2024

Present: Mayor Dawn R. Ramsey, Council Member Don Shelton, Council Member Jason McGuire, Council Member Patrick Harris, Council Member Kathie Johnson, Council Member Tamara Zander, City Manager Dustin Lewis, Assistant City Manager Jason Rasmussen, City Attorney Ryan Loose, Director of Strategy & Budget Don Tingey, IT Director Jon Day, Director of Public Works Raymond Garrison, CFO Sunil Naidu, City Engineer Brad Klavano, Director of Administrative Services Melinda Seager, Director of Planning Steven Schaefermeyer, Police Chief Jeff Carr, Fire Chief Chris Dawson, Communications Manager Rachael Van Cleave, Recreation Director Janell Payne, IS Systems Administrator Ken Roberts, GIS Coordinator Matt Jarman, City Recorder Anna Crookston, Meeting Transcriptionist Diana Baun, Associate Director of Strategy and Budget Katie Olson

Absent:

Others: Nathan Shipp, Tanner Johnson, CB, iPhone2

4:41 P.M.
STUDY MEETING

A. Welcome, Roll Call, and Introduction: *By Mayor, Dawn R. Ramsey*

Mayor Ramsey welcomed everyone present and introduced the meeting.

B. Invocation: *By Council Member, Kathie Johnson*

Council Member Johnson offered the invocation.

C. Mayor and Council Coordination

Council discussed the send-off for the Martha Hughes Cannon Statue at the Capitol.

D. Discussion/Review of Regular Council Meeting

Consent Action Items:

- Resolution R2024-20, Authorizing Mayor to sign the Interlocal Cooperation Agreement between Salt Lake County and South Jordan City for the South Jordan Recreation Center Pool expansion.
- Resolution R2024-25, Appointing members to the Art's Council.
- Resolution R2024-33, Designating the Interim Emergency Successors for 2024-25 and identification of alerting authority and individuals authorized to send alerts.

- Resolution R2024-36, Appointing members to the Bingham Creek Park Authority Board.

Public Hearing Items

- Resolution R2024-35, Amending the FY2023-24 Budget for South Jordan City. The appropriation authority shall apply to the fiscal year ending June 30, 2024.
- Ordinance 2024-12, Amending portions of sections 7.03.060 (Insurance) and 7.05.030 (Charges for Special Community Services) of the South Jordan City Municipal City Code relating to insurance requirements for commercial haulers and waste programs offered to residents.

E. Discussion Items

E.1. Altitude Townhomes. *(By DAI, Nathan Shipp)*

Nathan Shipp (DAI) – reviewed his prepared presentation (Attachment A) and gave a brief review of the last discussion. He explained that his underwriting is asking for at least 100 units of for-rent units to make funding possible, and he explained his suggestion of a combined project, with some for-rent and some for-sale units. Ideally he needs 100 units of for-rent with the rest for-sale, however he has been trying to get closer to a 50/50 mix. He also discussed a proposal of deed restricting the owner-occupied units, not allowing the units to be rented out in the future. He feels this compromise would give the city the for-sale component they are looking for, and still allow them to work funding out with the rental component as well; all while avoiding the mess of the owner-occupied units being purchased and rented out individually, allowing them to control the makeup of the community. He also discussed the HOA's role in both sides of the proposed community and how they would use the HOA to inspect and maintain compliance with garage parking and other requirements for residents.

Council Member Shelton was pleased the developer and HOA would be enforcing the additional rules being put on these units, rather than the city.

Council Member Harris asked about the possibility in the future of the rental units being offered for sale.

Mr. Shipp responded that would not be an option, they would need to stay rentals for the long-term because of it being set up as a co-managed community.

Mayor Ramsey asked if DAI planned to keep ownership of the community, or if they planned to sell it in the future.

Mr. Shipp responded that their intent is to hold long-term, he is putting personal funds into this to create a long-term asset.

Council Member Zander asked for the estimated sales price of the owner-occupied units.

Mr. Shipp responded currently they are planning from \$525,000 to \$575,000 for three and four bedroom units.

Council Member Harris is okay with the 50/50 number, especially after the city's generous approval to allow them another completely rental community in the nearby area. He is hopeful that while they are working with staff, they will come up with some remarkable amenities and other offers to really make the 50/50 compromise worth it for everyone.

Council Member McGuire is still struggling with the 50/50 number, but he has the same thoughts as Council Member Harris.

Council Member Zander appreciated Council Member Harris's words, noting that the council did hand over an entire project to DAI, rentals only, and let them run with it. She would of course love more owner occupied, and would love to see him come back with a few more owner occupied units, but she agrees with the previous council member comments.

Both parties agreed that adding additional units to get to the desired number of rental units was not the answer.

Council Member Shelton is okay with the 50/50 number, along with the deed restriction requirement.

Council Member Johnson was agreeable to the 50/50 number as well, and asked for that to be noted specifically in the development agreement so it wouldn't be able to change.

E.2. Residential Chickens Floating Zone. *(By Director of Planning, Steven Schaefermeyer)*

Director Schaefermeyer reviewed the current Municipal Code regarding the Residential Chickens Floating Zone (Attachment B) and noted this is a discussion of potential alterations to the zone requirement in the current code. There have been some issues with chickens recently and he wanted to discuss whether the council would like to leave the requirements as is, or possibly adjust what zones chickens are available in, based on lot size.

Council Member McGuire noted the reason for requesting this discussion was to decide whether or not it should matter what zone you're in if your property meets the lot size and setback requirements.

Council Member Harris is fine with the proposed changes.

Council Member Zander asked about enforcement.

Director Schaefermeyer responded that the city would get a complaint, usually about a rooster, and Code Enforcement would visit the property to determine their violation if they have no permit. If their lot meets the requirements, they would instruct the homeowners to apply for a

permit. If their lot did not meet the requirements, they would issue a violation and go through that process. There are many people in the city who have chickens without permits, and whose lots do not qualify for a permit to have chickens.

Council Member Shelton agreed with using the 10,000 square foot lot as the determining factor, not worrying about the zone.

Council Member Johnson agrees as well.

Council Member Zander is agreeable as well.

E.3. Municipal Justice Court. *(By City Attorney, Ryan Loose)*

Attorney Loose reviewed Associate Director of Strategy and Budget's prepared presentation (Attachment C), which included statistics from the Justice Court over the years for comparison. They have been looking at how the city is putting its resources together, which is the whole point of priority based budgeting. In terms of strategic priorities, the court is not mandated and is optional; it doesn't really align with any of the strategic priorities of the city. It comes with decreasing revenues and increasing subsidies at around \$500,000 from the General Fund. The city has done a lot to cut the funds needed including being as efficient as possible with staffing like the Bailiff, Prosecutor, etc. They have also seen a declining caseload in easy cases, but the harder cases that take more time are still present and not declining at the same rate. The two things weighing the most to him were the fact that the city is roughly \$500,000 in the red, and only 3.5 out of every 10 cases are residents. How much are we inconveniencing our residents, the 3.5 out of 10, having them drive to what would be the County Justice Court or the West Jordan District Court. It would be a slight inconvenience for our prosecutors to have to make that drive, as well as our officers, but it's nothing that shifts the analysis regarding priority based budgeting and makes a strong case to keep the courts based on the factors presented. He reviewed the statistics from Attachment C, noting that many of the spikes in caseload shown in prior years can easily be attributed to things like large growth spikes in the city. Despite the large addition of road miles in the city over the years, there is still a steady and significant decline in traffic cases as well. The time spent doing calls other than traffic has been more significant, noting that a domestic call requires a minimum of two officers and takes at least an hour or two, and the focus of the police has shifted to the rising amounts of other criminal calls, like domestic issues so they aren't doing as much in the traffic area. He reviewed the slide in Attachment C showing the potential savings over the past few years if these changes had been made previously. He reviewed the statistics for cases filed on Attachment C, asking who our courts are actually serving in our justice court; the data shows that roughly two-thirds of cases in the court weren't even residents of South Jordan, and that number has stayed steady over time. This shows that the city's large subsidizing of the court is actually serving a large majority of non-residents. He discussed research and options on potentially just keeping a justice court for misdemeanors, but the only way to pay for that would be to get more money from the traffic cases and that wouldn't improve the financial situation. This is a policy decision, and he noted that he would be remiss in his duties if he didn't present this decision to the council now, because if the decision isn't made by July 1, the current contracts will run for another six years. The court can be closed during that

time, but the city would still have obligations to pay at least the judge's costs which would work out to about \$1.2 million. He doesn't have a big opinion one way or another, but he will say that it doesn't meet the city's regular way of budgeting. That being said, there are a lot of people who feel this is a good service for our residents. He knows the judge has spoken with several of the council members, making those arguments, and they are great arguments. However, he would be upset with a city attorney who let this opportunity pass without at least presenting the information and options for the council to discuss before they are committed again for another six years and there is potential for county closures within that time.

Council Member Shelton asked about the current caseload in terms of types of cases being seen.

Attorney Loose estimated it is about 50% traffic with the rest being the other types of non-traffic cases. For comparison, when he started with the city in 2006, that caseload was actually 80%-90% traffic. He also discussed the recent legislature changes in regards to domestic cases, noting that they can only be seen at one court so witnesses are only required to testify once. The biggest non-traffic cases being seen locally at this time are things like retail theft, DUI, assaults, some code violations, trespassing, and other little items. Regarding traffic cases, besides speeding there are reckless driving, running stop signs, DUI, etc. The ones that take the most of his prosecutor's time are domestics, DUIs, assaults. Code violation cases also take up a surprising amount of time he noted. If our court was closed, those cases would then go to the Salt Lake County Justice Court on 2100 South. The county has discussed taking the closure of their courts to the legislature as well, and if that court is approved by the legislature for closure, the cases then go to the District Court. The county didn't end up doing that this year, but there is still talk about it in the near future, and that's why he rushed to get this resolution in front of the council to share all of the information and options before that window closed. Based on the information he has researched, the county will be going to the legislature in 2025 to ask for closure. His office is also working on getting the city administrative code program to deal with code violation cases, which will require some small changes to the code. Most cities are going to the administrative program and not putting code violations through the criminal court now, since arresting those with what could be a small violation like a cluttered garage does not work in terms of enforcement. He also shared that the county shared their decision to request closure of their courts in their meeting minutes, so it is not just a rumor going around. He added that there are very few courts that would survive a priority based budgeting analysis or even a close look, with the exception of a small city with a through road that has constant speeding violations.

Police Chief Jeff Carr added that the statute changes to ticket quotas in the past had a huge effect on law enforcement throughout the state as well.

Attorney Loose also noted that not all cities in Salt Lake County have a justice court, and reminded everyone it is not a requirement for cities to maintain. The district court has a small claims jurisdiction as well for any residents needing those services.

City Manager Dustin Lewis added that in September at a meeting of the Utah League of Cities and Towns, there was a meeting with all the city managers where they were asked if any of their cities were considering doing away with their justice court. So many hands were raised that the

question was altered to ask which cities were not considering closing their courts, and only a few hands went up; many cities are having this same discussion and analysis based on those responses.

Council Member Zander asked about possibly overwhelming the district court in West Jordan, and whether they have the option to not accept our cases if we close.

Attorney Loose responded that because our court was not required, we can just close it without any approval required from higher courts or the legislature. Whereas, the county has to have legislature permission to make that closure, so there is a chance to investigate workloads and decide whether or not their closure would be an undue burden on the system. Once the county closes their courts, any cities with their own justice court who want to close up would have to go to the legislature for permission, for the same reason the county court is required to do so.

Council Member Zander asked Chief Carr if he saw any downside to this proposition from his point of view.

Chief Carr responded that it might include some more travel time, we are losing that bit of convenience with the court here, but he doesn't think that makes a strong enough case to reject the idea of closing. Another issue, the traffic cases are just dropping off with some cities even getting rid of their traffic units when presented with staffing issues.

Council Member Johnson noted that the convenience was one big reason shared by the judge while pleading his case to her.

Chief Carr responded saying sometimes the officers are inconvenienced here by sitting for hours in court when they are not needed, so the schedule hasn't always been a huge convenience factor for him.

Council Member Zander asked how many police officers that \$500,000 subsidy would fund.

Attorney Loose clarified that he doesn't know if the city will get the full \$500,000 in return, as there are a number of unfilled positions that are not police officers. There are also some great employees in the court and they want to make sure they can use them to fill positions if needed, so their salaries would be taken from that \$500,000 and sent to the correct department.

City Manager Lewis added that there are deficits in other areas of the organization where this money could be used as well, and be a great help to the city.

Attorney Loose responded that saving the \$200,000 a year on the judge's compensation alone would equal one and a half to two officers with all their equipment.

Council Member Zander loves that they are looking at the numbers and not just making an emotional decision, but she would want to know that they are being very intentional with that estimated amount from subsidizing the courts. She asked staff to be very mindful of not just

shifting employees into another position to keep them here, and using the city's resources to stretch those extra dollars.

City Manager Lewis noted the additional positions he could fill with court staff are ones he would be asking for in the next budget session anyways, so they aren't just creating positions to fill.

Attorney Loose discussed some of the positions they would be attempting to create in the next budget session, one of which would be to assist with GRAMA requests as the paralegal position in his office started out at about 10 hours a week and has grown to 20-30 hours a week to accommodate all the GRAMA requests, in addition to her other duties. That doesn't include the Deputy City Recorder's time on GRAMA requests that has grown to about 30 hours a week. In addition, Police Department uses the Legal Departments Paralegal to help with his GRAMA requests quite a bit. There is a lot of that type of situation going on that with additional staff could get rid of some of those inefficiencies. The reality is that good employees stay, and these are really good employees; if they can find a place to keep those court employees on staff it would benefit the city greatly.

Council Member McGuire asked about the chances of us closing our court and the higher courts coming back requiring cities pay additional money for the larger caseload burden.

Attorney Loose responded the chances would be very low since those costs are covered by the fines and forfeitures, which could be adjusted by the higher courts in the future to meet their needs.

Council Member Harris noted that he recognizes the savings being shared here, but he has some trouble with the math on all this due to the fact that they could look at any group of employees and decide to remove them so the annex team can move in to their space. He understands there is a benefit potential here, but he has trouble including that in the numbers being shown. He is not necessarily opposed to this decision, but he wanted to bring a few things up for discussion. He discussed when the council chambers were upstairs and one of the biggest reasons for moving those council chambers downstairs was being compliant with the court. After that, it was decided to move the court to the other building, and he is glad that was done; the public safety building was definitely needed. However, what originally started that whole process was the court from what he recalled.

City Manager Lewis added that in addition to the court issue, the city's police department had outgrown their space.

Council Member Harris understands that, but he can't ignore the fact that the court was what started the whole movement. The city also put a decent amount of money into that new building for a very nice court facility, which is how it should be. There are a lot of expenses that were undertaken, along with a large amount of effort, to make those changes with the court. It's hard for him to see the court we've built just be dismissed after all that work, and he feels that needs to be factored into the decision as well. He acknowledged that he does believe this was a

discussion that needed to take place, and he appreciates it being brought to the council at this time.

Attorney Loose agreed that the court did have a large influence on how things were changed over the years on the way the Public Safety Building was being built.

Council Member Harris also shared that he remembers proposals to remove the current fountain installed in front of the Public Safety Building and replace it with something like a splash pad, an area where residents could gather and spend time together. That ended up being moved across the street and being installed at City Park in the end. He is glad the Public Safety building was built when costs were much lower as well.

Attorney Loose noted that the Public Safety Building was on the project list to do, independent of anything with the court, but the second they started looking at what would have to happen to keep the court in City Hall it did influence those decisions.

Council Member Harris reiterated that he is not 100% for it, only because of all the things previously mentioned. However, at the same time he understands that the numbers are real and he understands the big picture.

Attorney Loose noted the courtroom would still be used for things like code violations cases through the administrative process, and they'd hold things like variance hearings in the space as well. It would not be used nearly as much as it is now, but it would still be used.

Council Member Harris was all behind the decisions in the past regarding staff recommendations for the court changes, and he realizes that in today's world the court is now costing the city money. Due to all those things, it just isn't as easy to make a decision like this.

Attorney Loose noted that is why they analyze these types of things with the priority based budgeting model, adding that things like Summerfest probably wouldn't pass that type of analysis but there are still great reasons to hold the event. Just like there are great reasons to have a court available in the city.

Council Member Johnson asked if the motivation for this change is higher because of the potential changes being made by the legislature.

Attorney Loose responded that was not a factor on his side, but it is a part of it, especially when talking with other city managers. Six years ago, when the judge sat for retention election, the numbers were different than they are now. Based on the trends they have been able to map and analyze, he is trying to think ahead and wonder what the council might want to do with those additional funds in the coming years and whether they would be useful. You have to make the decision now, because of the election cycle, and once that decision is made it's hard to change course.

Associate Director of Strategy and Budget, Katie Olson shared her prepared presentation (Attachment C) with all the statistics. Noting that she doesn't have an answer for the council, she has just run the numbers and can help explain those in more detail if needed. She noted that the Summerfest decision was based on the fact that we are the only ones who will get out there and celebrate South Jordan City. Whereas, with the courts, there are other entities that are obligated to step in and take care of those cases whether or not the city has had a court in the past or not.

The council and staff discussed the reasons for traffic cases dropping down so low, which included the need for officers on other calls, the removal of quota expectations for officers, and just the fact that it's harder to speed with traffic congestion in the city. In addition Chief Carr specifically noted that younger officers are less inclined to use their discretion to write a speeding ticket than older generations.

Mayor Ramsey added that in the past she has not been in favor of closing the court, even small towns seem to always have a courthouse. It took her about two years, knowing the data, to change her way of looking at this. She doesn't love it, but when she looked at the data, the money, and the numbers of residents being served and not served. Priority Based Budgeting has been the city's focus for over 20 years, it's the same system that convinced the council to do away with the marathon, as well as other programs that everyone has collectively decided were either a bad or good investment for the city. In her heart, she doesn't want to see this go away, but in a fiduciary obligation to the resident of the city in regards to their tax dollars she has a hard time defending it now that things have changed so drastically. This is a big decision to make, and that decision will create changes that we will continue to see over the coming years. She also noted that we don't know what will ultimately happen with the county courts, and if they do end up closing and we decide to close after that time, we are stuck with the additional step of going to the legislature to ask for permission; and we would have no control over their decision to allow the closure. Right now it is our decision, and in the future it might not be.

The council decided to think about this and have staff bring it back for a decision at the next meeting.

Council Member Harris asked about how things will look once the city is built out to capacity.

Attorney Loose noted that they can't project that, but they can look at how things have changed with growth in the past and discuss it from that point of view, but there is no way to estimate that into the future.

ADJOURNMENT

Council Member Johnson motioned to adjourn the June 4, 2024 City Council Study Meeting. Council Member McGuire seconded the motion; vote was 5-0 unanimous in favor.

The June 4, 2024 City Council Study meeting adjourned at 6:33 p.m.

SOUTH JORDAN CITY
CITY COUNCIL MEETING

June 4, 2024

Present: Mayor Dawn R. Ramsey, Council Member Don Shelton, Council Member Jason McGuire, Council Member Patrick Harris, Council Member Kathie Johnson, Council Member Tamara Zander, City Manager Dustin Lewis, Assistant City Manager Jason Rasmussen, City Attorney Ryan Loose, Director of Strategy & Budget Don Tingey, IT Director Jon Day, Director of Public Works Raymond Garrison, CFO Sunil Naidu, City Engineer Brad Klavano, Director of Administrative Services Melinda Seager, Director of Planning Steven Schaefermeyer, Police Chief Jeff Carr, Fire Chief Chris Dawson, Communications Manager Rachael Van Cleave, Recreation Director Janell Payne, IS Systems Administrator Ken Roberts, GIS Coordinator Matt Jarman, City Recorder Anna Crookston, Meeting Transcriptionist Diana Baun, Parks & Rec Administrative Assistant Kaitlin Youd, Arts Program Coordinator Tiffany Parker

Absent:

Others:

6:45 P.M.
REGULAR MEETING

A. Welcome, Roll Call, and Introduction to Electronic Meeting - *By Mayor, Dawn Ramsey*

Mayor Ramsey welcomed everyone and introduced the meeting, noting that the internet service for City Hall and the surrounding area was knocked out by a car accident and apologized for the disruption.

B. Invocation – *By Council Member, Don Shelton*

Council Member Shelton offered the invocation.

C. Pledge of Allegiance – *By Assistant City Manager, Jason Rasmussen*

Assistant City Manager Rasmussen led the audience in the Pledge of Allegiance.

D. Minute Approval

D.1. May 21, 2024 City Council Study Meeting

D.2. May 21, 2024 Combined City Council & Redevelopment Agency Meeting

Council Member Shelton motioned to approve the May 21, 2024 City Council Study Meeting and May 21, 2024 Combined City Council & Redevelopment Agency Meeting minutes as published. Council Member Zander seconded the motion; vote was 5-0, unanimous in favor.

E. Mayor and Council Reports

Council Member Don Shelton

- Met with a developer with some ideas for a project in the city.
- Attended the Memorial Day Program, noting the Mayor represented the city well.
- Attended many activities with Summerfest.
- Thanked staff for their efforts to fix our streets and keep them well maintained.
- Thanked CFO Sunil Naidu and his team for their help answering his questions in regards to budget issues.

Council Member Tamara Zander

- She, her husband and their real estate team were asked by the Veterans of Foreign Wars Group in South Jordan to help them the Saturday before Memorial Day at the Salt Lake City Cemetery with flag placement and marker cleaning.
- While serving on the board for the South Valley Chamber of Commerce she was asked to speak at the Women in Business Luncheon this past week.
- Enjoyed all the Summerfest activities and shared one of her favorite events is viewing and judging the chalk art. She also shared she has had nothing but positive comments from residents on how well the event was executed, how safe it felt, and how well it was organized.

Council Member Patrick Harris

- Attended South Valley Sewer Board Meeting.
- Serves on the city's Audit Committee and attended a meeting with that recently.
- Attended Summerfest and even had the chance to encourage coworkers to attend. The Mulligan's Bash had lots of attendance with a lot of food served. Bingo was fun at the Senior Center, the parade was fabulous as was the car show, chalk art, and puzzle unveiling. It felt like a very safe event to him, and it was well controlled.

Council Member Johnson

- Echoed Council Member Harris' comments about Summerfest and heard positive feedback from many in her neighborhood.

Council Member Jason McGuire

- Attended the Memorial Day Program.
- Attended some play rehearsals and is very proud of what he has seen.

- Regarding Summerfest, he specifically heard great things about the van wrap sponsored by the Art's Council, the Dowdle puzzle. He also thanked Communications Manager Rachael Van Cleave for her coverage during the parade as he was unable to attend, and for her social media coverage allowing him to keep up with what was happening all weekend.

Mayor Dawn Ramsey

- Thanked everyone who participated in the Memorial Day event, it was lovely.
- Attended Bingham High School's graduation and was unable to attend Herriman High School's graduation due to her own daughter's graduation from Bingham.
- Commended Council Member Zander on her South Valley Chamber Women in Business event, she did a wonderful job.
- She thanked Council Members Shelton and Harris for their participation on the Audit Committee, as well as CFO Naidu for his work.
- Discussed DARE Graduations, thanking all those who were able to attend.
- Regarding the Dowdle Puzzle unveiling, she has loved seeing the great response to the puzzle. They are still available at any of the following three locations: City Hall, Station 64, and Mulligan's.
- Everything about Summerfest was awesome. Last year they made the decision to spread the events across the city, and they did it again this year encouraging even more residents to participate. She discussed the Mulligan's event, and thanked everyone for their hard work on the whole thing. She also noted that someone expressed their appreciation for not seeing overflowing trash cans throughout the events, as that doesn't usually happen in most places, and so many were impressed by that high standard; she thanked the staff who made sure things stayed clean and maintained.
- She had the privilege of Executive Assistant Melanie Edwards accompany her to a Utah Business Event last week, where she was recognized, and she thanked Ms. Edwards for her help as she is really the one running the city behind the scenes.

F. Public Comment

Mayor Ramsey opened the public comment portion of the meeting. There were no comments and Public Comment was closed.

G. Presentation Items

G.1. Play Preview from Sandbox Theater. *(By Director of Recreation, Janell Payne)*

H. Consent Action Items

H.1. Resolution R2024-20, Authorizing Mayor to sign the Interlocal Cooperation Agreement between Salt Lake County and South Jordan City for the South Jordan Recreation Center Pool expansion. *(By Director of Strategy & Budget, Don Tingey)*

H.2. Resolution R2024-25, Appointing members to the Art's Council. *(By Director of Recreation, Janell Payne)*

H.3. Resolution R2024-33, Designating the Interim Emergency Successors for 2024-25 and identification of alerting authority and individuals authorized to send alerts. *(By City Manager, Dustin Lewis)*

H.4. Resolution R2024-36, Appointing members to the Bingham Creek Park Authority Board. *(By Director of Strategy & Budget, Don Tingey)*

Council Member McGuire motioned to approve the Consent Items above as stated. Council Member Johnson seconded the motion.

Roll Call Vote

Yes – Council Member Jason McGuire

Yes – Council Member Kathie Johnson

Yes – Council Member Don Shelton

Yes – Council Member Tamara Zander

Yes – Council Member Patrick Harris

Motion passes 5-0, vote in favor.

I. Public Hearing Items

I.1. Resolution R2024-35, Amending the FY2023-24 Budget for South Jordan City. The appropriation authority shall apply to the fiscal year ending June 30, 2024. *(By CFO, Sunil Naidu)*

CFO Naidu reviewed background information from the Council Report. He referred to questions emailed to him prior to this meeting from Council Member Shelton and briefly reviewed those (Attachment A).

Mayor Ramsey opened the Public Hearing for comments; there were no comments and the hearing was closed.

Council Member Shelton asked about the separate insurance policy for drones, asking how many drones we are flying.

City Manager Dustin Lewis responded it's not the number of drones being used, but the liability associated with airborne operations.

Council Member Shelton motioned to approve Resolution R2024-35, Amending the Fiscal Year 2023-24 Budget for South Jordan City. Council Member Harris seconded the motion.

Roll Call Vote

Yes – Council Member Don Shelton

Yes – Council Member Patrick Harris

Yes – Council Member Kathie Johnson

Yes – Council Member Tamara Zander

Yes – Council Member Jason McGuire

Motion passes 5-0, vote in favor.

I.2. Ordinance 2024-12, Amending portions of sections 7.03.060 (Insurance) and 7.05.030 (Charges for Special Community Services) of the South Jordan City Municipal City Code relating to insurance requirements for commercial haulers and waste programs offered to residents. *(By Director of Public Works, Raymond Garrison)*

Public Works Director Raymond Garrison reviewed background information from the Council Report and his prepared presentation (Attachment B).

Mayor Ramsey opened the Public Hearing for comments; there were no comments and the hearing was closed.

Council Member Harris pointed out that general liability insurance doesn't cover any road exposure, specifically excluding auto, asking what specifically this plan was covering.

Director Garrison responded that this is for any commercial haulers doing business in the city, such as ACE.

Council Member Harris noted that this general liability policy would not respond to any damage one of those commercial vehicles might do to a person or property while driving. An auto policy would cover that, but not this general liability policy and he worries that this decision may not be doing what staff thinks it is doing for the vehicles.

Council Member Shelton asked about the auto coverage required by law, and if it was different for a commercial vehicle versus a personal vehicle.

Council Member Harris noted that those types of commercial haulers most likely have no less than \$1 million coverage, but he was unsure of the exact requirements.

Council Member Shelton asked for any examples of where the general liability insurance would come into play.

Council Member Harris responded that it would be in an instance where the city was liable for something one of those commercial haulers did, but he was unable to come up with a specific example.

Council Member Shelton suggested the city ought to know, or specify what the coverage is since the road is where just about everything and anything is going to happen.

Assistant City Manager Rasmussen added that this policy is for any commercial haulers in the city, service haulers servicing businesses and restaurants, etc. For the city's specific contracted haulers, for things like garbage and curbside pick-up, he believes those agreements contain language requiring a minimum amount for the reason of protecting the city should they be involved in an accident while contracted for the city. This policy covers all other commercial haulers operating in South Jordan.

City Manager Lewis added this could apply to a garbage truck picking up the trash at Harmon's, and could cover other aspects of business like breach of contract, etc. It's also difficult to buy coverage amounts as low as this \$350,000 policy, as they are generally sold in million dollar increments. The haulers themselves would most likely have their own coverage of at least \$1 million aggregate and have an umbrella policy on top of that.

City Commerce Director Brian Preece added that all commercial operators in the city have to get a permit from the Business Licensing Department and have a sticker that shows they have been through that process.

Council Member Shelton motioned to approve Ordinance 2024-12, Amending portions of sections 7.03.060 and 7.05.030 related to Insurance and Charges for Special Community Services of the South Jordan City Municipal Code. Council Member McGuire seconded the motion.

Roll Call Vote

Yes – Council Member Don Shelton

Yes – Council Member Jason McGuire

Yes – Council Member Patrick Harris

Yes – Council Member Kathie Johnson

Yes – Council Member Tamara Zander

Motion passes 5-0, vote in favor.

J. Staff Report and Calendaring Items

City Manager Lewis reminded the Mayor and Council Members to retrieve some items left for them behind the dais.

Administrative Services Director Melinda Seager shared that this is Chief Technology Director Jon Day's last City Council Meeting after announcing his retirement on July 15.

Council Member Zander motioned to adjourn the June 4, 2024 City Council Meeting. Council Member Johnson seconded the motion; vote was 5-0, unanimous in favor.

ADJOURNMENT

The June 4, 2024 City Council Meeting adjourned at 7:38 p.m.

RESOLUTION R2024 – 37

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, INCREASING THE AMOUNT OF CITY PORTION OF EMPLOYER “PICK-UP” OF PUBLIC SAFETY EMPLOYEE RETIREMENT CONTRIBUTIONS.

WHEREAS, Utah Code Ann. §49-23-301 and Internal Revenue Code § 414(h)(2) allow the City of South Jordan as the employer to “pick-up” part of employee’s contribution to qualifying retirement plan; and

WHEREAS, pursuant to Resolution R2022-30 (attached hereto), the South Jordan City Council elected to exercise the “pick-up” option at the then allowed rate of 2.59% of compensation for each employee; and

WHEREAS, the allowed rate of 2.59% was increased by Utah Retirement Systems to 4.73%, which would not go into effect for City employees unless the City Council elects to increase the City’s contribution; and

WHEREAS, the increase from 2.59% to 4.73% shall be for Police Department employees only; and

WHEREAS, the South Jordan City Council finds it in the best interest of the City to increase the City’s contribution of the allowed “pick-up” to 4.73% of compensation for each eligible employee.

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

SECTION 1. Approval of Contribution Increase. Beginning July 1, 2024, the City of South Jordan shall prospectively “pick-up” and pay required employee contributions for all eligible City employees who are participating members in the Tier II Hybrid and Defined Contribution Plan, under the New Public Safety Tier II Contributory Retirement Act, Subject to a maximum of 4.73% of compensation for each employee.

SECTION 2. Acknowledgment of City of South Jordan Resolution R2024-37. All other provisions of Resolution R2022-30 remain unchanged.

SECTION 3. Effective Date. This Resolution shall become effective immediately upon passage.

<< SIGNATURES ON FOLLOWING PAGE >>

**APPROVED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH,
ON THIS _____ DAY OF _____, 2024 BY THE FOLLOWING VOTE:**

	YES	NO	ABSTAIN	ABSENT
Patrick Harris	_____	_____	_____	_____
Kathie Johnson	_____	_____	_____	_____
Donald Shelton	_____	_____	_____	_____
Tamara Zander	_____	_____	_____	_____
Jason McGuire	_____	_____	_____	_____

Mayor: _____
Dawn R. Ramsey

Attest: _____
City Recorder

Approved as to form:



Office of the City Attorney



Utah Retirement Systems
PO Box 1590
Salt Lake City, UT 84110-1590
801-366-7318 | 800-753-7318
www.urs.org

Item G.1.

Employer Election To Pick-Up Member Contributions Tier 2 Public Safety and Firefighter

Instructions:

1. This form is designed to notify Utah Retirement Systems (URS) of an Employer's formal election to "pick-up" retirement contributions.
2. This form and accompanying documentation must be returned to URS for processing.
3. A pick-up election is subject to federal law, resulting in tax and legal consequences, including limitations about the ability to modify or revoke the election. For information regarding employer pick-up contributions, please refer to federal law and guidance, including Internal Revenue Code Section 414 and IRS Revenue Ruling 2006-43.
4. An Employer should consult its legal, financial, and tax advisors if it has any questions concerning the consequences of Member contribution "pick-ups" and submitting this form.

SECTION A » EMPLOYER INFORMATION

Employer Name	Employer Number	Date
City of South Jordan	476	6/18/2024
Desired Effective Date: <u>7/1/2024</u> (The effective date must be after the date that the pick-up election was formally adopted as provided in the attached documentation.)		

SECTION B » PICK-UP AMOUNT(S)

The above-named Employer certifies that it has taken formal action to provide that the contributions on behalf of its covered employees in the following URS System, although designated as employee contributions, will be paid by the employer in lieu of employee contributions. (Please check the box and fill in the portion of employee contributions picked-up for each class of employees below. For example, mark "ALL" for a pick-up of all employee contributions for that system or a percentage of salary for a pick-up of a portion of employee contributions.)

Please also attach written documentation to this form that provides evidence that the Employer formally elected to prospectively pick-up specified employee contributions. (For example, ordinance, resolution, governing body meeting minutes, etc.)

Note: If you are picking-up contributions for both public safety and firefighter employees, check both boxes

- ☒ Tier 2 Public Safety and Firefighter Contributory Retirement System, with the following pick-up election that will be paid by the Employer in lieu of employee contributions for members serving as a **Public Safety Officer**:
- ☐ ALL _____; **OR**
 - ☐ 4.73 % of salary.
- ☒ Tier 2 Public Safety and Firefighter Contributory Retirement System, with the following pick-up election that will be paid by the Employer in lieu of employee contributions for members serving as a **Firefighter**:
- ☐ ALL _____; **OR**
 - ☐ 2.59 % of salary.

SECTION C » CERTIFICATION AND SIGNATURE

I acknowledge and certify the following:

- I represent and have the authority to sign and submit this form on behalf of the participating employer;
- That Employer has taken all appropriate and necessary actions to make a formal Employer pick-up regarding employee contributions on behalf of its employees;
- The election to pay for the Employee contributions shall constitute an Employer pick-up of designated contributions pursuant to Internal Revenue Code Section 414;
- From and after the date of the pick-up election, an Employee may not: 1) have a cash or deferred election right with respect to designated Employee contributions; 2) be permitted to opt out of the pick-up; or 3) have the option of choosing to receive or receiving the contributed amounts directly instead of having them paid by the Employer to the specified system/plan;
- In order for contributions to be considered paid by the employer, and therefore not subject to Social Security and Medicare tax (FICA), the Employer contributions: 1) Must be mandatory for all Employees covered by the retirement system; and 2) Must be a salary supplement and not a salary reduction—In other words, the Employer must not reduce employee salary to offset the amount designated as employee contributions;
- Future modifications to this Employer election may be disallowed or limited;
- The election authorized to be taken by the foregoing is not contrary to any governing provisions of the Employer;
- I understand that URS is not providing the Employer legal, financial, or tax advice relating to making a "pick-up" election or submitting this form; and
- The information provided on this form and attached documentation is correct and can be relied upon by URS.

Printed Name of Employer Representative (Binding Official)	Signature of Binding Official	Title
Teresa Cook	<i>Teresa Cook</i>	Director of Human Resources

Utah Retirement Systems
Final Condensed Retirement Contribution Rates as a Percentage of Salary and Wages
Fiscal Year July 1, 2024 - June 30, 2025

Item G.1.

	Tier 1 DB System			Tier 1 Post Retired		Tier 2 - DB Hybrid System					Tier 2 - DC Plan				
	Contribution Reporting Fields Tier 1 2024-2025 RATES			Post Retired Employment after 6/30/2010 - NO 401(k)	Post Retired Employment before 7/1/2010	Contribution Reporting Fields Tier 2 2024-2025 RATES					Contribution Reporting Fields Tier 2 2024-2025 RATES				
	Employee	Employer	TOTAL	Amortization of UAAL**	Optional 401(k) Cap	Tier 2 Fund	Employee	Employer	401(k)	TOTAL	Tier 2 Fund	Employee	Employer	401(k)	TOTAL
Public Employees															
Contributory Retirement System															
11- Local Government	6.00	12.96	18.96	6.87	12.09	111	0.70	16.95	0.00	17.65	211	0.00	6.95	10.00	16.95
12- State and School ¹	6.00	17.20	23.20	11.75	11.45										
17- Higher Education	6.00	17.70	23.70	12.25	11.45										
Public Employees															
Noncontributory Retirement System															
15- Local Government	-	16.97	16.97	5.11	11.86	111	0.70	15.19	0.00	15.89	211	0.00	5.19	10.00	15.19
16- State and School ¹	-	21.69	21.69 *	9.44	12.25	112	0.70	19.52	0.00	20.22	212	0.00	9.52	10.00	19.52
18- Higher Education	-	22.19	22.19 *	9.94	12.25	117	0.70	20.02	0.00	20.72	217	0.00	10.02	10.00	20.02
Public Safety															
Contributory Retirement System															
Division A															
23- Other Division A With 2.5% COLA	12.29	22.29	34.58	11.27	23.31	122	4.73	25.35	0.00	30.08	222	0.00	11.35	14.00	25.35
Public Safety															
Noncontributory Retirement System															
Division A															
42- State With 4% COLA	-	40.85	40.85	17.96	22.89	122	4.73	32.04	0.00	36.77	222	0.00	18.04	14.00	32.04
43- Other Division A With 2.5% COLA	-	33.54	33.54	11.25	22.29	122	4.73	25.33	0.00	30.06	222	0.00	11.33	14.00	25.33
75- Other Division A With 4% COLA	-	35.21	35.21	12.41	22.80	122	4.73	26.49	0.00	31.22	222	0.00	12.49	14.00	26.49
48- Bountiful With 2.5% COLA	-	50.38	50.38	26.89	23.49	122	4.73	40.97	0.00	45.70	222	0.00	26.97	14.00	40.97
Division B															
44- Salt Lake City With 2.5% COLA	-	46.71	46.71	24.20	22.51	122	4.73	38.28	0.00	43.01	222	0.00	24.28	14.00	38.28
45- Ogden With 2.5% COLA	-	48.72	48.72	26.30	22.42	122	4.73	40.38	0.00	45.11	222	0.00	26.38	14.00	40.38
46- Provo With 2.5% COLA	-	42.23	42.23	19.61	22.62	122	4.73	33.69	0.00	38.42	222	0.00	19.69	14.00	33.69
47- Logan With 2.5% COLA	-	41.47	41.47	18.87	22.60	122	4.73	32.95	0.00	37.68	222	0.00	18.95	14.00	32.95
49- Other Division B With 2.5% COLA	-	32.57	32.57	9.95	22.62	122	4.73	24.03	0.00	28.76	222	0.00	10.03	14.00	24.03
76- Other Division B With 4% COLA	-	36.97	36.97	13.94	23.03	122	4.73	28.02	0.00	32.75	222	0.00	14.02	14.00	28.02
Firefighters' Retirement System															
Division A															
31- Division A	15.05	1.61	16.66	-	16.66	132	4.73	14.08	0.00	18.81	232	0.00	0.08	14.00	14.08
Division B															
32- Division B	16.71	4.34	21.05	-	21.05	132	4.73	14.08	0.00	18.81	232	0.00	0.08	14.00	14.08
Judges' Retirement System															
37- Judges' Noncontributory	-	45.76	45.76												

* Does not include the required 1.5% 401(k) contribution.

** Unfunded Actuarial Accrued Liability

¹ Public School Districts and Charter School rates are effective September 1, 2024 - August 31, 2025

Chapter 23

New Public Safety and Firefighter Tier II Contributory Retirement Act

Part 1

General Provisions

49-23-101 Title.

This chapter is known as the "New Public Safety and Firefighter Tier II Contributory Retirement Act."

Enacted by Chapter 266, 2010 General Session

Superseded 7/1/2024**49-23-102 Definitions.**

As used in this chapter:

- (1)
 - (a) "Compensation" means the total amount of payments that are includable in gross income received by a public safety service employee or a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of any amounts the public safety service employee or firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.
 - (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.
 - (c) "Compensation" does not include:
 - (i) overtime;
 - (ii) sick pay incentives;
 - (iii) retirement pay incentives;
 - (iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment or uniform, travel, or similar payments;
 - (v) a lump-sum payment or special payment covering accumulated leave; and
 - (vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.
 - (d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code.
- (2) "Corresponding Tier I system" means the system or plan that would have covered the member if the member had initially entered employment before July 1, 2011.
- (3) "Dispatcher" means the same as that term is defined in Section 53-6-102.
- (4) "Emergency medical service personnel" means an individual who:
 - (a) is:
 - (i) a paramedic;
 - (ii) an advanced emergency medical services technician; or
 - (iii) an emergency medical services technician;
 - (b) is required to be licensed or certified under Section 26B-4-116; and
 - (c) has a primary job duty to provide emergency medical services as a first responder.
- (5)

- (a) "Final average salary" means the amount calculated by averaging the highest five years of annual compensation preceding retirement subject to Subsections (5)(b), (c), (d), (e), and (f).
 - (b) Except as provided in Subsection (5)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.
 - (c) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (5)(b) may be exceeded if:
 - (i) the member has transferred from another agency; or
 - (ii) the member has been promoted to a new position.
 - (d) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.
 - (e) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.
 - (f) The annual compensation used to calculate final average salary shall be based on a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (15).
- (6)
- (a) "Firefighter service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:
 - (i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department;
 - (ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal;
 - (iii) a firefighter service employee who is:
 - (A) hired on or after July 1, 2021;
 - (B) trained in firefighter techniques;
 - (C) assigned to a position of hazardous duty; and
 - (D) employed by the state as a participating employer; or
 - (iv) an emergency medical service personnel.
 - (b) "Firefighter service" does not include secretarial staff or other similar employees.
- (7)
- (a) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter.
 - (b) "Firefighter service employee" does not include an employee of a regularly constituted fire department who does not perform firefighter service.
- (8)
- (a) "Line-of-duty death" means a death resulting from:
 - (i) external force, violence, or disease occasioned by an act of duty as a public safety service or firefighter service employee; or
 - (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service or firefighter service employee.
 - (b) "Line-of-duty death" does not include a death that:

- (i) occurs during an activity that is required as an act of duty as a public safety service or firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;
 - (ii) occurs during the commission of a crime committed by the employee;
 - (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or
 - (iv) occurs in a manner other than as described in Subsection (8)(a).
- (9) "Participating employer" means an employer that meets the participation requirements of:
 - (a) Sections 49-14-201 and 49-14-202;
 - (b) Sections 49-15-201 and 49-15-202;
 - (c) Sections 49-16-201 and 49-16-202; or
 - (d) Sections 49-23-201 and 49-23-202.
- (10)
 - (a) "Public safety service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:
 - (i) a law enforcement officer in accordance with Section 53-13-103;
 - (ii) a correctional officer in accordance with Section 53-13-104;
 - (iii) a special function officer approved in accordance with Sections 49-15-201 and 53-13-105;
 - (iv) a dispatcher who is certified in accordance with Section 53-6-303;
 - (v) a full-time member of the Board of Pardons and Parole created under Section 77-27-2;
 - (vi) the commissioner of the Department of Public Safety; or
 - (vii) the executive director of the Department of Corrections.
 - (b) Except for a position described in Subsection (10)(a)(iv), (v), (vi), or (vii), "public safety service" also requires that, in the course of employment, the employee's life or personal safety is at risk.
- (11) "Public safety service employee" means an employee of a participating employer who performs public safety service under this chapter.
- (12)
 - (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.
 - (b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.
- (13) "System" means the New Public Safety and Firefighter Tier II Contributory Retirement System created under this chapter.
- (14)
 - (a) "Volunteer firefighter" means any individual who is not regularly employed as a firefighter service employee, but who:
 - (i) has been trained in firefighter techniques and skills;
 - (ii) continues to receive regular firefighter training; and
 - (iii) is on the rolls of a legally organized volunteer fire department that provides ongoing training and serves a political subdivision of the state.
 - (b) An individual that volunteers assistance but does not meet the requirements of Subsection (14)(a) is not a volunteer firefighter for purposes of this chapter.
- (15) "Years of service credit" means:
 - (a) a period, consisting of 12 full months as determined by the board; or
 - (b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-

time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter.

Amended by Chapter 59, 2023 General Session

Effective 7/1/2024

49-23-102 Definitions.

As used in this chapter:

- (1)
 - (a) "Compensation" means the total amount of payments that are includable in gross income received by a public safety service employee or a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of any amounts the public safety service employee or firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.
 - (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.
 - (c) "Compensation" does not include:
 - (i) overtime;
 - (ii) sick pay incentives;
 - (iii) retirement pay incentives;
 - (iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment or uniform, travel, or similar payments;
 - (v) a lump-sum payment or special payment covering accumulated leave; and
 - (vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.
 - (d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code.
- (2) "Corresponding Tier I system" means the system or plan that would have covered the member if the member had initially entered employment before July 1, 2011.
- (3) "Dispatcher" means the same as that term is defined in Section 53-6-102.
- (4) "Emergency medical service personnel" means an individual who:
 - (a) is:
 - (i) a paramedic;
 - (ii) an advanced emergency medical services technician; or
 - (iii) an emergency medical services technician;
 - (b) is required to be licensed or certified under Section 53-2d-402; and
 - (c) has a primary job duty to provide emergency medical services as a first responder.
- (5)
 - (a) "Final average salary" means the amount calculated by averaging the highest five years of annual compensation preceding retirement subject to Subsections (5)(b), (c), (d), (e), and (f).
 - (b) Except as provided in Subsection (5)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

- (c) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (5)(b) may be exceeded if:
 - (i) the member has transferred from another agency; or
 - (ii) the member has been promoted to a new position.
 - (d) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.
 - (e) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.
 - (f) The annual compensation used to calculate final average salary shall be based on a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (15).
- (6)
- (a) "Firefighter service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:
 - (i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department;
 - (ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal;
 - (iii) a firefighter service employee who is:
 - (A) hired on or after July 1, 2021;
 - (B) trained in firefighter techniques;
 - (C) assigned to a position of hazardous duty; and
 - (D) employed by the state as a participating employer; or
 - (iv) an emergency medical service personnel.
 - (b) "Firefighter service" does not include secretarial staff or other similar employees.
- (7)
- (a) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter.
 - (b) "Firefighter service employee" does not include an employee of a regularly constituted fire department who does not perform firefighter service.
- (8)
- (a) "Line-of-duty death" means a death resulting from:
 - (i) external force, violence, or disease occasioned by an act of duty as a public safety service or firefighter service employee; or
 - (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service or firefighter service employee.
 - (b) "Line-of-duty death" does not include a death that:
 - (i) occurs during an activity that is required as an act of duty as a public safety service or firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;
 - (ii) occurs during the commission of a crime committed by the employee;
 - (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or
 - (iv) occurs in a manner other than as described in Subsection (8)(a).
- (9) "Participating employer" means an employer that meets the participation requirements of:

- (a) Sections 49-14-201 and 49-14-202;
 - (b) Sections 49-15-201 and 49-15-202;
 - (c) Sections 49-16-201 and 49-16-202; or
 - (d) Sections 49-23-201 and 49-23-202.
- (10)
- (a) "Public safety service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:
 - (i) a law enforcement officer in accordance with Section 53-13-103;
 - (ii) a correctional officer in accordance with Section 53-13-104;
 - (iii) a special function officer approved in accordance with Sections 49-15-201 and 53-13-105;
 - (iv) a dispatcher who is certified in accordance with Section 53-6-303;
 - (v) a full-time member of the Board of Pardons and Parole created under Section 77-27-2;
 - (vi) the commissioner of the Department of Public Safety; or
 - (vii) the executive director of the Department of Corrections.
 - (b) Except for a position described in Subsection (10)(a)(iv), (v), (vi), or (vii), "public safety service" also requires that, in the course of employment, the employee's life or personal safety is at risk.
- (11) "Public safety service employee" means an employee of a participating employer who performs public safety service under this chapter.
- (12)
- (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.
 - (b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.
- (13) "System" means the New Public Safety and Firefighter Tier II Contributory Retirement System created under this chapter.
- (14)
- (a) "Volunteer firefighter" means any individual who is not regularly employed as a firefighter service employee, but who:
 - (i) has been trained in firefighter techniques and skills;
 - (ii) continues to receive regular firefighter training; and
 - (iii) is on the rolls of a legally organized volunteer fire department that provides ongoing training and serves a political subdivision of the state.
 - (b) An individual that volunteers assistance but does not meet the requirements of Subsection (14)(a) is not a volunteer firefighter for purposes of this chapter.
- (15) "Years of service credit" means:
- (a) a period, consisting of 12 full months as determined by the board; or
 - (b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter.

Amended by Chapter 310, 2023 General Session

49-23-103 Creation of system.

- (1) There is created for members employed by a participating employer the "New Public Safety and Firefighter Tier II Contributory Retirement System."
- (2) The New Public Safety and Firefighter Tier II Contributory Retirement System includes:
 - (a) the Tier II hybrid retirement system created in Part 3, Tier II Hybrid Retirement System; and
 - (b) the Tier II defined contribution plan created in Part 4, Tier II Defined Contribution Plan.
- (3) The system may also be known and function as the Public Safety and Firefighter Tier 2 Contributory Retirement System, the Tier 2 Hybrid Retirement System, and the Tier 2 Defined Contribution Plan.

Amended by Chapter 31, 2019 General Session

49-23-104 Creation of trust fund.

- (1) There is created the "New Public Safety and Firefighter Tier II Contributory Retirement Trust Fund" for the purpose of paying the benefits and costs of administering the defined benefit portion of this system.
- (2) The fund shall consist of all money paid into it, including interest, in accordance with this chapter, whether in the form of cash, securities, or other assets, and of all money received from any other source.
- (3) Custody, management, and investment of the fund shall be governed by Chapter 11, Utah State Retirement Systems Administration.

Enacted by Chapter 266, 2010 General Session

Part 2 Membership Eligibility

49-23-201 System membership -- Eligibility.

- (1) Except as provided in Subsections (3) and (4), beginning July 1, 2011, a participating employer that employs public safety service employees or firefighter service employees shall participate in this system.
- (2)
 - (a) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, is eligible:
 - (i) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or
 - (ii) as a participant for defined contributions under the Tier II defined contributions plan established by Part 4, Tier II Defined Contribution Plan.
 - (b) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, shall:
 - (i) make an election to participate in the system created under this chapter:
 - (A) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or
 - (B) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan; and

- (ii) electronically submit to the office notification of the member's election under Subsection (2)(b)(i) in a manner approved by the office.
 - (c) An election made by a public safety service employee or firefighter service employee initially entering employment with a participating employer under this Subsection (2) is irrevocable beginning one year from the date of eligibility for accrual of benefits.
 - (d) If no election is made under Subsection (2)(b)(i), the public safety service employee or firefighter service employee shall become a member eligible for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System.
- (3)
- (a) Beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:
 - (i) the state shall be eligible for service credit in this system; and
 - (ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover the participating employer's dispatchers under this system.
 - (b) A participating employer's election to cover the participating employer's dispatchers under this system under Subsection (3)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.
 - (c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (3)(b), is not eligible for service credit in this system.
- (4) An employer is eligible to participate in this system if the employer employs emergency medical service personnel and meets the requirements of Subsections (5) and (6).
- (5)
- (a) Beginning July 1, 2023, a firefighter service employee who is an emergency medical service personnel employed by a participating employer shall be eligible for service credit in this system if the emergency medical service personnel's participating employer elects to cover the participating employer's emergency service personnel under this system.
 - (b)
 - (i) A participating employer's election under Subsection (5)(a) to cover the participating employer's emergency medical service personnel under this system is irrevocable.
 - (ii) A participating employer shall document an election under Subsection (5)(a) by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.
 - (c)
 - (i) An emergency medical service personnel's service before July 1, 2023, is not eligible for service credit in this system.
 - (ii) For an emergency medical service personnel employed by a participating employer, the emergency medical service personnel's service before the date the participating employer adopts a resolution described in Subsection (5)(b)(ii) is not eligible for service credit in this system.
- (6)
- (a) The fire chief, or if there is not a fire chief for the participating employer, the emergency services director, shall verify that an individual meets the definition of emergency medical service personnel.
 - (b)

- (i) Each participating employer participating in this system that employs emergency medical service personnel shall submit annually to the office a schedule indicating which emergency medical service personnel positions are covered under this system under this chapter.
 - (ii) The office may require documentation to justify the inclusion of any position under this section.
- (7) A public safety service employee who is transferred or promoted to an administration position requiring the performance of duties that consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system during the period in which the employee remains employed in the same department.
- (8) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:
- (a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and
 - (b) the employee:
 - (i) remains employed by the Department of Corrections;
 - (ii) meets the eligibility requirements of this system;
 - (iii) was hired into a position covered by this system before July 1, 2015; and
 - (iv) has not had a break in service on or after July 1, 2015.
- (9) An employee of the Department of Health and Human Services who is transferred from the Department of Corrections' clinical services bureau to provide a clinical or health care service to an inmate as defined in Section 64-13-1 shall continue to earn public safety service credit in this system if:
- (a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and
 - (b) the employee:
 - (i) remains employed by the Department of Corrections or the Department of Health and Human Services;
 - (ii) meets the eligibility requirements of this system;
 - (iii) was hired into a position covered by this system before July 1, 2015; and
 - (iv) has not had a break in service on or after July 1, 2015.

Amended by Chapter 59, 2023 General Session

Amended by Chapter 290, 2023 General Session

49-23-202 Participation of employers -- Admission requirements.

- (1)
 - (a) An employer is a participating employer and may not withdraw from participation in this system.
 - (b) A participating employer shall cover the participating employer's:
 - (i) public safety service employees in accordance with Section 49-15-202; and
 - (ii) firefighter service employees in accordance with Section 49-16-202.
- (2)
 - (a) An employer may, by resolution of the employer's governing body, apply for admission to this system.
 - (b) Upon approval of the resolution by the board, the employer is a participating employer in this system and is subject to this title.

- (3) If a participating employer purchases service credit on behalf of a public safety service employee or a firefighter service employee for service rendered prior to the participating employer's admission to this system, the participating employer shall:
- (a) purchase service credit in a nondiscriminatory manner on behalf of all current and former public safety service employees or firefighter service employees who were eligible for service credit at the time service was rendered; and
 - (b) comply with the provisions of Section 49-11-403.

Amended by Chapter 193, 2021 General Session

49-23-203 Exemptions from participation in system.

- (1) Upon filing a written request for exemption with the office, the following employees are exempt from participation in the system as provided in this section if the employee is a public safety service employee or firefighter service employee and is:
- (a) an executive department head of the state;
 - (b) an elected or appointed sheriff of a county;
 - (c) an elected or appointed chief of police of a municipality; or
 - (d) the chief of any fire department or district.
- (2)
- (a) A participating employer shall prepare a list designating those positions eligible for exemption under Subsection (1).
 - (b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (1).
- (3) Each participating employer shall:
- (a) file each employee exemption annually with the office; and
 - (b) update an employee exemption in the event of any change.
- (4) Beginning on the effective date of the exemption for an employee who elects to be exempt in accordance with Subsection (1):
- (a) for a member of the Tier II defined contribution plan:
 - (i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-23-401, except that the contribution is exempt from the vesting requirements of Subsection 49-23-401(3)(a);
 - (ii) the member may make voluntary deferrals as provided in Section 49-23-401; and
 - (iii) the member is not eligible for additional service credit in the plan for the period of exempt employment; and
 - (b) for a member of the Tier II hybrid retirement system:
 - (i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-23-401, except that the contribution is exempt from the vesting requirements of Subsection 49-23-401(3)(a);
 - (ii) the member may make voluntary deferrals as provided in Section 49-23-401; and
 - (iii) the member is not eligible for additional service credit in the system for the period of exempt employment.
- (5) If an employee who is a member of the Tier II hybrid retirement system subsequently revokes the election of exemption made under Subsection (1), the provisions described in Subsection (4)(b) shall no longer be applicable and the coverage for the employee shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.
- (6)

- (a) All employer contributions made on behalf of an employee shall be invested in accordance with Subsection 49-23-302(3)(a) or 49-23-401(4)(a) until the one-year election period under Subsection 49-23-201(2)(c) is expired if the employee:
 - (i) elects to be exempt in accordance with Subsection (1); and
 - (ii) continues employment with the participating employer through the one-year election period under Subsection 49-23-201(2)(c).
- (b) An employee is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses if the employee:
 - (i) elects to be exempt in accordance with Subsection (1); and
 - (ii) terminates employment prior to the one-year election period under Subsection 49-23-201(2)(c).
- (7)
 - (a) The office shall make rules to implement this section.
 - (b) The rules made under this Subsection (7) shall include provisions to allow the exemption provided under Subsection (1) to apply to all contributions made beginning on or after July 1, 2011, on behalf of an exempted employee who began the employment before May 8, 2012.
- (8) An employee's exemption, participation, or election described in this section:
 - (a) shall be made in accordance with this section; and
 - (b) is subject to requirements under federal law and rules made by the board.

Amended by Chapter 171, 2022 General Session

Part 3

Tier II Hybrid Retirement System

49-23-301 Contributions.

- (1) Participating employers and members shall pay the certified contribution rates to the office to maintain the defined benefit portion of this system on a financially and actuarially sound basis in accordance with Subsection (2).
- (2)
 - (a) A participating employer shall pay up to 14% of compensation toward the certified contribution rate to the office for the defined benefit portion of this system.
 - (b) Except as provided in Subsection (2)(c), a member shall pay to the office the amount, if any, of the certified contribution rate for the defined benefit portion of this system that exceeds the percent of compensation paid by the participating employer under Subsection (2)(a).
 - (c) A participating employer may elect to pay all or part of the required member contribution under Subsection (2)(b) on behalf of the member as an employer pick up under 26 U.S.C. Sec. 414(h)(2), in addition to the required participating employer contribution under Subsection (2)(a).
 - (d) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.
- (3)
 - (a) A member contribution is credited by the office to the account of the individual member.
 - (b) This amount, together with refund interest, is held in trust for the payment of benefits to the member or the member's beneficiaries.

- (c) A member contribution is vested and nonforfeitable.
- (4)
 - (a) Each member is considered to consent to payroll deductions of member contributions.
 - (b) The payment of compensation less these payroll deductions is considered full payment for services rendered by the member.
- (5) Except as provided under Subsection (6), benefits provided under the defined benefit portion of the Tier II hybrid retirement system created under this part:
 - (a) may not be increased unless the actuarial funded ratios of all systems under this title reach 100%; and
 - (b) may be decreased only in accordance with the provisions of Section 49-23-309.
- (6)
 - (a) The Legislature authorizes increases to the death benefit provided to a Tier II public safety service employee or firefighter member's surviving spouse effective on May 12, 2015, and July 1, 2020, as provided in Section 49-23-503.
 - (b)
 - (i) The Legislature authorizes an increase to the multiplier for the calculation of the retirement allowance provided to a member of the New Public Safety and Firefighter Tier II hybrid retirement system effective July 1, 2020, as provided in Section 49-23-304.
 - (ii) The requirements of Section 49-23-309 do not apply to the benefit adjustment described in this Subsection (6)(b).

Amended by Chapter 37, 2023 General Session

49-23-302 Defined contribution benefit established -- Contribution by employer and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of plans.

- (1)
 - (a) A participating employer shall make a nonelective contribution on behalf of each public safety service employee or firefighter service employee who is a member of this system in an amount equal to 14% minus the contribution rate paid by the employer under Subsection 49-23-301(2)(a) of the member's compensation to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:
 - (i) is sponsored by the board; and
 - (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.
 - (b) The member may make voluntary deferrals to:
 - (i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (1); or
 - (ii) at the member's option, another defined contribution plan established by the participating employer.
- (2)
 - (a) The total amount contributed by the participating employer under Subsection (1)(a), including associated investment gains and losses, vests to the member upon accruing four years of service credit under this title.
 - (b) The total amount contributed by the member under Subsection (1)(b) vests to the member's benefit immediately and is nonforfeitable.
 - (c)
 - (i) Years of service credit under Subsection (2)(a) includes any fraction of a year to which the member may be entitled.

- (ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of service credit required for vesting.
- (3)
 - (a) Contributions made by a participating employer under Subsection (1)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (2)(a).
 - (b) A member may direct the investment of contributions made by a participating employer under Subsection (1)(a) only after the contributions have vested in accordance with Subsection (2)(a).
 - (c) A member may direct the investment of contributions made by the member under Subsection (1)(b).
- (4) No loans shall be available from contributions made by a participating employer under Subsection (1)(a).
- (5) No hardship distributions shall be available from contributions made by a participating employer under Subsection (1)(a).
- (6)
 - (a) Except as provided in Subsection (6)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a), all contributions, including associated investment gains and losses, made by a participating employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.
 - (b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:
 - (i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon the member's employment as a regular full-time employee; and
 - (ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (2)(a).
 - (c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs or employer contributions made under this section.
- (7) The office may request from any other qualified 401(k) plan under Subsection (1) or (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.
- (8) The office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Amended by Chapter 484, 2019 General Session

49-23-303 Defined benefit eligibility for an allowance -- Date of retirement -- Qualifications.

- (1) A member is qualified to receive an allowance from this system when:
 - (a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;
 - (b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

- (c) one of the following conditions is met as of the member's retirement date:
 - (i) the member has accrued at least four years of service credit and has attained an age of 65 years;
 - (ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;
 - (iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years; or
 - (iv) the member has accrued at least 25 years of service credit.
- (2)
 - (a) The member's retirement date:
 - (i) shall be the 1st or the 16th day of the month, as selected by the member;
 - (ii) shall be on or after the date of termination; and
 - (iii) may not be more than 90 days before or after the date the application is received by the office.
 - (b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).
- (3)
 - (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.
 - (b) A member who is employed by a participating employer and who is also a part-time appointed board member, as described in Subsection 49-11-1203(2), is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).
 - (c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in Section 49-11-1202 for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).
 - (d) A member who is employed by a participating employer and who is also a part-time appointed or elected board member, as defined in Section 49-11-1202, for a different agency is not required to cease service as a part-time appointed or elected board member to be qualified to receive an allowance under Subsection (1).
- (4) An exemption from the requirement to cease service and remain qualified to receive an allowance as provided in Subsection (3) is available only for a member who, at the time of retirement, is at least:
 - (a) 50 years old, if the member is retiring from a public safety system or firefighter system; or
 - (b) 55 years old.

Amended by Chapter 449, 2020 General Session

49-23-304 Defined benefit service retirement plans -- Calculation of retirement allowance -- Social security limitations.

- (1)
 - (a) Except as provided under Subsection (6), the retirees of this system may choose from the six retirement options described in this section.
 - (b) Options Two, Three, Four, Five, and Six are modifications of the Option One calculation.
- (2) The Option One benefit is an annual allowance calculated as follows:

- (a) If the retiree is at least 65 years of age or has accrued at least 25 years of service credit, the allowance is an amount equal to:
 - (i) 1.5% of the retiree's final average salary multiplied by the number of years of service credit accrued on and after July 1, 2011, but before July 1, 2020; plus
 - (ii) 2% of the retiree's final average salary multiplied by the number of years of service credit accrued on and after July 1, 2020.
- (b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full actuarial amount for each year of retirement from age 60 to age 65, unless the member has 25 or more years of accrued credit in which event no reduction is made to the allowance.
- (c)
 - (i) Years of service includes any fractions of years of service to which the retiree may be entitled.
 - (ii) At the time of retirement, if a retiree's combined years of actual, not purchased, service credit is within 1/10 of one year of the total years of service credit required for retirement, the retiree shall be considered to have the total years of service credit required for retirement.
- (d) An Option One allowance is only payable to the member during the member's lifetime.
- (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated by reducing an Option One benefit based on actuarial computations to provide the following:
 - (a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's member contributions, the remaining balance of the retiree's member contributions shall be paid in accordance with Sections 49-11-609 and 49-11-610.
 - (b) Option Three is a reduced allowance paid to and throughout the lifetime of the retiree, and, upon the death of the retiree, the same reduced allowance is paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.
 - (c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance is paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.
 - (d) Option Five is a modification of Option Three so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:
 - (i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or
 - (ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.
 - (e) Option Six is a modification of Option Four so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:
 - (i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or
 - (ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.
- (4)

- (a) If a retiree under Option One dies within 120 days after the retiree's retirement date, the retirement is canceled and the death shall be considered as that of a member before retirement.
 - (b) Any payments made to the retiree shall be deducted from the amounts due to the beneficiary.
- (5)
- (a) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there is no court order filed in the matter.
 - (b) A conversion to an Option One benefit under this Subsection (5) begins on the first day of the month following the month in which the notification and supporting documentation for the divorce are received by the office.
- (6) A retiree may not choose payment of an allowance under a retirement option described in this section that is not applicable to that retiree, including because the retiree did not make member contributions or does not have a lawful spouse at the time of retirement.

Amended by Chapter 31, 2019 General Session

Amended by Chapter 484, 2019 General Session

49-23-305 Allowance payable by lump-sum payment.

- (1) If a retiree's allowance, as computed under this chapter, amounts to \$25 or less, the allowance may be settled by the office by making a lump-sum payment of an amount actuarially equivalent to the allowance.
- (2) A payment made under this section constitutes a full and complete settlement of the retiree's claim against this system.

Enacted by Chapter 266, 2010 General Session

49-23-306 Lump-sum death benefit for retiree and spouse.

- (1)
 - (a) Upon retirement, a retiree may elect to have the office deduct an actuarially determined amount from the retiree's allowance to provide a lump-sum benefit payable to a beneficiary upon the death of the retiree.
 - (b) Upon retirement, a retiree may also elect to have an actuarially determined amount deducted from the retiree's allowance to provide a lump-sum death benefit payable to a beneficiary upon the death of the retiree's lawful spouse at the time of retirement.
 - (c) The board may make rules for the administration of this lump-sum death benefit.
- (2)
 - (a) For a retiree who pays for a lump-sum death benefit under this section through a reduction of an allowance, benefits shall be paid in accordance with Sections 49-11-609 and 49-11-610.
 - (b) If the retiree chooses Option Three, Four, Five, or Six, and a lump-sum death benefit is payable after the death of the retiree, the allowance shall be restored to its original amount.
- (3)
 - (a) A retiree may elect to cancel the lump-sum death benefit under this section.
 - (b) The cancellation under this Subsection (3) is irrevocable.
 - (c) Upon cancellation, the allowance shall be restored to its original amount and benefits under this section may not be paid.

Enacted by Chapter 266, 2010 General Session

49-23-307 Defined benefit annual cost-of-living adjustment.

- (1) The office shall make an annual cost-of-living adjustment to:
 - (a) an original allowance paid under Section 49-23-305, if the allowance has been paid for at least one year; and
 - (b) an original payment made to an alternate payee under a domestic relations order, if the payment is to be paid as a percentage of the allowance rather than a specific dollar amount.
- (2)
 - (a) The original allowance shall be increased by the annual increase in the Consumer Price Index up to a maximum of 2.5%.
 - (b) Annual increases in the Consumer Price Index in excess of 2.5% shall be accumulated and used in subsequent adjustments when the annual increase in the Consumer Price Index is less than 2.5%.
- (3) The Consumer Price Index used in calculating adjustments shall be a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.
- (4) The cost-of-living adjustment made under this section may not decrease the allowance.

Enacted by Chapter 266, 2010 General Session

49-23-308 Purchase of service credit -- Conditions -- Cost -- Nondiscrimination policy.

- (1)
 - (a) A member may purchase or a member and a participating employer may jointly purchase a maximum of five years of service credit which cannot otherwise be purchased under this title.
 - (b) At a minimum, the years of service credit purchased shall be sufficient to allow the member to meet the retirement eligibility requirements of this system with no actuarial reduction.
 - (c) The member's retirement date shall be immediately after the purchase of years of service credit.
 - (d) The member shall pay at least 5% of the cost of the purchase.
 - (e) To qualify for a purchase of service credit under this section, the member shall:
 - (i) have at least five years of service credit; and
 - (ii) otherwise meet federal eligibility requirements.
- (2) The purchase price for the years of service credit shall be calculated and paid for as provided in Section 49-11-403.
- (3) Prior to making any purchase of years of service credit under this section, a participating employer shall adopt a purchase policy that includes nondiscriminatory participation standards for all regular full-time employees.
- (4) Only members retiring from this system may purchase service credit under this section.

Enacted by Chapter 266, 2010 General Session

49-23-309 Defined benefit adjustments -- Conditions -- Process -- Future years accrual.

- (1) In accordance with this section, the Legislature may make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System created under this part if the member's contribution required under Subsection 49-23-301(2)(b) to the certified contribution rate for the defined benefit portion of this system exceeds 2% of the member's salary and:
 - (a)

- (i) the membership council created under Section 49-11-205 recommends an adjustment to the board in accordance with Subsection (2); and
 - (ii) the board recommends specific adjustments to the Legislature in accordance with Subsection (2); or
- (b) an actuarial study that conforms with generally accepted actuarial principles and practices and with the Actuarial Standards of Practice issued by the Actuarial Standards Board and requested or commissioned by the board or the Legislature concludes:
 - (i) there is a significant likelihood that contribution rates will continue to rise; and
 - (ii) that participating employers are liable for system costs above the contribution rate established under Subsection 49-23-301(2)(a).
- (2) If the conditions under Subsection (1)(a) or (b) are met, the Legislature may adjust benefits for the defined benefit portion of the Tier II Hybrid Retirement System accrued or applied for future years of service including:
 - (a) the final average salary calculation provided under Section 49-23-102;
 - (b) the years of service required to be eligible to receive a retirement allowance under Section 49-23-303;
 - (c) the years of service credit multiplier established under Subsection 49-23-304(2)(a);
 - (d) the annual cost-of-living adjustment under Section 49-23-307; or
 - (e) other provisions of the defined benefit portion of the Tier II Hybrid Retirement System.
- (3)
 - (a) Notwithstanding the provisions of Subsections (1) and (2), the Legislature may make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System created under this part if an actuarial study described under Subsection (1)(b) concludes, due to current and projected economic conditions, member participation levels, and system structure, that the system:
 - (i) cannot reasonably be sustained under its current provisions;
 - (ii) is critically underfunded; and
 - (iii) has become unstable and is in risk of collapse.
 - (b) Subject to federal law, the adjustments under Subsection (3)(a) may include:
 - (i) conversion to a different type of retirement plan;
 - (ii) equitable distribution of system assets to retirees and members; and
 - (iii) a closure of the system.

Amended by Chapter 31, 2019 General Session

Part 4

Tier II Defined Contribution Plan

49-23-401 Contributions -- Rates.

- (1)
 - (a) Up to the amount allowed by federal law, the participating employer shall make a nonelective contribution of 14% of the participant's compensation to a defined contribution plan.
 - (b) In addition to the nonelective contribution described in Subsection (1)(a), if a participating employer elects under Subsection 49-23-301(2)(c) to pay all or part of the required member contribution on behalf of the participating employer's employees that are members covered under Part 3, Tier II Hybrid Retirement System, the participating employer shall make an

additional nonelective contribution to an employee that is a member covered under this part at the same percentage rate of the participant's compensation as the participating employer's election to pay required member contributions on behalf of the participating employer's employees that are members covered under Part 3, Tier II Hybrid Retirement System.

- (2)
- (a) The participating employer shall contribute the contributions described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code that:
 - (i) is sponsored by the board; and
 - (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.
 - (b) The member may make voluntary deferrals to:
 - (i) the qualified 401(k) plan that receives the employer contribution described in this Subsection (2); or
 - (ii) at the member's option, another defined contribution plan established by the participating employer.
 - (c) In addition to the contributions specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.
- (3)
- (a) Except as provided under Subsection (3)(c), the total amount contributed by the participating employer under Subsection (2)(a) vests to the member upon accruing four years of service credit under this title.
 - (b) The total amount contributed by the member under Subsection (2)(b) vests to the member's benefit immediately and is nonforfeitable.
 - (c)
 - (i) Upon filing a written request for exemption with the office, an eligible employee is exempt from the vesting requirements of Subsection (3)(a) in accordance with Section 49-23-203.
 - (ii) An employee who is exempt under this Subsection (3)(c) is not eligible for additional service credit in the plan for the period of exempt employment.
 - (d)
 - (i) Years of service credit under Subsection (3)(a) includes any fraction of a year to which the member may be entitled.
 - (ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of service credit required for vesting.
- (4)
- (a) Contributions made by a participating employer under Subsection (2)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (3)(a).
 - (b) A member may direct the investment of contributions, including associated investment gains and losses, made by a participating employer under Subsection (2)(a) only after the contributions have vested in accordance with Subsection (3)(a).
 - (c) A member may direct the investment of contributions made by the member under Subsection (3)(b).
- (5) No loans shall be available from contributions made by a participating employer under Subsection (2)(a).
- (6) No hardship distributions shall be available from contributions made by a participating employer under Subsection (2)(a).
- (7)

- (a) Except as provided in Subsection (7)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a), all contributions made by a participating employer on behalf of the member under Subsection (2)(a), including associated investment gains and losses are subject to forfeiture.
- (b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:
 - (i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon the member's employment as a regular full-time employee; and
 - (ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (3)(a).
- (c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs of employer contributions made under this section.
- (8) The office may request from any other plan under Subsection (2)(b)(ii) any relevant information pertaining to the maintenance of the plan's tax qualification under the Internal Revenue Code.
- (9) The office may take any action that in the office's judgment is necessary to maintain the tax-qualified status of the office's 401(k) defined contribution plan under federal law.

Amended by Chapter 171, 2022 General Session

49-23-402 Defined contribution distributions for disabled members.

For a person who is disabled and receives contributions under Subsection 49-11-404(4)(b), the disabled member may begin receiving distributions from the defined contributions made by the participating employer on behalf of the disabled member when the person would have been eligible to retire if the person was covered by the defined benefit portion of the Tier II hybrid retirement system under Part 3, Tier II Hybrid Retirement System.

Enacted by Chapter 266, 2010 General Session

49-23-403 Eligibility to receive a retirement allowance for a benefit tied to a retirement date for defined contribution members.

- (1) As used in this section, "eligible to receive a retirement allowance" means the date selected by the member who is a participant under this part on which the member has ceased employment and would be qualified to receive an allowance under Section 49-23-303 if the member had been under the Tier II Hybrid Retirement System for the same period of employment.
- (2) The office and a participating employer shall make an accounting of years of service credit accrued for a member who is a participant under this part in order to calculate when a member would be eligible to receive a retirement allowance for purposes of establishing when a member may be eligible for a benefit tied to a retirement date that may be provided under Section 63A-17-508, this title, another state statute, or by a participating employer.

Amended by Chapter 345, 2021 General Session

Part 5

Death Benefit

49-23-501 Death benefit -- Eligibility for death benefit -- Benefit calculation -- Payment of claim.

- (1) The office shall provide a death benefit for members of this system.
- (2) The board shall make rules to administer the death benefit provided by this section and may, in accordance with federal law, establish:
 - (a) benefit levels;
 - (b) classes of members; and
 - (c) a living benefit option.
- (3) This death benefit is payable when:
 - (a) the member dies prior to the member's retirement date or dies under circumstances which Subsection 49-23-304(4) requires to be treated as the death of a member before retirement;
 - (b) the office receives acceptable proof of death; and
 - (c) benefits are not payable under Section 49-23-306.
- (4) The death benefit payable to the beneficiary under this section is a lump-sum payment consisting of:
 - (a) the return of any member contributions under this chapter; plus
 - (b) a percentage of the final average salary of the member to be determined by the board.
- (5) Any amount of a living benefit option paid to the member prior to death shall be deducted from the benefit payable to the beneficiary.
- (6) The cost of the death benefit shall be paid by the participating employer in addition to the contribution rate established under Section 49-23-301 or 49-23-401.
- (7) The portion of the death benefit provided under Subsection (4)(b) may not be paid to the beneficiary of an inactive member unless the death of the member occurs either:
 - (a) within a period of 120 days after the last day of work for which the person received compensation; or
 - (b) while the member is still physically or mentally incapacitated from performance of duties, if the incapacity has been continuous since the last day of work for which compensation was received.
- (8) The death benefit provided under Subsection (4)(b) shall be paid in accordance with Sections 49-11-609 and 49-11-610.
- (9) The death benefit paid to the beneficiary of an inactive member, except as otherwise provided under Subsection (7), is a lump-sum return of the member's member contributions.
- (10) Payment of the death benefit by the office constitutes a full settlement of any beneficiary's claim against the office and the office is not liable for any further or additional claims or assessments on behalf of the member.
- (11) Unless otherwise specified in a written document filed with the office, death benefits payable to beneficiaries shall be in accordance with the order of precedence established under Title 75, Chapter 2, Intestate Succession and Wills.
- (12) A death benefit under this section may not be paid on behalf of a retiree under this system.
- (13) Except for the death benefit described in Subsection (4), a member of the Tier II defined contribution plan is not eligible for death benefits under this section or Section 49-23-502 or 49-23-503.

Amended by Chapter 24, 2020 General Session

49-23-502 Death of married members -- Service retirement benefits to surviving spouse.

- (1) As used in this section, "member's full allowance" means an Option Three allowance calculated under Section 49-23-304 without an actuarial reduction.
- (2) Upon the request of a deceased member's surviving spouse at the time of the member's death, the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:
 - (a) the member has:
 - (i) 15 or more years of service credit;
 - (ii) attained age 62 with 10 or more years of service credit; or
 - (iii) attained age 65 with four or more years of service credit; and
 - (b) the member dies leaving a surviving spouse.
- (3) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:
 - (a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or
 - (b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.
- (4) The allowance payable to a surviving spouse under Subsection (2) is:
 - (a) if the member has 25 or more years of service credit at the time of death, the surviving spouse shall receive the member's full allowance;
 - (b) if the member has between 20-24 years of service credit and is not age 60 or older at the time of death, the surviving spouse shall receive two-thirds of the member's full allowance;
 - (c) if the member has between 15-19 years of service credit and is not age 62 or older at the time of death, the surviving spouse shall receive one-third of the member's full allowance; or
 - (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or older with 10 or more years of service credit, or age 65 or older with four or more years of service credit at the time of death, the surviving spouse shall receive an Option Three benefit with actuarial reductions.
- (5) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.
- (6)
 - (a) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any other payments made under Section 49-23-501.
 - (b) Payments made under this section and Section 49-23-501 shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary.
- (7) If the death benefits under this section or Section 49-23-503 are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Amended by Chapter 421, 2024 General Session

49-23-503 Death of active member in line of duty -- Payment of benefits.

If an active member of this system dies, benefits are payable as follows:

- (1) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:
 - (a) If the member has accrued less than 20 years of public safety service or firefighter service credit, the surviving spouse shall receive:
 - (i) a lump sum equal to six months of the active member's final average salary; and
 - (ii) the greater of:
 - (A) an allowance equal to 30% of the member's final average monthly salary; or
 - (B) an allowance equal to 2% of the member's final average monthly salary multiplied by the years of service credit accrued by the member.
 - (b) If the member has accrued 20 or more years of public safety service or firefighter service credit, the member shall be considered to have retired with an Option One allowance calculated without an actuarial reduction under Section 49-23-304 and the surviving spouse shall receive the allowance that would have been payable to the member.
- (2)
 - (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this section if the death results from external force, violence, or disease directly resulting from firefighter service.
 - (b) The lowest monthly compensation of firefighters of a city of the first class in this state at the time of death shall be considered to be the final average monthly salary of a volunteer firefighter for purposes of computing these benefits.
 - (c) Each volunteer fire department shall maintain a current roll of all volunteer firefighters that meet the requirements of Subsection 49-23-102(14) to determine the eligibility for this benefit.
- (3)
 - (a) If the death is classified as a line-of-duty death by the office, death benefits are payable under this section and the surviving spouse is not eligible for benefits under Section 49-23-502.
 - (b) If the death is not classified as a line-of-duty death by the office, benefits are payable in accordance with Section 49-23-502.
- (4)
 - (a) A surviving spouse who qualifies for a monthly benefit under this section shall apply in writing to the office.
 - (b) The allowance shall begin on the first day of the month following the month in which the:
 - (i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or
 - (ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Amended by Chapter 59, 2023 General Session

49-23-504 Death of members -- Exemption from vesting requirements for employer nonelective contributions to defined contribution plan.

- (1)
 - (a) If an active member dies, employer nonelective contributions made on behalf of the employee to a defined contribution plan under Section 49-23-302 or 49-23-401 are exempt from the vesting requirements of Subsections 49-23-302(2)(a) and 49-23-401(3)(a).
 - (b) The total amount of nonelective contributions made by the participating employer vests to the member upon death and the member's beneficiary is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses.

- (2) Employer contributions vested and distributed under this section are in addition to and separate from the benefits payable under Sections 49-23-501, 49-23-502, and 49-23-503.

Enacted by Chapter 315, 2015 General Session

Part 6

Disability Benefit

49-23-601 Long-term disability coverage.

- (1) A participating employer shall cover a public safety service employee who initially enters employment on or after July 1, 2011, under Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program.
- (2)
- (a) A participating employer shall cover a firefighter service employee who initially enters employment on or after July 1, 2011, under Chapter 21, Public Employees' Long-Term Disability Act.
- (b) In accordance with this section, a participating employer shall provide long-term disability benefit coverage for a volunteer firefighter as provided under Section 49-16-701.
- (c) The office shall ensure that the cost of the long-term disability benefit coverage provided under Subsections (2)(a) and (b) is funded with revenue received under Section 49-11-901.5.

Amended by Chapter 37, 2023 General Session

Amended by Chapter 139, 2023 General Session

49-23-602 Benefit protection contract.

- (1) As used in this section:
- (a) "Objective medical impairment" means the same as that term is defined in Section 49-21-102.
- (b) "Qualifying injury or illness" means a physical or mental objective medical impairment resulting from external force or violence as a result of the performance of an employment duty.
- (2)
- (a) A participating employer shall provide a benefit protection contract described in Section 49-11-404 for any public safety service employee or firefighter service employee who suffers a qualifying injury or illness as determined in accordance with this section.
- (b) A participating employer may elect to provide a benefit protection contract for any other injury or illness of a public safety service employee or firefighter service employee in accordance with the requirements for providing a benefit protection contract, including the provisions of Section 49-11-404.
- (3)
- (a) For purposes of Subsection (2)(a), the provider of long-term disability or workers' compensation indemnity benefits shall determine if a public safety service employee or firefighter service employee has suffered a qualifying injury or illness, including completing any appeals relating to that determination in accordance with the applicable appeals procedures.
- (b) In addition to the annual report requirements under Section 49-11-404:

- (i) if there is final determination that a public safety service employee or firefighter service employee has suffered a qualifying injury or illness and is awarded an ongoing monthly disability benefit based on that qualifying injury or illness, the participating employer shall immediately notify the office of the employee's award of that ongoing monthly disability benefit; and
- (ii) if the public safety service employee's or firefighter service employee's monthly disability benefit is terminated for any reason, the participating employer shall immediately notify the office of the termination of the monthly disability benefit.

Enacted by Chapter 122, 2022 General Session

Effective 5/3/2023**49-23-301 Contributions.**

- (1) Participating employers and members shall pay the certified contribution rates to the office to maintain the defined benefit portion of this system on a financially and actuarially sound basis in accordance with Subsection (2).
- (2)
 - (a) A participating employer shall pay up to 14% of compensation toward the certified contribution rate to the office for the defined benefit portion of this system.
 - (b) Except as provided in Subsection (2)(c), a member shall pay to the office the amount, if any, of the certified contribution rate for the defined benefit portion of this system that exceeds the percent of compensation paid by the participating employer under Subsection (2)(a).
 - (c) A participating employer may elect to pay all or part of the required member contribution under Subsection (2)(b) on behalf of the member as an employer pick up under 26 U.S.C. Sec. 414(h)(2), in addition to the required participating employer contribution under Subsection (2)(a).
 - (d) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.
- (3)
 - (a) A member contribution is credited by the office to the account of the individual member.
 - (b) This amount, together with refund interest, is held in trust for the payment of benefits to the member or the member's beneficiaries.
 - (c) A member contribution is vested and nonforfeitable.
- (4)
 - (a) Each member is considered to consent to payroll deductions of member contributions.
 - (b) The payment of compensation less these payroll deductions is considered full payment for services rendered by the member.
- (5) Except as provided under Subsection (6), benefits provided under the defined benefit portion of the Tier II hybrid retirement system created under this part:
 - (a) may not be increased unless the actuarial funded ratios of all systems under this title reach 100%; and
 - (b) may be decreased only in accordance with the provisions of Section 49-23-309.
- (6)
 - (a) The Legislature authorizes increases to the death benefit provided to a Tier II public safety service employee or firefighter member's surviving spouse effective on May 12, 2015, and July 1, 2020, as provided in Section 49-23-503.
 - (b)
 - (i) The Legislature authorizes an increase to the multiplier for the calculation of the retirement allowance provided to a member of the New Public Safety and Firefighter Tier II hybrid retirement system effective July 1, 2020, as provided in Section 49-23-304.
 - (ii) The requirements of Section 49-23-309 do not apply to the benefit adjustment described in this Subsection (6)(b).

Amended by Chapter 37, 2023 General Session



Employer "pick-up" contributions to benefit plans

Retirement plans that feature a salary reduction or cash-deferred arrangement allow employees to choose to defer some income from tax by electing to place it in a trust account for retirement. By making such an election, the amount deferred is not subject to income tax at the time it was placed in the trust. The deferred amounts are subject to social security and Medicare (FICA) tax.

However, other employer retirement plans are funded either through employer contributions only, or by mandatory employee contributions, with no elections to defer salary. These plans can raise questions about whether the contributions are considered paid by the employer or by the employee, and thus whether these amounts are subject to income tax and FICA withholding. This article is intended to address recent IRS guidance on these questions.

General rule for employee contributions

Contributions made by the employer to an employee retirement plan (whether the plan provides for elective deferrals or not) are not included in employee income. However, any additional contributions made by the employees are included in income, unless they are made under elective deferral provisions. Where no deferral election is possible (such as in a defined benefit plan), employee contributions are included in income. In general, any employer contributions made by an employer to a 401(a) or 403(b) plan on behalf of employees are not treated as made by the employer if they are designated as an employee contribution.

Employer pick-up

However, IRC section 414(h)(2) provides that for any plan established by a governmental unit, where the contributions of employing units are designated employee contributions, but the employer “picks up” the contributions, the contributions are treated as employer contributions.

For the employee contributions to be deemed picked up by the employer and therefore to be characterized as “employer contributions”, certain tests must be met. A series of rulings by the IRS established that only amounts that the governmental employer pays (including certain amounts withheld or otherwise offset from the employee's salary) are considered employer contributions, and are therefore excludable from gross income.

In [Revenue Ruling 2006-43](#), the IRS clarified the requirements for employee contributions to be considered made, or picked up, by the employer.

- Specifies that the contributions, although designated as employee contributions, are being paid by the employer. For this purpose, the employing unit must take formal action to provide that the contributions on behalf of a specific class of employees of the employing unit, although designated as employee contributions, will be paid by the employing unit in lieu of employee contributions.
- Does not permit a participating employee, from and after the date of the “pick-up”, to have a cash or deferred election right with respect to designated employee contributions. Participating employees must not be permitted to opt out of the “pick-up”, or to receive the contributed amounts directly instead of having them paid by the employing unit to the plan.

Further details of these requirements are contained in [Revenue Ruling 2006-43](#).

Treatment of contributions for Social Security and Medicare tax

The above applies to the income tax treatment of employer pick-ups. In [CCA 200714018](#) [PDF](#), the IRS addressed the treatment of pick-ups for Social Security and Medicare tax (FICA) purposes.

Contributions to a retirement plan that come from salary reduction amounts are subject to FICA. IRC 3121(v)(1)(B) indicates that a salary reduction occurs if the amount shown as wages are less than they would have been but for the contribution.

In order for contributions to be considered paid by the employer, and therefore not subject to FICA, the employer contributions:

- Must be mandatory for all employees covered by the retirement system.
- Must be a salary “supplement” and not a salary reduction – in other words, the employer must not reduce employee salary to offset the amount designated as employee contributions.

The amounts that would have been included in wages for FICA tax purposes “but for the employee contribution” are determined based on the facts and circumstances that determine the employee’s compensation under the overall employment relationship. If the circumstances indicate that the wages are equal to what they otherwise would have been, but for the contribution, then the amounts are not included in FICA wages. If the facts and circumstances indicate that the contributions reduced or offset the wages paid, they would not meet the test and the contributions to the plan and would be included in FICA wages.

If the employer pays the contributions in addition to salary increases that are consistent with historical norms, this is an indication that they are not paid in lieu of present or future salary and are not included in wages for FICA purposes.

Page Last Reviewed or Updated: 11-Mar-2024

RESOLUTION R2022 - 30**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, INCREASING THE AMOUNT OF CITY PORTION OF EMPLOYER "PICK-UP" OF PUBLIC SAFETY AND FIREFIGHTER EMPLOYEE RETIREMENT CONTRIBUTIONS.**

WHEREAS, Utah Code Ann. §49-23-301 and Internal Revenue Code § 414(h)(2) allow the City of South Jordan as the employer to "pick-up" part of employee's contribution to qualifying retirement plan; and

WHEREAS, pursuant to Resolution R2020-42 (attached hereto), the South Jordan City Council elected to exercise the "pick-up" option at the then allowed rate of 2.27% of compensation for each employee; and

WHEREAS, the allowed rate of 2.27% was increased by Utah Retirement Systems to 2.59%, which would not go into effect for City employees unless the City Council elects to increase the City's contribution; and

WHEREAS, the South Jordan City Council finds it in the best interest of the City to increase the City's contribution of the allowed "pick-up" to 2.59% of compensation for each employee.

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

SECTION 1. **Approval of Contribution Increase.** Beginning July 1, 2022, the City of South Jordan shall prospectively "pick-up" and pay required employee contributions for a ll eligible City employees who are participating members in the Tier II Hybrid Retirement System, under the New Public Safety and Firefighter Tier II Contributory Retirement Act, Subject to a maximum of 2.59% of compensation for each employee.

SECTION 2. **Acknowledgment of City of South Jordan Resolution R2020-42.** All other provisions of Resolution R2020-42 remain unchanged.

SECTION 3. **Effective Date.** This Resolution shall become effective immediately upon passage.

<< Signatures on following page. >>

APPROVED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH,
ON THIS 21 DAY OF June, 2022 BY THE FOLLOWING VOTE:

	YES	NO	ABSTAIN	ABSENT
Patrick Harris	<u>X</u>	—	—	—
Bradley Marlor	<u>X</u>	—	—	—
Donald Shelton	—	—	—	<u>X</u>
Tamara Zander	<u>X</u>	—	—	—
Jason McGuire	<u>X</u>	—	—	—

Mayor: *Dawn R. Ramsey*
Dawn R. Ramsey

Attest: *Anna Crankston*
City Recorder

Approved as to form:

Ran v. Locke

Office of the City Attorney



SOUTH JORDAN CITY CITY COUNCIL REPORT

Item G.2.

Meeting Date: 06-18-24

Issue: COMMERCE PARK MUNICIPAL WATERLINE EASEMENT VACATION
Address: Approx. 6273 W. Crimson View Drive
File No: PLPLA202400080
Applicant: Nate Reiner

Submitted by: Greg Schindler, City Planner
Presented by: Steven Schaefermeyer, Director of Planning

Staff Recommendation (Motion Ready):

- I move to **Approve** Ordinance 2024-13 vacating a South Jordan City waterline easement located on property located at 6273 W. Crimson View Drive.

CURRENT USE	The property is currently vacant.
FUTURE USE	North – Future Daybreak Development (Residential) South – Future Daybreak Development (Residential)

BACKGROUND:

The applicant, Nate Reiner, on behalf of property owner Short Daybreak Holdings 1 LLC, has petitioned the City to vacate a South Jordan City waterline easement located on property at 6273 W. Crimson View Drive. The applicant and property owner have also filed a site plan application proposing to construct a building on the property. During the site plan review it was found that the proposed building would be located over the existing water line easement.

On May 10, 2024, a new waterline easement was recorded with the Salt Lake County Recorder's Office.

STAFF FINDINGS, CONCLUSIONS & RECOMMENDATION:

Findings:

- Utah Code § 10-9a-609.5(3) provides standards of approval for vacating a public easement:
The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street, right-of-way, or easement if the legislative body finds that:
 - (a) good cause exists for the vacation; and
 - (b) neither the public interest nor any person will be materially injured by the vacation.
- Staff finds that there is good cause for vacating the right-of-way for the following reasons:
 - Vacating the waterline easement and relocating and granting a new waterline easement will allow the construction of new building on the property.
 - No public interest or any person will be materially injured by the vacation of this waterline easement since a replacement waterline easement has already been recorded.

Conclusion:

- The proposed vacation of the waterline easement meets the requirements of Utah Code.

Recommendation:

- Based on the Findings and Conclusions listed above, Staff recommends that the City Council take comments at the public hearing and **approve** the petition to vacate, unless, during the hearing, facts are presented that contradict these findings or new facts are presented, either of which would warrant further investigation by Staff.

FISCAL IMPACT:

- There are no significant fiscal impacts.

ALTERNATIVES:

- Approve an amended Application.
- Deny the Application.
- Schedule the Application for a decision at some future date.

SUPPORT MATERIALS:

- Aerial Location Map
- Ordinance 2024-13

Approved by:

Steven Schaefermeyer
Steven Schaefermeyer (Jun 14, 2024 08:49 MDT)

Steven Schaefermeyer.
 Director of Planning

June 14, 2024

Date

WHEN RECORDED RETURN TO:

CITY OF SOUTH JORDAN
ATTN: PLANNING DEPARTMENT
1600 W TOWNE CENTER DRIVE
SOUTH JORDAN, UT 84095

ORDINANCE 2024-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, VACATING A PORTION OF A MUNICIPAL WATERLINE EASEMENT LOCATED ON LOT 8A OF THE DAYBREAK COMMERCE PARK PLAT 5A AMENDED SUBDIVISION

WHEREAS, Utah Code §§ 10-9a-608, 609, and 609.5 require that any vacation of some or all of a public street, right-of-way, or easement, including those recorded by subdivision plat, within the City of South Jordan (the “City”) may only be approved by the City Council of the City of South Jordan (the “City Council”); and

WHEREAS, Short Daybreak Holdings 1 LLC (the “Applicant”), petitioned the City to vacate a portion of a Municipal Waterline Easement within Lot 8A of the Daybreak Commerce Park Plat 5A Amended subdivision. (6,653 Sq. Ft.); and

WHEREAS, the City Council held a public hearing to consider Applicant’s petition to vacate the portion of the Municipal Waterline Easement; and

WHEREAS, pursuant to Utah Code § 10-9a-609.5(3), the City Council finds that there is good cause to vacate a portion of Municipal Waterline Easement and that neither the public interest nor any person will be materially injured by vacating the portion of said Easement.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH:

SECTION 1. Grant of Petition to Vacate. The City Council hereby adopts this ordinance granting the Applicant’s petition to vacate the portion of a Municipal Waterline Easement as depicted in the attached **Exhibit A**.

SECTION 2. Property Transfer. By adopting this Ordinance, ownership of the easement area being vacated by this ordinance and more particularly shown on the attached **Exhibit A**, will be transferred to Short Daybreak Holdings 1 LLC.

SECTION 3. Severability. If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance and all sections, parts, provisions and words of this Ordinance shall be severable.

SECTION 4. Effective Date. This Ordinance shall become effective upon its recordation.

[SIGNATURE PAGE FOLLOWS]

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, ON THIS _____ DAY OF _____, 2024 BY THE FOLLOWING VOTE:

	YES	NO	ABSTAIN	ABSENT
Patrick Harris	_____	_____	_____	_____
Kathie Johnson	_____	_____	_____	_____
Donald Shelton	_____	_____	_____	_____
Tamara Zander	_____	_____	_____	_____
Jason McGuire	_____	_____	_____	_____

Mayor: _____
Dawn R. Ramsey

Attest: _____

Approved as to form:



Office of the City Attorney

Exhibit A

Water Line Easement To Be Vacated

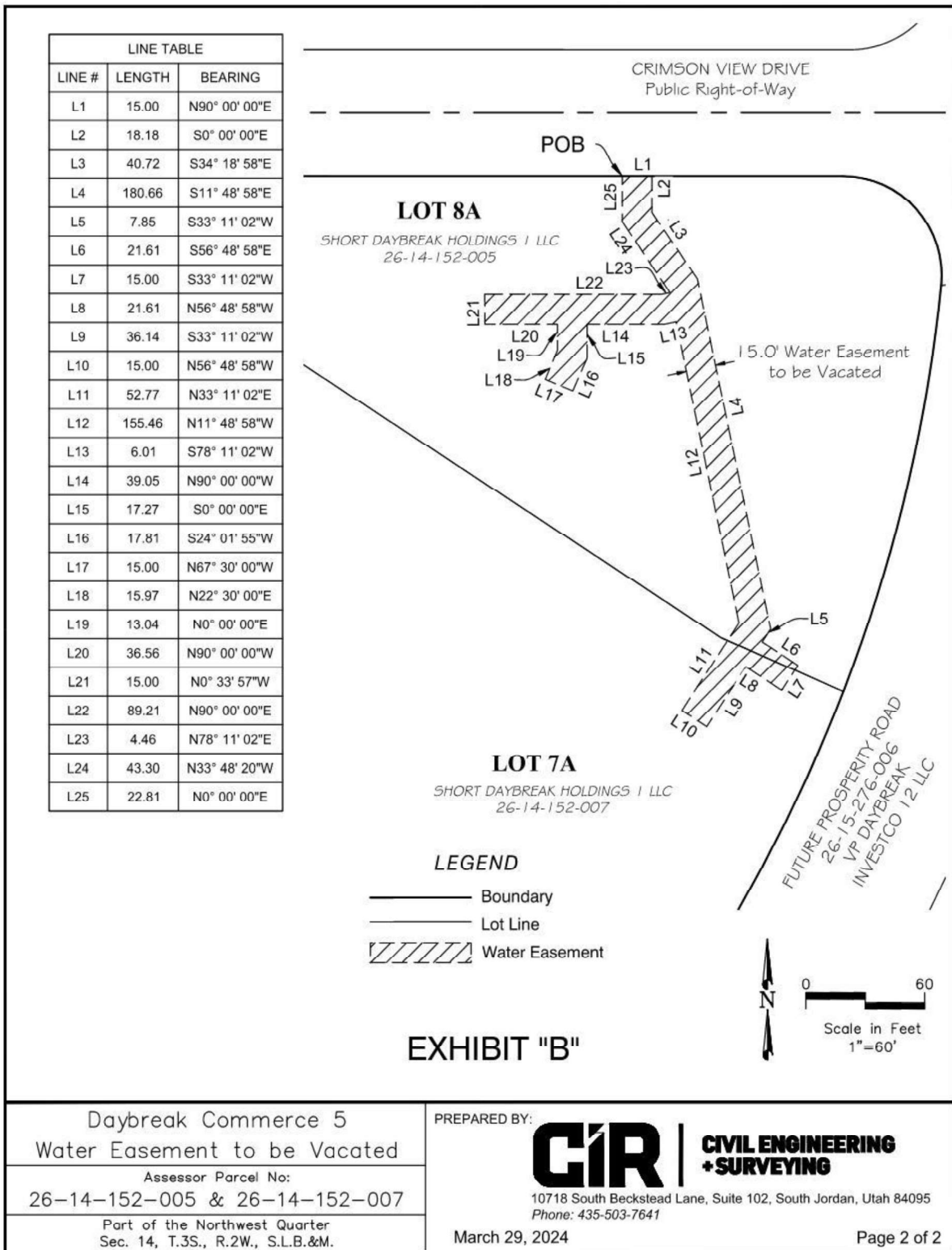
A water line easement to be vacated being a part of Lot 8A and Lot 7A, Daybreak Commerce Park Plat 5A – Amended Amending All of Daybreak Commerce Park Plat 5A recorded August 03, 2021 as Entry No. 13734644 in Book 2021 at Page 194 in the Office of the Salt Lake County Recorder. Said easement is located in the Northwest Quarter of Section 14, Township 3 South, Range 2 West, Salt Lake Base and Meridian and is described as follows:

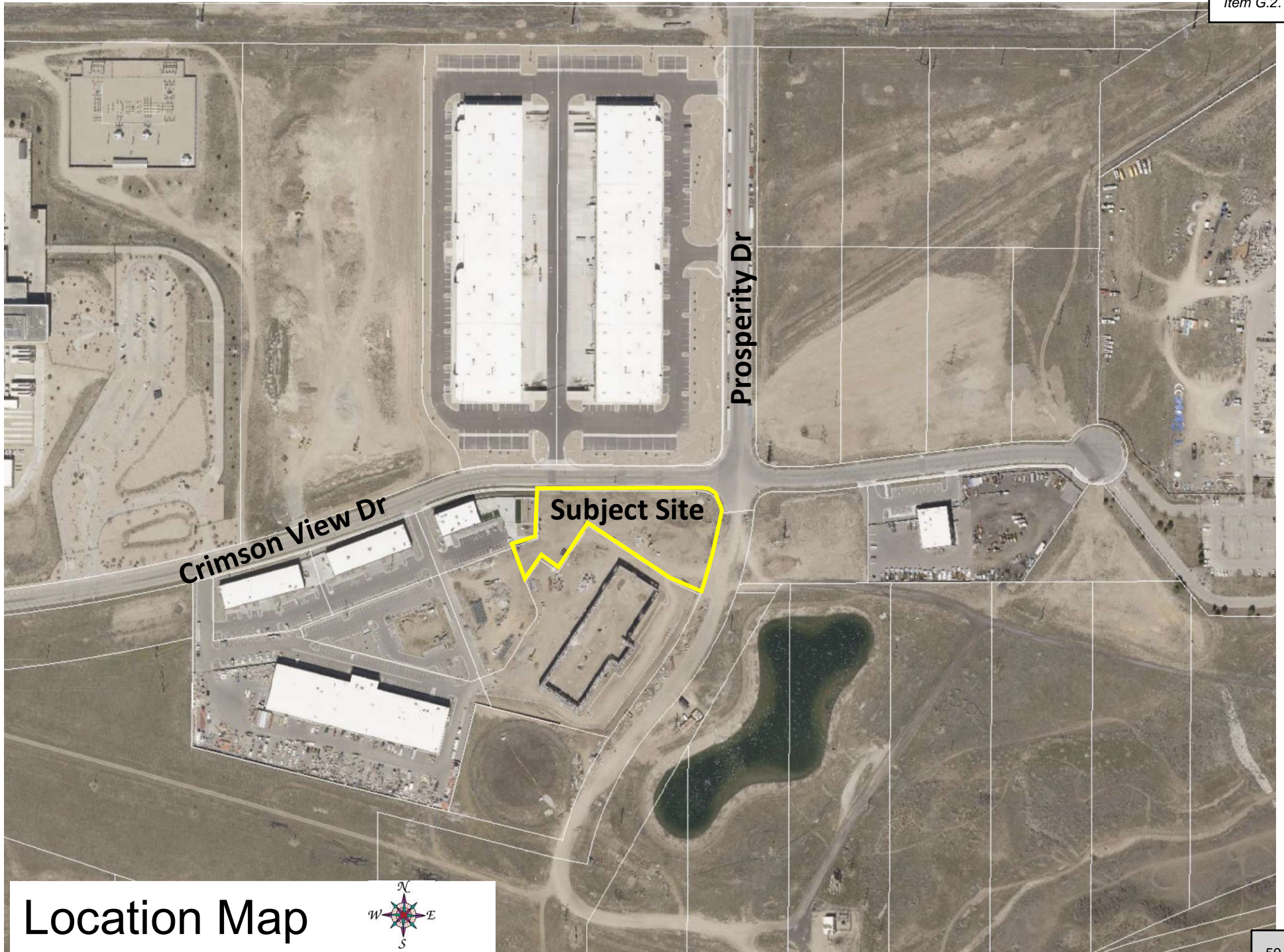
Beginning at a point on the northerly boundary of said Lot 8A, Daybreak Commerce Park Plat 5A – Amended Amending All of Daybreak Commerce Park Plat 5A, which is 697.35 feet S.89°55'21"E. along the northerly section line and 1252.32 feet South from the Northwest Corner of said Section 14; thence East 15.00 feet along the northerly boundary for Lot 8A; thence South 18.18 feet; thence S.34°18'58"E. 40.72 feet; thence S.11°48'58"E. 180.66 feet; thence S.33°11'02"W. 7.85 feet; thence S.56°48'58"E. 21.61 feet; thence S.33°11'02"W. 15.00 feet; thence N.56°48'58"W. 21.61 feet; thence S.33°11'02"W. 36.14 feet; thence N.56°48'58"W. 15.00 feet; thence N.33°11'02"E. 52.77 feet; thence N.11°48'58"W. 155.46 feet; thence S.78°11'02"W. 6.01 feet; thence West 39.05 feet; thence South 17.27 feet; thence S.24°01'55"W. 17.81 feet; thence N.67°30'00"W. 15.00 feet; thence N.22°30'00"E. 15.97 feet; thence North 13.04 feet; thence West 36.56 feet; thence N.00°33'57"W. 15.00 feet; thence East 89.21 feet; thence N.78°11'02"E. 4.46 feet; thence N.33°48'20"W. 43.30 feet; thence North 22.81 feet to the northerly boundary for Lot 8A and the **Point of Beginning**.

The above-described water line easement to be vacated contains 6,654 square feet in area or 0.153 acres, more or less.

EXHIBIT "B": By this reference, made a part hereof.

BASIS OF BEARING: N. 89°55'07" W. per said Daybreak Commerce Park Plat 5A – Amended Amending All of Daybreak Commerce Park Plat 5A along the Section line between the North Quarter and the Northeast Corner of Section 15, Township 3 South, Range 2 West, Salt Lake Base and Meridian.





Location Map



SOUTH JORDAN CITY CITY COUNCIL REPORT

Item G.3.

Meeting Date: 06-18-24

Issue: DAYBREAK VILLAGE 12B PLAT 3 DOCKSIDER DRIVE ROW VACATION
Address: Approx. 7050 W. Lake Avenue
File No: PLPLA202400090
Applicant: LHM Real Estate

Submitted by: Greg Schindler, City Planner
Presented by: Steven Schaefermeyer, Director of Planning

Staff Recommendation (Motion Ready):

- I move to **Approve** Ordinance 2024-16 vacating a segment of Docksider Drive from approximately 7130 W. to the South Valley Water Reclamation Facility property line.

CURRENT USE	Unconstructed Public Street ROW
ADJACENT LAND USES	North – Future Daybreak Development (Residential) South – Future Daybreak Development (Residential)

BACKGROUND:

The applicant, Larry H. Miller Real Estate, has petitioned the City to vacate a segment of Docksider Drive from 7130 W. to the South Valley Reclamation Facility property line. The right-of-way (ROW) proposed for vacation was originally dedicated with the Daybreak West Villages Roadway Dedication Plat recorded in 2019. The proposed vacation covers approximately 0.674 acre. The purpose of the ROW vacation is to accommodate future subdivision platting and associated street location. The ROW will be replaced and relocated with the recording of a future subdivision plat. Should the ROW vacation be approved, the property will be deeded to the adjacent property owner, which is the applicant.

STAFF FINDINGS, CONCLUSIONS & RECOMMENDATION:

Findings:

- Utah Code § 10-9a-609.5(3) provides standards of approval for vacating a public easement:
The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street, right-of-way, or easement if the legislative body finds that:
 - (a) good cause exists for the vacation; and
 - (b) neither the public interest nor any person will be materially injured by the vacation.
- Staff finds that there is good cause for vacating the right-of-way for the following reasons:
 - Vacating the ROW and relocating and dedicating new ROW nearby will accommodate the platting of future development.
 - No public interest or any person will be materially injured by the vacation of this segment of the right-of-way since it is currently undeveloped and its future development will meet City of South Jordan standards.

Conclusion:

- The proposed vacation of this segment of right-of-way meets the requirements of Utah Code.

Recommendation:

- Based on the Findings and Conclusions listed above, Staff recommends that the City Council take comments at the public hearing and **approve** the petition to vacate, unless, during the hearing, facts are presented that contradict these findings or new facts are presented, either of which would warrant further investigation by Staff.

FISCAL IMPACT:

- There are no significant fiscal impacts.

ALTERNATIVES:

- Approve an amended Application.
- Deny the Application.
- Schedule the Application for a decision at some future date.

SUPPORT MATERIALS:

- Aerial Location Map
- Ordinance 2024-16

Approved by:

Steven Schaefermeyer
Steven Schaefermeyer (Jun 14, 2024 08:49 MDT)

Steven Schaefermeyer.
 Director of Planning

June 14, 2024

Date

WHEN RECORDED RETURN TO:

CITY OF SOUTH JORDAN
ATTN: PLANNING DEPARTMENT
1600 W TOWNE CENTER DRIVE
SOUTH JORDAN, UT 84095

ORDINANCE 2024-16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, VACATING A SEGEMENT OF DOCKSIDER DRIVE FROM APPROXIMATELY 7130 W. TO THE SOUTH VALLEY WATER RECLAMATION FACILITY PROPERTY LINE, APPROXIMATELY 557 FEET CONTAINING 0.674 ACRES.

WHEREAS, Utah Code §§ 10-9a-608, 609, and 609.5 require that any vacation of some or all of a public street, right-of-way, or easement, including those recorded by subdivision plat, within the City of South Jordan (the “City”) be approved by the City Council of the City of South Jordan (the “City Council”); and

WHEREAS, Larry H. Miller Real Estate (the “Applicant”), petitioned the City to vacate a segment of Docksider Drive that runs west from approximately 7130 West for approximately 577 ft. (0.674 ac.)(“the Right-of-Way” or “ROW”); and

WHEREAS, the City Council held a public hearing to consider Applicant’s petition to vacate the ROW; and

WHEREAS, pursuant to Utah Code § 10-9a-609.5(3), the City Council finds that there is good cause to vacate the ROW and that neither the public interest nor any person will be materially injured by vacating the ROW.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH:

SECTION 1. Grant of Petition to Vacate. The City Council hereby adopts this ordinance granting the Applicant’s petition to vacate the ROW described in the attached and incorporated **Exhibit A**.

SECTION 2. Property Transfer. By adopting this Ordinance, ownership of the Right-of-Way is transferred by operation of law to adjacent property owner VP Daybreak Devco LLC as specifically described in the attached and incorporated **Exhibit A**.

SECTION 3. Severability. If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance and all sections, parts, provisions and words of this Ordinance shall be severable.

SECTION 4. Effective Date. This Ordinance shall become effective upon recordation of this Ordinance or a subdivision plat showing the vacation of ROW.

[SIGNATURE PAGE FOLLOWS]

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, ON THIS _____ DAY OF _____, 2024 BY THE FOLLOWING VOTE:

	YES	NO	ABSTAIN	ABSENT
Patrick Harris	_____	_____	_____	_____
Kathie Johnson	_____	_____	_____	_____
Donald Shelton	_____	_____	_____	_____
Tamara Zander	_____	_____	_____	_____
Jason McGuire	_____	_____	_____	_____

Mayor: _____
Dawn R. Ramsey

Attest: _____

Approved as to form:



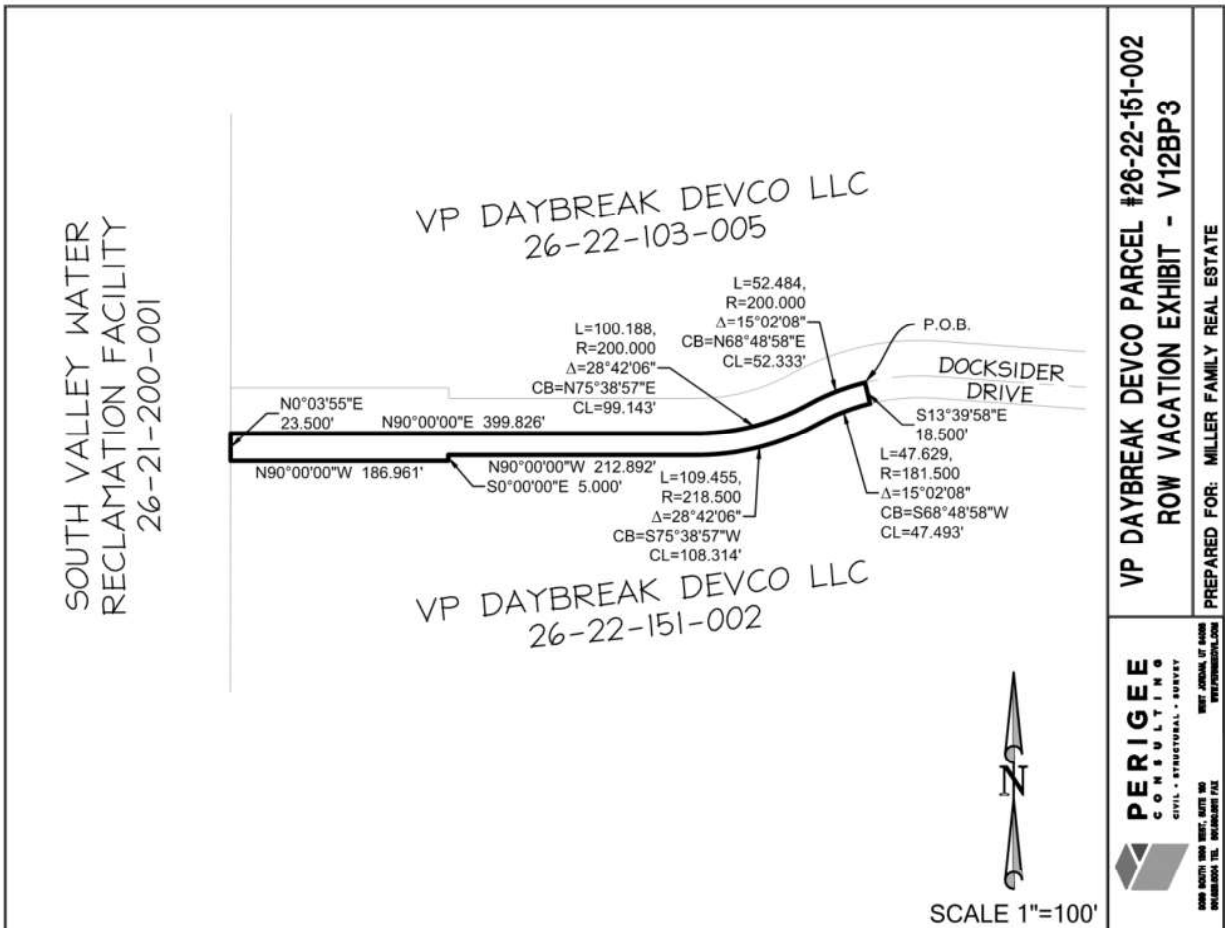
Office of the City Attorney

Exhibit A

V12BP3 – Split ROW Vacation – VP DAYBREAK DEVCO PARCEL #26-22-151-002

Beginning at a point on the centerline of Docksider Drive, said point lies South 89°56'37" East 549.086 feet along the Daybreak Baseline Southwest (Being South 89°56'37" East 10583.405 feet between the Southwest Corner of Section 22, T3S, R2W and the Southeast Corner of Section 23, T3S, R2W) and North 3653.192 feet from the Southwest Corner of Section 22, Township 3 South, Range 2 West, Salt Lake Base and Meridian and running thence South 13°39'58" East 18.500 feet to the Southerly Right-of-Way Line of said Docksider Drive and a point on a 181.500 foot radius non tangent curve to the left, (radius bears South 13°39'58" East, Chord: South 68°48'58" West 47.493 feet); thence along said Docksider Drive the following (5) courses: 1) along the arc of said curve 47.629 feet through a central angle of 15°02'08" to a point of reverse curvature with a 218.500 foot radius tangent curve to the right, (radius bears North 28°42'06" West, Chord: South 75°38'57" West 108.314 feet); 2) along the arc of said curve 109.455 feet through a central angle of 28°42'06"; 3) West 212.892 feet; 4) South 5.000 feet; 5) West 186.961 feet to the West Line of Lot V5 of the Kennecott Master Subdivision #1 Amended; thence along said Lot V5 North 00°03'55" East 23.500 feet to the said centerline of Docksider Drive; thence along said centerline the following (3) courses: 1) East 399.826 feet to a point on a 200.000 foot radius tangent curve to the left, (radius bears North, Chord: North 75°38'57" East 99.143 feet); 2) along the arc of said curve 100.188 feet through a central angle of 28°42'06" to a point of reverse curvature with a 200.000 foot radius tangent curve to the right, (radius bears South 28°42'06" East, Chord: North 68°48'58" East 52.333 feet); 3) along the arc of said curve 52.484 feet through a central angle of 15°02'08" to the point of beginning.

Property contains 0.257 acres, 11197 square feet.



Beginning at a point on the centerline of Dockside Drive, said point also being a point on a 200.000 foot radius non tangent curve to the left, (radius bears South 13°39'58" East, Chord: South 68°48'58" West 52.333 feet), said point lies South 89°56'37" East 549.086 feet along the Daybreak Baseline Southwest (Being South 89°56'37" East 10583.405 feet between the Southwest Corner of Section 22, T3S, R2W and the Southeast Corner of Section 23, T3S, R2W) and North 3653.192 feet from the Southwest Corner of Section 22, Township 3 South, Range 2 West, Salt Lake Base and Meridian and running thence along said centerline the following (3) courses: 1) along the arc of said curve 52.484 feet through a central angle of 15°02'08" to a point of reverse curvature with a 200.000 foot radius tangent curve to the right, (radius bears North 28°42'06" West, Chord: South 75°38'57" West 99.143 feet); 2) along the arc of said curve 100.188 feet through a central angle of 28°42'06"; 3) West 399.826 feet to the West Line of Lot V5 of the Kennecott Master Subdivision #1 Amended; thence along said Lot V5 North 00°03'55" East 39.000 feet to the North Right-of-Way Line of said Dockside Drive; thence along said Dockside Drive the following (5) courses: 1) East 187.338 feet; 2) South 9.000 feet; 3) East 212.444 feet to a point on a 170.000 foot radius non tangent curve to the left, (radius bears North, Chord: North 75°38'57" East 84.272 feet); 4) along the arc of said curve 85.160 feet through a central angle of 28°42'06" to a point of reverse curvature with a 230.000 foot radius tangent curve to the right, (radius bears South 28°42'06" East, Chord: North 68°48'58" East 60.183 feet); 5) along the arc of said curve 60.356 feet through a central angle of 15°02'08"; thence South 13°39'58" East 30.000 feet to the point of beginning.

Property contains 0.417 acres, 18153 square feet.

