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# M E M O R A N D U M

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**DATE:** January 12, 2007  
**TO:** City Council Members  
**FROM:** Russell Weeks  
**RE:** Potential Revisions to *City Code* Chapter 2.44 – *Conflict of Interest*  
**CC:** Cindy Gust-Jenson, Sam Guevara, Ed Rutan, Boyd Ferguson, DJ Baxter, Gary Mumford

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This memorandum pertains to potential revisions to *City Code* Chapter 2.44 titled *Conflict of Interest*. Since September a subcommittee made up of the 2006 City Council Chair David Buhler and Council Members Carlton Christensen and Jill Love have met three times with City Attorney Ed Rutan, Senior City Attorney Boyd Ferguson and with DJ Baxter, senior advisor to the Mayor to consider revisions to the chapter.

The major proposed revisions relate to instances that appeared to some to require the City Council's attention. There was no suggestion that any of the instances involved an "unjust financial gain from public service" that Chapter 2.44 seeks to prohibit. However, there was a feeling among the committee members that, cumulatively, the events showed a number of grey areas in Chapter 2.44 that should be addressed to meet another goal of the chapter, increasing "public confidence by assuring that official actions are taken objectively and properly."

It should be noted that the subcommittee sought to make the proposed revisions adhere to the spirit of the purpose statement in Chapter 2.44. The statement reads:

The purpose of this Chapter is to prevent improper influence, avoid the appearance of impropriety, and prohibit public officials from receiving unjust financial gain from public service. It also seeks to increase public confidence by assuring that official actions are taken objectively and properly. It is the objective of this Chapter to promote these goals by establishing ethical standards of conduct for all officers and employees of the City, including volunteers.

It also should be noted that 2007 will mark roughly nine years since the City Council adopted the current conflict of interest ordinance. Finally, it should be noted that the Attorney's Office has suggested minor, mostly grammatical revisions to the ordinance as well.

There appear to be five major additions proposed as amendments to the chapter and one deletion. It should be noted that under the revised ordinance, the term "public servant" would continue to mean: "any elected officer, any executive employee, or any other person in a position of employment with the City, whether or not such person is compensated for his or her service, but does not include any volunteer public servant."

To summarize, the major proposed changes include:

- Amending Section 2.44.040 (Prohibited Acts Designated) to prohibit elected officials, executive employees and other public servants from having a financial interest in a business or other entity that does business with a City department in which the public servant is employed. Another amendment would prohibit an elected official or a spouse or child of an elected official, or a business in which an elected official owns or has a 10 percent interest in from applying for or receiving a loan or grant from Salt Lake City.
- Deleting a provision Section 2.44.090 (Gift Prohibition Exceptions) that limits an elected official to spending at most \$10,000 in a calendar year from a leadership expense fund established by the elected official.
- Adding a third part to Section 2.44.130 (Public Contracts; Procurement) to prohibit:
  - An elected official of a business in which the official has a financial interest in from bidding on, issuing a proposal for, or renewing the term of a contract “within the jurisdiction” of the elected official.
  - A member of a City board, commission, committee, authority, or agency, and any business in which that member has a financial interest in from bidding on, issuing a proposal for, or renewing the term of a contract within the jurisdiction of the public board or entity of that member.
- Adding also to the third part of Section 2.44.130 a requirement that “any public servant or volunteer public servant” stop serving on a contract selection committee for the procurement of goods and services if he or she has had a financial interest in a business that submits a proposal to the selection committee. In addition, any public servant or volunteer public servant serving on a selection committee would be prohibited for two years from seeking or accepting a job or remuneration from an entity or person that bid or submitted a proposal to the committee on which the public servant or volunteer served.
- Adding a new section 2.44.230 (Travel, Lodging, or Entertainment Expenses – Reporting) that would require elected officials to file with the City Recorder a report “detailing the amount and nature” of any “travel, lodging, or entertainment expenses” paid for by someone or some entity other than the City while the elected official was on official City business. The report also would include the name of the person or entity that paid the elected official’s expenses.
- Adding language in 2.44.190 (Clause in Contracts) that provides that the “ethical standards clause” detailed in the section is not necessary in contracts between the City and other governmental agencies.

Council staff has included below the verbatim language of the proposed amendments.

**SECTION 3. That Section 2.44.040, (Prohibited Acts Designated), Salt Lake City Code, be, and the same hereby is, amended to read as follows:**

B. A public servant may not have a financial interest in an entity that is doing business with the City department in which the public servant is employed.

C. No elected officer, spouse or child of an elected officer, or business entity in which an elected officer has a substantial interest, may apply for or receive a loan or grant of money from the City.

**2.44.090 Gift Prohibition Exceptions:**

Except as otherwise provided in this Section, Section 2.44.080 of this Chapter does not prohibit accepting: ...

I. Leadership Expense Funds: If not given in violation of Section 2.44.080 of this Chapter, any contribution to a leadership expense fund, as provided below.

1. An elected officer may establish a leadership expense fund. Any such leadership expense fund shall be a trust, administered and accounted for by an independent trustee of the elected officer's choosing. An elected officer may not solicit or receive contributions for leadership expense fund purposes until such a trust has been created. The elected officer shall be solely responsible for raising funds for and directing the trustee to make expenditures from such fund, consistent with the provisions of this Chapter.

**2.44.130 Public Contracts; Procurement:**

3. Bidding and Procurement:

a. An elected officer, and any business entity in which such elected officer has a financial interest, may not submit a bid or proposal regarding, or renew the term of, a contract within the official responsibility of that elected officer. A member of a City board, commission, committee, authority, or agency, and any business entity in which such member has a financial interest, may not submit a bid or proposal regarding, or renew the term of, a contract within the official responsibility of that board, commission, committee, authority, or agency.

b. Any public servant or volunteer public servant who serves on a City procurement committee must cease to serve on such committee if he or she has, or within the past year had, a financial interest in an entity that submits a bid or proposal that will be evaluated by that committee.

c. No public servant or volunteer public servant who serves on a City procurement committee may, during the two years immediately following the date the related contract is awarded by the City, seek or accept employment or remuneration of any kind from a person or entity that submitted a bid or proposal that was evaluated by that committee.

**2.44.230 Travel, Lodging, or Entertainment Expenses – Reporting.**

If someone other than the City pays for travel, lodging, or entertainment expenses of an elected official incurred in connection with official City business, such elected official shall, within ten (10) business days after such expenses are incurred, file with the City Recorder a public report detailing the amount and nature of such expenses and the name of the person or entity that paid for such expenses. Notwithstanding the foregoing, an elected official shall not be required to file a public report pursuant to this section detailing the cost of food or meals provided to the elected official.

**2.44.190 Clause In Contracts:**

In every contract, bid, proposal, or other offer involving the City made by a non-governmental entity, such non-governmental entity shall make the following representation:

SALT LAKE CITY ORDINANCE  
No. \_\_\_\_\_ of 2007  
(Conflict of Interest Amendments)

AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 2.44 OF THE SALT LAKE CITY CODE, RELATING TO CONFLICT OF INTEREST.

Be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. That Section 2.44.020, Salt Lake City Code, be, and the same hereby is, amended to read as follows:

**2.44.020 Definitions:**

For the purposes of this Chapter, unless otherwise apparent from the context, certain words and phrases used in this Chapter are defined as follows:

A. "Assist" means to act, or offer, or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and done with the intent to so assist such person or business entity.

B. "Blind trust" means an independently managed trust in which the public servant-beneficiary or volunteer public servant-beneficiary has no management rights and in which the public servant-beneficiary or volunteer public service servant-beneficiary is not given notice of alterations in, or other dispositions of, the property subject to the trust.

C. "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, limited liability company, firm, trust, foundation, or other organization or entity used in carrying on a business.

D. "City regulated business entity" means any business entity for which the City issues a license, pursuant to any City ordinance, or ~~which~~ that the City regulates.

E. "Compensation" means anything of economic value, however designated, ~~which~~ that is paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone other than the City for or in consideration of personal services, materials, property, or any other consideration whatsoever, and includes any forbearance.

F. "Corruptly" means done with wrongful intent and for the purpose of obtaining or receiving any personal, financial, or professional benefit resulting from some act or omission of a public servant or volunteer public servant ~~that~~ which is inconsistent with the proper performance of his or her public duties.

G. "Economic benefit tantamount to a gift" includes: 1) a loan at an interest rate that is substantially lower than the commercial rate then currently prevalent for similar loans, and 2) compensation received for private services rendered at a rate substantially exceeding the fair market value of the services.

H. "Elected officer" means any person holding the office of Mayor or City Council member.

I. "Executive employee" means any person classified as an at-will executive employee by the City.

J. "Financial interest" means: 1) a substantial interest, or 2) holding a position in a business entity such as an officer, director, trustee, partner, employee, or the like, or holding any position of management in a business entity.

K. "Gift" means any gratuity, favor, discount, entertainment, hospitality, loan,

forbearance, an economic benefit tantamount to a gift, or other item having monetary value, unless consideration of equal or greater value is received. The term does not include a parking pass or free parking: 1) for a parking lot if the parking lot is owned by the City; or 2) for a parking lot ~~that~~which is not owned by the City, when used for official City business. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. The term "gift" is subject to the following:

1. Gifts To Relatives Or Others, Attributable To Elected Officer Or Executive Employee:

A gift to a relative of an elected officer or executive employee, or a gift to any other individual based on that individual's relationship with the elected officer or executive employee, shall be considered a gift to the elected officer or executive employee, if: a) given with the knowledge and acquiescence of the elected officer or executive employee, and b) the elected officer or executive employee knows, or with the exercise of reasonable care should know, that it was given because of the official position of the elected officer or executive employee.

2. Food Or Refreshment Provided To Dependents: If food or refreshment is provided at the same time and place to both a public servant or volunteer public servant and the spouse or dependent thereof, only the food or refreshment provided to the public servant or volunteer public servant shall be treated as a gift for purposes of this Chapter.

L. "Governmental action" means any action on the part of the City, including, but not limited to:

1. Any decision, determination, finding, ruling, or order;
2. Any grant, payment, award, license, contract, subcontract, transaction, decision,

sanction, or approval, or the denial thereof, or the failure to act in respect thereto; and

3. Any legislative, administrative, or discretionary act of any public servant or volunteer public servant.

M. "Grant of hospitality or gesture of friendship" includes granting of lodging, food, ~~and~~ travel expenses, and the granting of gifts ~~and~~ remembrances such as birthday, holiday, ~~and~~ anniversary presents, given on the basis of personal friendship.

N. "Legal defense fund" means any fund of money established to pay legal expenses of an elected officer ~~that~~ which arise in connection with: 1) the elected officer's candidacy for or election to office in the City; 2) the elected officer's official duties or position in the City; 3) a threatened or actual criminal prosecution of the elected officer; or 4) a civil action bearing on the elected officer's reputation or fitness for office. In no event shall monies in a legal defense fund be spent for a matter that is primarily personal in nature.

O. "Leadership expense fund" means any fund of money established to pay expenses of an elected officer incurred or to be incurred in connection with the carrying on by the elected officer of his or her official duties, including, without limitation, expenditures for: 1) the travel, lodging, food, ~~and~~ entertainment of a spouse or other personal companion of the elected officer, when accompanying the elected officer on travel involving official City business; 2) the giving of flowers, holiday or greeting cards, or ~~other~~ remembrances for funerals or similar events; or 3) charitable or eleemosynary gifts or activities clearly identified by the elected officer.

P. "Outside employment" means any employment, activity, or enterprise for compensation, including self-employment, performed by a public servant apart from his or her official assigned duties and required duty times for the City.



Q. "Public servant" means any elected officer, any executive employee, or any other person in a position of employment with the City, whether or not such person is compensated for his or her services, but does not include any volunteer public servant.

R. "Regulated" means being subjected to the City's regulatory licensing, permitting, or approval procedures.

S. "Relative" means father, mother, husband, wife, son, daughter, sister, brother, mother-in-law, father-in-law, brother-in-law, sister-in-law, uncle, aunt, niece, nephew, grandparent, grandchild, half-brother, half-sister, first cousin, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, or stepsister.

T. "Sell" means signing a bid, proposal, or contract; negotiating a contract; contacting any public servant or volunteer public servant for the purpose of obtaining, negotiating, or discussing changes in specifications, price, cost allowances, or other terms of a contract; settling disputes concerning performance of a contract; or any other liaison activity with a view toward the ultimate consummation of a sale although the actual contract therefor is subsequently negotiated by another person.

U. "Substantial interest" means the ownership, either legally or equitably, by a public servant or volunteer public servant, ~~or his or hersuch public servant's or volunteer public servant's spouse, or such public servant's or volunteer public servant's minor children,~~ of at least ten percent (10%) of the outstanding shares of a corporation or a ten percent (10%) interest in any other business entity.

V. "Transaction" means any deal, contract, agreement, arrangement, undertaking, or other matter, including, without limitation, any permit approval, lease, franchise, sale, or

purchase.

W. "Volunteer public servant" means any person serving on a special, regular, or full-time committee, commission, authority, agency, or board of the City, who is not paid a salary or an hourly wage by the City for his or her services thereon.

SECTION 2. That Section 2.44.030, Salt Lake City Code, be, and the same hereby is, amended to read as follows:

**2.44.030 Disclosure And Disqualification:**

Whenever the performance of a public servant's or volunteer public servant's official duty shall require any governmental action on any matter involving the public servant's or volunteer public servant's financial, professional, or personal interests and it is reasonably foreseeable that the decision will have an individualized material effect on such interest, distinguishable from its effect on the public generally, the public servant or volunteer public servant shall disclose such matter to the city council, in the case of the mayor, and in all other cases to the mayor and to the members of the body, if any, of which the public servant or volunteer public servant is a member. The disclosure shall be made in the manner prescribed in section 2.44.050 of this chapter and shall identify the nature and extent of such interests. The public servant or volunteer public servant shall disqualify himself or herself from participating in any deliberation as well as from voting on such matter.

SECTION 3. That Section 2.44.040, Salt Lake City Code, be, and the same hereby is, amended to read as follows:

A. A public servant or volunteer public servant may not:

A.1. Unless otherwise allowed by law, disclose confidential information acquired by

reason of the public servant's or volunteer public servant's official position or in the course of official duties or use such information in order to: 1) substantially further the public servant's or volunteer public servant's personal, financial, or professional interest or the personal, financial, or professional interest of others; or 2) secure special privileges or exemptions for the public servant or volunteer public servant or others.

B2. Corruptly use or attempt to use the public servant's or volunteer public servant's official position to: 1) further the public servant's or volunteer public servant's personal, financial, or professional interest or the personal, financial, or professional interest of others; or 2) secure special privileges, treatment, or exemptions for the public servant or volunteer public servant or others.

B. A public servant may not have a financial interest in an entity that is doing business with the City department in which the public servant is employed.

C. No elected officer, spouse or child of an elected officer, or business entity in which an elected officer has a substantial interest, may apply for or receive a loan or grant of money from the City.

SECTION 4. That Section 2.44.050, Salt Lake City Code, be, and the same hereby is, amended to read as follows:

**2.44.050 Disclosure Of Substantial Interest:**

A. Disclosure To City: Every public servant or volunteer public servant who is also an officer, director, agent, employer, or employee of any business entity, or the owner of a substantial interest in any business entity, including, without limitation, any business entity subject to City regulation, shall disclose, as hereafter provided, any such position or employment

and the nature and value of such position or employment.

B. Time Of Disclosure: Public servants and volunteer public servants shall make such disclosures within thirty (30) days after being appointed or elected or otherwise commencing their employment or public service, and again during January of each year if such public servant's or volunteer public servant's position in the business entity has changed or if the value of such public servant's or volunteer public servant's interest in the entity has materially increased since the last disclosure. Such disclosure shall be made in a sworn written statement in a form prescribed by the City and shall be filed with the Mayor, or, in the case of disclosure by the Mayor or by the City Council staff, with the City Council. Unless otherwise provided by the law, the statements are public records and shall be made available for inspection by members of the City Council and the public upon request.

C. Value Of Interest: Unless otherwise required by law, where the value of an interest is required to be disclosed pursuant to this section, it shall be sufficient to report whether the value is less than fifteen thousand dollars (\$15,000.00) or greater than fifteen thousand dollars (\$15,000.00). Notwithstanding the above, this section does not apply to instances where the value of the interest does not exceed two thousand dollars (\$2,000.00). Life insurance policies and annuities are not included in this disclosure requirement and shall not be considered in determining the value of any such interest.

SECTION 5. That Section 2.44.060, Salt Lake City Code, be, and the same hereby is, amended to read as follows:

**2.44.060 Outside Employment:**

A. Incompatible Employment: No public servant or volunteer public servant shall

engage in any outside employment ~~that~~ which is inconsistent, incompatible, or in conflict with, or inimical to, his or her duties as a public servant or volunteer public servant, or with the duties, functions, or responsibilities of the City. Such prohibited outside employment includes, but is not limited to, employment:

1. Involving the use for private gain or advantage of his or her City working time, ~~or~~ City facilities, equipment, or supplies, except as permitted under section 2.44.180 of this Chapter.

2. Involving the receipt or acceptance by the public servant or volunteer public servant of any compensation from anyone, other than the City, for the performance of an act ~~that~~ which the public servant or volunteer public servant would be required or expected to perform in the regular course of his or her City employment or as part of his or her duties as a public servant or volunteer public servant;

3. Involving the performance of an act ~~that~~ which may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement of the public servant. If the performance of the act may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement of another public servant of the City, such outside employment may only be engaged in after procedures have been adopted by the department to which the public servant is assigned to ensure that all work done by the public servant is subject to direct review by the public servant's immediate supervisor; or

4. Involving such time demands as would render such public servant's performance of public duties demonstrably less efficient.

Subsections A3 and A4 of this section shall not apply to volunteer public servants.

B. Applicability: This section shall not apply to part time employees and seasonal

employees of the City. Members of the City Council are not part time employees for purposes of this Section.

C. Disclosure: Before engaging in any outside employment that is permissible under this Chapter:

1. Elected officers shall disclose such outside employment, as provided in section 2.44.050 of this Chapter;

2. Staff of the City Council shall disclose such outside employment to the Chairperson of the City Council;

3. Heads of departments of the City shall disclose such outside employment to the Mayor; and

4. All other public servants shall disclose such outside employment to their department head.

Outside employment shall not be denied unless it is in violation of the provisions of subsection A of this Section. No public servant shall have the power to deny an elected officer his or her right to outside employment ~~that~~ which is not prohibited under subsection A of this Section.

D. Department Rules And Regulations: Department heads shall adopt rules and regulations for their department regarding outside employment, including the denial thereof, that clarify the application of this Chapter to the unique operations of that department, if such rules or regulations are consistent with the intent of this Chapter and no less stringent.

E. Advisory Opinion: If a public servant's outside employment is denied under subsection D of this Section, the public servant may seek an advisory opinion from the City Attorney regarding the matter. The City Attorney shall issue such an opinion regarding a request,

but the City Attorney shall not have the power to overrule the discretionary decision of the person who denied the consent.

F. Certain Travel, Lodging, And Food Expenses And Cash Honoraria Are To Be Considered Outside Employment And Not Gifts: Any payment for travel, food, lodging, or entertainment expenses, or reimbursement therefor, or any other compensation or cash honorarium, made to a public servant in connection with a public event, appearance, or ceremony unrelated to official city business or not furnished by the sponsor of such public event, appearance, or ceremony, shall be considered outside employment under this section, and not a gift under section 2.44.080 of this Chapter. This subsection shall apply to volunteer public servants, but only to the extent of requiring them to disclose such outside employment to their department head.

G. Reports To Mayor: Within fifteen (15) working days following each February 1, May 1, August 1 and November 1, each department ~~that~~ which has issued a denial of outside employment to a public servant shall file with the Mayor a copyies of all such denials given during the previous yearly quarter.

SECTION 6. That Section 2.44.070, Salt Lake City Code, be, and the same hereby is, amended to read as follows:

**2.44.070 Transactions Involving The City:**

A. Disclosure Required: No public servant or volunteer public servant shall receive or agree to receive compensation from anyone other than the City for assisting any person or business entity in any transaction involving the City, unless he or she shall file a sworn written statement giving the information required by this Section and disclose that information in an

open meeting to the members of the affected body, if any, of which he or she is a member. Said disclosure shall be made in writing prior to the discussion on the matter and include the following information:

1. The name and address of the public servant or volunteer public servant involved;
2. The name and address of the person or business entity being or to be so assisted, ~~or in which the public servant or volunteer public servant has a substantial interest;~~ and
3. A brief description of the transaction as to which service is rendered or is to be rendered and of the nature of the service performed or to be performed.

This Section shall not be construed to allow actions ~~that~~which are otherwise prohibited by City ordinances or State law.

B. Time And Location Of Disclosure Filing: The statement required to be filed by this Section shall be filed within ten (10) days before the date of any agreement between the public servant or volunteer public servant and the person or business entity to be assisted or the public servant's or volunteer public servant's receipt of compensation, whichever time is earlier: 1) with the City Recorder; 2) with the affected body of which the public servant or volunteer public servant is a member; 3) in the case of disclosure by the Mayor, with the Chairperson of the City Council; and 4) in the case of disclosure by ~~a~~the City Council member, with the Mayor.

C. Disclosure Is Public Record: The statement shall be deemed public information and shall be available for examination by the public.

SECTION 7. That Section 2.44.080, Salt Lake City Code, be, and the same hereby is, amended to read as follows:

**2.44.080 Accepting Or Making Gifts Prohibited:**



A. In General: No public servant or volunteer public servant shall knowingly receive, accept, take, seek, or solicit, directly or indirectly, for himself or herself or another, a gift that the public servant or volunteer public servant knows, or with the exercise of reasonable care should know: 1) would influence the recipient to depart from the faithful and impartial discharge of his or her public duties; or 2) is primarily for the purpose of rewarding the public servant or volunteer public servant for official action taken or not taken.

B. No Solicitation Of Gifts For Personal Matters: Except for gifts described as exceptions in Section 2.44.090 of this Chapter, no public servant shall seek or solicit, or receive, directly or indirectly, any gift for the purpose of addressing or dealing with personal matters or other matters not involving official City business.

SECTION 8. That Section 2.44.090, Salt Lake City Code, be, and the same hereby is, amended to read as follows:

**2.44.090 Gift Prohibition Exceptions:**

Except as otherwise provided in this Section, Section 2.44.080 of this Chapter does not prohibit accepting:

A. Campaign Contributions: A political campaign contribution covered or regulated by Chapter 2.46 of this Title, ~~or its successor.~~

B. Gifts From Relatives: A bona fide gift from a relative, not given in violation of Section 2.44.080 of this Chapter, provided it is not given in exchange for, as consideration for, or as a reward for the recipient taking or refraining from taking any official City action, past, present, or future.

C. Grants Of Hospitality; Gestures Of Friendship: An occasional grant of hospitality

or gesture of friendship, not given in violation of Section 2.44.080 of this Chapter, if provided to an individual on the basis of personal friendship, and if it is from a friend who has not, does not and has no immediate plans to do business with the City or be regulated by it, either individually or through a business entity in which the giver or a relative of the giver has more than a ten percent (10%) interest.

D. De Minimis Nonpecuniary Gifts: An occasional nonpecuniary gift having a value of less than fifty dollars (\$50.00), or any other amount provided in the corresponding provision of the Municipal Officers' and Employees' Ethics Act, title 10, chapter 3, part 13, of the Utah Code, or any successor section.

E. De Minimis Remembrances; Items Of Nominal Value: Any occasional noncash remembrance, not given in violation of Section 2.44.080 of this Chapter, with a value under one hundred dollars (\$100.00), given for use by, or shared by the recipient of the gift with, the entire office or working group of which the recipient is a member; a plaque, trophy, or other item that is substantially commemorative in nature; or an item of nominal value, such as a greeting card, baseball cap, or a-T-shirt.

F. Travel, Lodging, And Food Expenses Incurred In Connection With Official Duties: Reasonable expenses for food, travel, lodging, and scheduled entertainment of a public servant or volunteer public servant incurred in connection with public events, appearances, or ceremonies related to official City business, not given in violation of Section 2.44.080 of this Chapter, if furnished by the sponsor of such public event, appearance, or ceremony.

G. Death Transfers: Subject to Section 2.44.100 of this Chapter, bequests, inheritances, and other transfers at death.

H. Legal Defense Funds: If not given in violation of Section 2.44.080 of this Chapter, any contribution to a legal defense fund, as provided below.

1. An elected officer may establish a legal defense fund. Any such legal defense fund shall be a trust, administered and accounted for by an independent trustee of the elected officer's choosing. An elected officer may not solicit or receive contributions for legal defense fund purposes until such a trust has been created. The elected officer shall be solely responsible for raising funds for and directing the trustee to make expenditures from such fund, consistent with the provisions of this Chapter.

2. In no event shall an elected officer simultaneously maintain more than one legal defense fund.

3. The trustee shall not accept more than two thousand five hundred dollars (\$2,500.00) in contributions to a legal defense fund from any one individual or organization. The trustee shall not accept, in the aggregate, more than fifty thousand dollars (\$50,000.00) in contributions to a legal defense fund. No person shall make a contribution to a legal defense fund in the name of another person or make a contribution with another person's funds in his or her own name, and no elected officer shall knowingly accept any such contribution.

4. During such time as any monies remain in a legal defense fund, the beneficiary of such fund shall comply with the reporting requirements of title 63, chapter 96 of the Utah Code, or any successor sections.

5. Within ninety (90) days after determining that there are no legal proceedings threatened or pending against him or her the expenses of which are eligible for payment from such legal defense fund, the beneficiary thereof shall notify the trustee, in writing, of such determination.

Such determination and notification may occur before or after the beneficiary leaves elective office with the City. Within ninety (90) days after receipt of such notification, the trustee shall, as directed by the beneficiary in such notification, or, if the beneficiary does not so direct, in the trustee's sole discretion, either: a) return such monies to the donors thereof on a pro rata basis; b) transfer such monies to the General Fund of the City; or c) donate such monies to a tax-exempt charity of the elected official or anyone else.

6. In no event shall monies in a legal defense fund be transferred to a campaign finance fund of any person.

7. On or before the next January 5 after the distribution of monies described in subsection H5 of this Section, the elected officer shall file the report required by section 63-96-103 of the Utah Code, or any successor section, and shall file a copy of such report with the City Recorder.

I. Leadership Expense Funds: If not given in violation of Section 2.44.080 of this Chapter, any contribution to a leadership expense fund, as provided below.

1. An elected officer may establish a leadership expense fund. ~~During each calendar year, such elected officer may spend up to, but not more than, ten thousand dollars (\$10,000.00) of the monies in such fund.~~ Any such leadership expense fund shall be a trust, administered and accounted for by an independent trustee of the elected officer's choosing. An elected officer may not solicit or receive contributions for leadership expense fund purposes until such a trust has been created. The elected officer shall be solely responsible for raising funds for and directing the trustee to make expenditures from such fund, consistent with the provisions of this Chapter.

2. While any monies are in a leadership expense fund, the beneficiary of such fund shall comply with the reporting requirements of title 63, chapter 96 of the Utah Code, or any successor

sections.

3. Within one hundred eighty (180) days after the beneficiary of a leadership expense fund leaves elective office with the City, the trustee shall distribute any monies remaining in such fund by either: a) returning such monies to the donors thereof on a pro rata basis; b) transferring such monies to the General Fund of the City; or c) donating such monies to a tax-exempt charity. The beneficiary of such a fund may, by providing written notice to the trustee within ninety (90) days after leaving elective office with the City, direct the trustee as to which of such distribution methods to use. In the event that the beneficiary does not so direct the trustee, the trustee shall, in its sole discretion, select the method of and make such distribution.

4. In no event shall monies in a leadership expense fund be transferred to a campaign finance fund of any person.

5. On or before the next January 5 after the distribution of monies described in subsection 13 of this Section, the elected officer shall file the report required by section 63-96-103 of the Utah Code, or any successor section, and shall file a copy of such report with the City Recorder.

J. Determinations Of Nonapplicability: Any gift for which a determination of nonapplicability is made pursuant to subsection 2.44.180B of this Chapter.

SECTION 9. That Section 2.44.100, Salt Lake City Code, be, and the same hereby is, amended to read as follows:

**2.44.100 Gifts In Another's Name Prohibited:**

No person shall make, for the direct benefit of an elected officer or executive employee, a gift in the name of another person or a gift with another person's funds in his or her own name, or a gift made on behalf of another person. No elected officer or executive employee shall

knowingly receive, accept, take, seek, or solicit, directly or indirectly, for his or her direct benefit, any such gift.

SECTION 10. That Section 2.44.130, Salt Lake City Code, be, and the same hereby is, amended to read as follows:

**2.44.130 Public Contracts; Procurement:**

A. Conflict Of Interest:

1. Conflict Of Interest Generally: No public servant or volunteer public servant shall participate directly or indirectly in making, recommending, preparing, or performing a discretionary function with respect to any contract with the City, including without limitation a procurement contract, when the public servant or volunteer public servant has actual knowledge that:

a. The public servant or volunteer public servant or a relative of the public servant or volunteer public servant has a financial interest pertaining to such contract;

b. The public servant or volunteer public servant or a relative of the public servant or volunteer public servant has a financial interest in a business entity ~~that~~ which has a financial interest pertaining to such contract; or

c. Any other person or business entity with whom the public servant or volunteer public servant or any relative of the public servant or volunteer public servant is negotiating or has an arrangement concerning prospective employment is involved in such contract.

2. Financial Interest In A Blind Trust: A public servant or volunteer public servant or any relative of the public servant or volunteer public servant who holds a financial interest in a blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that

financial interest, provided that disclosure of the existence of the blind trust has been made to the: a) City Council, in the case of the Mayor; b) Mayor, in the case of City Council members and department heads; or c) applicable department head, in the case of any other public servant or volunteer public servant.

3. Bidding and Procurement:

a. An elected officer, and any business entity in which such elected officer has a financial interest, may not submit a bid or proposal regarding, or renew the term of, a contract within the official responsibility of that elected officer. A member of a City board, commission, committee, authority, or agency, and any business entity in which such member has a financial interest, may not submit a bid or proposal regarding, or renew the term of, a contract within the official responsibility of that board, commission, committee, authority, or agency.

b. Any public servant or volunteer public servant who serves on a City procurement committee must cease to serve on such committee if he or she has, or within the past year had, a financial interest in an entity that submits a bid or proposal that will be evaluated by that committee.

c. No public servant or volunteer public servant who serves on a City procurement committee may, during the two years immediately following the date the related contract is awarded by the City, seek or accept employment or remuneration of any kind from a person or entity that submitted a bid or proposal that was evaluated by that committee.

34. Discovery Of Actual Or Potential Conflict Of Interest, Disqualification, And Waiver:

Upon discovery of an actual or potential conflict of interest, a public servant or volunteer public servant shall promptly file a written statement of disqualification and shall withdraw from further

participation in the transaction or matter involved. The public servant or volunteer public servant may, at the same time, apply to the City Attorney for an advisory opinion as to what further participation, if any, the public servant or volunteer public servant may have in the transaction or matter.

B. Public Servant ~~And~~ Volunteer Public Servant Disclosure Requirements:

1. Disclosure Of Benefit Received From Contract: Any public servant or volunteer public servant who has or obtains any benefit from any City contract with a business entity in which the public servant or volunteer public servant has a financial interest, shall report such benefit to the:

a) City Council, in the case of the Mayor; b) Mayor, in the case of City Council members and department heads; or c) applicable department head, in the case of any other public servant or volunteer public servant, within thirty (30) days after the public servant or volunteer public servant has actual or constructive knowledge of a benefit received or to be received. However, this subsection shall not apply to a contract with a business entity in which the public servant's or volunteer public servant's interest in the business entity has been placed in a disclosed blind trust. Disclosure pursuant to this subsection shall not exonerate any public servant or volunteer public servant from any violation of this Chapter.

2. Failure To Disclose Benefit Received: Any public servant or volunteer public servant who knows or should have known of such benefit, and fails to report such benefit as provided in subsection B1 of this Section, is in breach of the ethical standards of this Chapter.

C. Gifts And Payoffs Related To Procurement:

1. Gifts: It shall be illegal for any person to offer, give, or agree to give to any public servant or volunteer public servant or former public servant or former volunteer public servant,



or for any public servant or volunteer public servant or former public servant or former volunteer public servant to solicit, demand, accept, or agree to accept from another person, a gift or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a procurement requirement or a purchase request, action to influence the content of any specification or procurement standard, rendering of advice, investigation, auditing, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any procurement requirement or a contract or subcontract, or to any solicitation or proposal therefor.

2. Payoffs: It shall be illegal for any payment, gift, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or a higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order. This prohibition applies whether a payment, gift, or offer is made before or after the award of a City contract or order.

D. Prohibition Against Contingent Fees: It shall be illegal for a person to be retained, or to retain a person, to solicit or secure a City contract upon an agreement or understanding for a commission, percentage, or brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

SECTION 11. That Section 2.44.140, Salt Lake City Code, be, and the same hereby is, amended to read as follows:

**2.44.140 Employment Of ~~Current~~ Present And Former Public Servants:**

A. Contemporaneous Employment Prohibited: Except as provided in Section

2.44.180 of this Chapter, no public servant or volunteer public servant shall participate directly or indirectly on behalf of the City in the procurement or contracting process with respect to a City contract while such public servant or volunteer public servant is the agent or employee of any other party to such contract or any other person who has a financial interest in such contract.

B. Restriction On Former Public Servants Regarding Their Former Duties:

1. Permanent Disqualification Of Former Public Servant Personally Involved In A

Particular Matter: No former public servant shall knowingly act as a principal or as an agent for anyone other than the City; in connection with any of the following matters in which the City is a party or has a direct interest: a) a judicial or other proceeding, application, request for a ruling, or other determination; b) a contract; c) a claim; or d) a charge or controversy; in which the public servant participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise while a public servant.

2. One Year ~~Representation~~-Restriction Regarding Matters In Which A Former Public Servant Was Officially Responsible: With respect to matters ~~that~~which were within a former public servant's official responsibility while he or she was a public servant, but in which such public servant~~officer~~ did not participate personally or substantially, the restrictions set forth in subsection A of this Section shall apply, but only for a period of one year after cessation of the former public servant's official responsibility.

C. Disqualification Of Business Entity In Which A Public Servant Or Volunteer Public Servant Has A Financial Interest: No business entity in which a public servant or volunteer public servant has a financial interest shall knowingly act as a principal or as an agent for anyone other than the City; in connection with any of the following matters in which the City

is a party or has a direct interest: 1) a judicial or other proceeding, application, request for a ruling, or other determination; 2) a contract; 3) a claim; or 4) a charge or controversy; in which the public servant or volunteer public servant participates personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise.

D. Selling To The City After Termination Of Employment Is Prohibited: No former public servant, unless the former public servant's last annual salary did not exceed thirty thousand dollars (\$30,000.00), shall engage in selling or attempting to sell supplies, services, or construction to the City for one year following the date his or her employment by the City ceased. The foregoing sentence shall not apply to sales or attempted sales pursuant to a contract awarded through an open and public bidding process. This subsection is not intended to preclude a former public servant from accepting employment with private industry solely because the former public servant's employer is a contractor with the City, nor shall a former public servant be precluded from serving as a consultant to the City.

SECTION 12. That Section 2.44.150, Salt Lake City Code, be, and the same hereby is, amended to read as follows:

**2.44.150 Negotiating Employment:**

A public servant or volunteer public servant shall not perform his or her official duties with respect to City action that involves a person or business entity ~~that~~ which has a financial interest in such City action while the public servant or volunteer public servant is negotiating prospective employment with such person or business entity.

SECTION 13. That Section 2.44.170, Salt Lake City Code, be, and the same hereby is, amended to read as follows:

**2.44.170 Acquiring Interest In A Business Entity:**

No public servant or volunteer public servant shall acquire an interest in a business entity at a time when such public servant or volunteer public servant believes or has reason to believe, based on information not available to the general public, that such business entity will be substantially and directly affected by any contract, transaction, zoning decision, or other official action of the City.

SECTION 14. That Section 2.44.180, Salt Lake City Code, be, and the same hereby is, amended to read as follows:

**2.44.180 Waivers; Determinations Of Nonapplicability:**

A. Except with respect to the restrictions on gifts in Section 2.44.080 of this Chapter, the City Council, in the case of the Mayor; the Mayor, in the case of City Council members; the Mayor and the Chairperson of the City Council, jointly, in the case of the City Attorney; and the City Attorney, in the case of any other public servants or volunteer public servants, may grant a waiver from the provisions of this Chapter upon making a written determination that:

1. The public servant or volunteer public servant will be able to perform his or her official functions without actual bias or favoritism; and
2. The granting of the waiver will not be detrimental to the interests of the City.

B. A determination of nonapplicability of the restrictions on gifts in Section 2.44.080 of this Chapter may be given by the Mayor, in the case of the City Council; by the City Council, in the case of the Mayor; by the Mayor and the Chairperson of the City Council, jointly, in the

case of the City Attorney; or by the City Attorney, in the case of any other public servant or volunteer public servant. A determination of nonapplicability shall be in writing and shall be given only upon a determination that:

1. The gift was not given with the intent to influence official action;

2. There exists no substantial likelihood that the gift will influence official action. ~~Any such determination of nonapplicability shall include a description of the gift, its estimated value, the reasons justifying its being received, and shall be filed as a public document with the City Recorder; and~~

3. The giving of the determination of nonapplicability will not be detrimental to the interests of the City.

Any such determination of nonapplicability shall include a description of the gift, its estimated value, the reasons justifying its being received, and shall be filed as a public document with the City Recorder.

SECTION 15. That Section 2.44.190, Salt Lake City Code, be, and the same hereby is, amended to read as follows:

**2.44.190 Clause In Contracts:**

~~The following clause shall be conspicuously set forth in every contract and bid, proposal or other offer therefor involving the City~~In every contract, bid, proposal, or other offer involving the City made by a non-governmental entity, such non-governmental entity shall make the following representation:

REPRESENTATION REGARDING ETHICAL STANDARDS FOR CITY OFFICERS AND EMPLOYEES AND FORMER CITY OFFICERS AND EMPLOYEES

The bidder, offeror, or contractor represents that it has not: (1) provided an illegal gift or payoff to a city officer or employee or former city officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, or brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in the city's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, a city officer or employee or former city officer or employee to breach any of the ethical standards set forth in the city's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code.

SECTION 16. That Section 2.44.230, Salt Lake City Code, be, and the same hereby is, amended to read as follows:

2.44.230 Travel, Lodging, or Entertainment Expenses – Reporting.

If someone other than the City pays for travel, lodging, or entertainment expenses of an elected official incurred in connection with official City business, such elected official shall, within ten (10) business days after such expenses are incurred, file with the City Recorder a public report detailing the amount and nature of such expenses and the name of the person or entity that paid for such expenses. Notwithstanding the foregoing, an elected official shall not be required to file a public report pursuant to this section detailing the cost of food or meals provided to the elected official.

SECTION 17. That Section 2.44.230, Salt Lake City Code, be, and the same hereby is, re-numbered and amended to read as follows:

**2.44.2340 Sanctions:**

A. **Persons Who Are Not Public Servants Or Volunteer Public Servants:** The City may impose any one or more of the following sanctions on a person who is not a public servant or a volunteer public servant for violations of the ethical standards in this Chapter:

1. Written warnings or reprimands;
2. Termination of contracts; or
3. Debarment or suspension from contracting with the City.

B. **Right Of The City To Debar Or Suspend:** Debarment or suspension may be imposed by the City for violations of the ethical standards of this Chapter, provided that such action may not be taken without the concurrence of the City Attorney.

C. **Due Process:** All procedures under this Section shall be in accordance with due process requirements, including, but not limited to, a right to notice and an opportunity for a hearing prior to imposition of any termination, debarment, or suspension from being a contractor or subcontractor under a City contract.

D. **Recovery Of Value Transferred Or Received In Breach Of Ethical Standards:**

1. **General Provisions:** The value of anything transferred or received in violation of the ethical standards of this Chapter by a public servant, volunteer public servant, or other person may be recovered from both the public servant or volunteer public servant and the other person through judicial action.

2. **Recovery Of Payoffs By The City:** Upon a showing that a subcontractor made a payoff to a prime contractor or a higher tier subcontractor in connection with the award of subcontract or order thereunder, the amount of the payoff will be recoverable by the City hereunder from the

recipient. In addition, that amount may also be recovered from the subcontractor making such payoff. Recovery from one offending party shall not preclude recovery from other offending parties.

SECTION 17. That Section 2.44.240, Salt Lake City Code, be, and the same hereby is, re-numbered and amended to read as follows:

**2.44.2450 Appeals:**

Notwithstanding any other provision of this Chapter, a public servant under the career or civil service system, who is found to have violated any of the provisions of this Chapter, and has had discipline imposed, may have such discipline reviewed in accordance with and as provided by law regarding such systems.

SECTION 18. That Section 2.44.250, Salt Lake City Code, be, and the same hereby is, re-numbered and amended to read as follows:

**2.44.2560 Voidable Transaction:**

Any contract or transaction ~~that~~ which was the subject of governmental action by the City and ~~that~~ which involved the violation of a provision of this Chapter is voidable, at the option of the City.

SECTION 19. That Section 2.44.260, Salt Lake City Code, be, and the same hereby is, re-numbered and amended to read as follows:

**2.44.2670 Violation-Penalty:**

In addition to any penalty provided herein, any person who knowingly and intentionally violates ~~any~~ the provisions of this Chapter is guilty of a misdemeanor, and may be dismissed from employment or removed from office, as provided by law.



SECTION 20. EFFECTIVE DATE. That this Ordinance shall take effect on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah, this \_\_\_\_\_ day of

\_\_\_\_\_, 2007.

\_\_\_\_\_  
CHAIRPERSON

ATTEST:

\_\_\_\_\_  
CHIEF DEPUTY CITY RECORDER

Transmitted to the Mayor on \_\_\_\_\_.

Mayor's Action: \_\_\_\_\_ Approved. \_\_\_\_\_ Vetoed.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CHIEF DEPUTY CITY RECORDER

(SEAL)

Bill No. \_\_\_\_\_ of 2007  
Published: \_\_\_\_\_.

APPROVED AS TO FORM  
Salt Lake City Attorney's Office  
Date 1-11-07  
By Boyd Ferguson