

CITY OF SULTAN, WASHINGTON
RESOLUTION NO. 17-12

A RESOLUTION OF THE CITY OF SULTAN REPEALING RESOLUTION 11-12 ESTABLISHING PURCHASING POLICIES AND PROCEDURES; ADOPTING A NEW RESOLUTION 17-12 ESTABLISHING PURCHASE POLICIES AND PROCEDURES.

WHEREAS, the City Council of the City of Sultan has determined that it is in the best interests of the City of Sultan to provide guidelines and procedures for purchases made by the City; and

WHEREAS, the City Council has determined that the procedures should provide a consistent process for the purchase of supplies, equipment and services by all City departments;

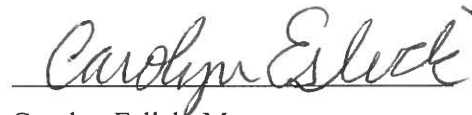
WHEREAS, the City Council amended the purchasing policies on August 11, 2011 by Resolution 11-12; and

WHEREAS, the Washington State legislature has adopted new limits for purchasing office supplies, operating supplies and equipment and new limits for public works contracts involving a single trade or multiple trades;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sultan that Exhibit A entitled "City of Sultan Purchasing Policies and Procedures" are hereby adopted.

PASSED AND ADOPTED this 14th day of September 2017.

CITY OF SULTAN



Carolyn Eslick, Mayor

ATTEST/AUTHENTICATED:


Laura Koenig, City Clerk

City of Sultan Purchasing Policies



Adopted November 2007
Revised August 11, 2011
Revised August 10, 2017

CITY OF SULTAN PURCHASING POLICY AND PROCEDURE

- Section 1: Purpose
- Section 2: Responsibilities
- Section 3: Definitions
- Section 4: Purchase Procedures
- Section 5: Determine Total Costs
- Section 6: Purchasing Parameters
 - Materials, supplies, equipment
 - Service Contracts
 - Professional Services
 - Public Works Projects
- Section 7: Exceptions to Policy

1. PURPOSE:

This document is intended to direct the purchase of goods and services at a reasonable cost. An open, fair, documented, and competitive process is to be used whenever reasonable and possible. The purchasing function's integrity, efficiency, and effectiveness are critical elements of sound government.

1.0 Policy statement.

The City desires a fair and open process for procurement of goods and services that is free from the potential for bias and conflict of interest. In addition, the City desires consistent and appropriate practices for solicitations and contracting. All procurements of goods and services shall provide the City with the best quality and best value. All purchases are to be made within budgetary limitations and for the purpose of the goals and objectives approved in the City's budget. Any purchase made that is not within budgetary limits and the City's commitment authority shall be pre-approved through a budget amendment process. All purchases made by the City shall ultimately be approved by the City Council through the voucher approval process.

1.1 Objectives

The objectives of the City's purchasing program are as follows:

- To provide a uniform system to obtain supplies, materials, equipment, and services in an efficient and timely manner;
- To facilitate responsibility and accountability with the use of City resources;
- To ensure equal opportunity and competition among suppliers and contractors;
- To promote effective relationships and clear communication between the City and its suppliers and contractors;
- To comply with the comprehensive State procurement statutes which govern expenditures of public funds;
- To promote use of recycled materials and products, and dispose of surplus and scrap materials with regards to cost savings and the environment.

1.2 Scope:

These guidelines apply to purchases of:

- Supplies, materials, and equipment
- Professional services (including architectural and engineering design)
- Non-professional services
- Public works projects

The guidelines do not apply to;

- The acquisition, sale, or lease of real property.
- If grant funding is involved in the proposed purchase, applicable requirements should be obtained from the funding agency. Such requirements may be more restrictive than the City's policy.

1.3 Controlling Laws

All purchases shall comply with appropriate and relevant Federal, State, and City laws and policies. If the appropriate and relevant Federal or State laws, regulations, grants, or requirements are more restrictive than these guidelines, such laws, regulations, grants, or requirements should be followed.

The City Attorney shall be consulted when questions regarding potential conflicts arise. Applicable laws and regulations will be cited throughout this document.

1.4 General provisions.

- A. Grant funded projects may have additional regulations required for expending federal and state funding.
- B. Breaking Down or Splitting Purchases. The breaking down, or splitting, of any purchase or contracts into units of phases for the purpose of avoiding the maximum dollar amount is prohibited.
- C. Emergency Procurements. Notwithstanding any other provisions of this policy, the Mayor or designated agent may make or authorize others to make emergency procurements of materials, supplies, equipment, or services without complying with the requirements of this section when there exists a threat to public health, welfare, or safety or threat to proper performance of essential functions; provided, that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, and listing of the item(s) procured under the contract, which shall be reported to the City Council at the next subsequent meeting. The City must produce a negotiated contract for each emergency purchase within fourteen (14) days of procurement or the work being performed.

D. Amendments and Change Orders.

- a. Amendments or change orders to contracts, including inter-local agreements, which result in the final contract amount in excess of purchase limits identified in this policy may be administratively approved if the changes are:
 - i. Within the scope and budget of the project or purchase;
 - ii. Executed in writing;
 - iii. The amount in excess of the Mayor's purchase limits will not exceed the Mayor's authority for non-budgeted capital or operating expenditures as adopted by City Council or the approved project budget, whichever is greater.
- b. Contract amendments that are strictly a change in contract expiration date may be administratively approved by the Department Head.
- c. The value of all change orders will be aggregated, and when any single amendment or combination of change orders on the same project or purchase exceeds the limit under subsection (D)(a)(iii) of this section the change must be approved by the City Council, except:
 - i. For service contracts to accomplish an ongoing city program rather than a discrete project, the aggregation of administrative change orders shall be recalculated after each contract year; and
 - ii. Where the size of the contract makes it probable that administrative change order authority will be quickly exhausted, the City Council may, upon recommendation of the Mayor, extend the aggregate limits of subsection (D) (a) (iii) of this section upon award of the particular contract.

E. Signature Authority. The Mayor may delegate his/her signature authority to other City employees (City Administrator, Department Head) as deemed appropriate.

2.0 RESPONSIBILITIES:

- 2.1 Procedures. The Finance Department will develop procedures to be followed for all purchases.
- 2.2 Inventory. The Finance Department will maintain an inventory of commonly used office and operating supplies to facilitate quantity buying and reduce stockpiling of supplies at a department level.
- 2.3 The Finance department will coordinate the establishment of standard products which are used by multiple departments which will enable the City to combine purchases to take advantage of quantity discounts, etc.
- 2.4 Each Department Head has the responsibility for their department for the procurement of all goods and services; and to either provide the services for such procurement and processing or give functional directions to others delegated the authority to perform such services.
- 2.5 Specifications. All specifications must be written in a manner so as not to preclude products or services of an equal nature to participate and compete.
- 2.6 Department Head approval. All purchase orders will be reviewed and approved by the Department Head.
- 2.7 Final determination. The Department Head has the responsibility for making the final determination of a source of supply, quantities purchased, delivery schedule and price negotiations, except where others are so authorized. These decisions will be made in compliance with the budget and all applicable procedures, policies, laws, and regulations.
- 2.8 Professional relationships. The Department Head or their designee is responsible for initiating and maintaining effective and professional relationships with suppliers, actual and potential.
- 2.9 Quotes. If the purchasing department contacts the required number of firms, but receives less than the required number of responsive quotes, the department may award to the contractor/firm with the lowest responsible quote.
- 2.10 Award. The Department Head or their designee will seek to obtain and purchase all goods at the lowest possible total end-use cost from a responsible bidder, while considering the vendor's ability to meet the City's timeliness and costs associated with opportunity loss.
- 2.11 Verifying shipments. The Department Head or their designee is responsible for verifying all shipments received for accuracy to the packing/shipping lists and ensuring that they are received in good condition. All shipments will be shipped to the appropriate department unless it is not feasible due to size, weight, hazardous materials, etc. If a shipment is received at a different location, the responsibility for verification of contents and condition falls on the employee who receives it.
- 2.12 Discrepancies. It is the responsibility of the department who requisitioned the goods to verify that they are correct and to notify all discrepancies to the finance department immediately.

- 2.13 Returns. Purchasing personnel will coordinate and negotiate the return of rejected equipment or supplies to suppliers.
- 2.14 Compliance with the budget is the responsibility of the Department Head of the requisitioning department. All purchases not appropriated in the budget must be approved by the City Council.
- 2.15 Conflict of interest. No employee will participate directly or indirectly in a procurement when they know there is a conflict of interest. Any potential conflicts should be reported to the City Administrator for his/her decision as to whether a conflict does exist.
- 2.16 Solicitation of donations. The City will not accept donations of materials or services in return for a commitment to continue or initiate a purchasing relationship.
- 2.17 Gifts and gratuities. No employee will accept gifts or gratuities from existing or potential vendors.

3.0 DEFINITIONS:

- A.** "Architectural and engineering services" means professional services rendered by any person, other than a City employee, to perform activities within the scope of the professional practice of architecture (Chapter 18.08 RCW), professional practice of engineering and land surveying (Chapter 18.43 RCW), and/or professional practice of landscape architecture (Chapter 18.96 RCW).
- B.** "Contract Authorization Summary" outlines the levels at which managers, directors, or the Mayor may commit the City to a contract.
- C.** "Formal competitive bid" is the process of advertising and receiving sealed written bids from perspective vendors. The selection of the vendor is primarily based on the lowest cost from a responsible vendor.
- D.** "Informal competitive quotes" are price quotes from vendors that are obtained using a variety of mediums such as phone, fax, e-mail, or writing. Results must be documented. The selection of the vendor is primarily based on the lowest cost from a responsible vendor.
- E.** "Inter-local agreements" are the exercise of governmental powers in a joint or cooperative undertaking with another public agency.
- F.** "Life cycle cost" means the total cost of an item to the City over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life.
- G.** "MSRC Small Works and Consultant Roster" is a shared statewide small public works and consultant roster service managed by the Municipal Research and Services Center of Washington used by Washington state local public agencies. The Small Works and Consultant Roster is maintained and operated in full compliance with state laws and purchasing requirements.
- H.** "Nonprofessional services" are services that are purchased by the City for which the contractor receives specific instructions and guidance from the City and does not meet the definition of professional services, architectural and engineering services, or public works projects. Examples include machine repair, debt collection services, temporary service agencies, credit card services, equipment service agreements, auctioning services, delivery services, inspections, advertising, etc.
- I.** "On-call contract" means a contract that is awarded with general provisions for the services to be rendered. As services are to be rendered, specific task orders are initiated that are to be completed by the contracting firm.
- J.** "Ordinary maintenance" is work not performed by contract and that is performed on a regularly scheduled basis (e.g., daily, weekly, seasonally, semiannually, but not less frequently than once per year), to service, check, or replace items that are not broken; or work not performed by contract that is not regularly scheduled but is required to maintain an asset so that repair does not become necessary.
- K.** "Prevailing Wage" is defined as the hourly wage, usual benefits and overtime, paid in the largest city in each county, to the majority of workers, laborers, and mechanics. Prevailing wages are established, by the Department of Labor & Industries, for each trade and occupation employed in the performance of public

work. They are established separately for each county, and are reflective of local wage conditions.

- L. "Professional services" are services provided by consultants that provide highly specialized, generally one-time expertise to solve a problem or render professional opinions, judgments or recommendations. The labor and skill involved to perform these types of services are predominately mental or intellectual, rather than physical or manual. Examples include graphics design, advertising, analysis, financial expertise, accounting, artists, attorneys, bond brokers, computer consultants, insurance brokers, economists, planners, real estate services, etc. This term does not include architectural and engineering services.
- M. "Public work," as defined in RCW 39.04.010, means a complete project, and includes all work, construction, alteration, repair or improvement other than ordinary maintenance, executed at the cost of the City or which is by law a lien or charge on any City property. Public work projects include the related materials, supplies and equipment to complete the project. For purposes of this policy, the term "public work" may include contracts for maintenance of City facilities or real property (i.e. janitorial services).
- N. "Request for proposals (RFP)" means a process that requests interested firms to submit a statement of their proposal for completing a project. Proposals are then evaluated based on the idea, including originality, suitability, practicality, expertise, etc. Proposals may be selected based on the quality of the proposal, experience, cost, and references.
- O. "Request for qualifications (RFQ)" means a process that requests interested consultants to submit a letter of interest and a statement of their qualifications. Consultants are evaluated upon their qualifications, expertise, and references. Cost cannot be a consideration until after a consultant has been selected at which point the price may be negotiated.
- P. "Small works roster" is a roster of qualified contractors maintained for use in a modified formal bid process. When the contract amount for a public works project is within the limits set forth by RCW 39.04.155, a city may follow the small works roster process for construction of a public work or improvement as an alternative to formal competitive bid requirements.

4.0 PURCHASING PROCEDURES:

The following procedures will apply to the purchase of materials, supplies, equipment and services.

4.1 Purchase Orders: All purchases of supplies and equipment require a purchase order.

- Purchases made due to an emergency must be confirmed with a purchase order as soon as it is feasible.
- Purchases made without a purchase order may be determined as unauthorized and become the responsibility of the employee initiating the purchase.

4.2 Reoccurring Purchases: Do not require a purchase order. The following types of services are examples of reoccurring purchases:

- Phone
- PUD Power
- PSE Gas service
- SNOPAC monthly fees
- Court fees – requires Department Head approval
- Jail bills – requires Department Head approval
- Lease payments on vehicles
- Vehicle gas purchases – requires Department Head approval
- Other monthly recurring services as determined by Department Head

4.3 Consultant/Contract Services. The following types of professional services performed under contract do not require a purchase order. The city council must approve all consultant and contracts for services:

- Public Defender – requires Department Head approval
- Public Prosecutor – requires Department Head approval
- Hearing Examiner – requires Department Head approval
- Plat/Land Use Review – requires Department Head approval
- Comp Plans/Rate Studies – requires Department Head approval
- Capital Projects – requires Department Head approval. Requires a purchase order if connected to a grant or loan funded project.

4.4 Purchase Order Forms:

- The Finance Department will issues batches of pre-numbered purchase orders to each Department
- A list of the purchase order numbers will be provided with each batch of assigned purchase orders
- Departments will fill in the vendor information on the purchase order list as they issue purchase orders
- When all the purchase orders in a batch have been used, the Department Head will submit the list to the Finance Department. No additional purchase order batches will be assigned without the prior list being submitted.
- The Finance Department will audit the lists submitted to ensure that the purchase orders match up to the accounts payable.

5.0 Determining Total Purchase Cost

5.1 Use Anticipated Cost

The anticipated annual need for a good or service (when it can reasonably be projected) shall be used to determine the cost of that good or service, and thus which contract approval level, cost threshold, and other related purchasing requirements apply.

5.2 No Bid Splitting

Requirements shall not be divided to come up with a lower total cost to avoid contract approval levels or competition requirements. If one item being purchased requires another item to —make a whole, the total accumulated costs of the two items (when they can reasonably be projected) should be considered together to determine which approval level and cost threshold apply, unless the two items are not available from a single supplier.

Example: Replacement carpeting is being purchased for a conference room. The cost of the carpet and the pad (and installation, if applicable) would be considered together to compute the cost of the replacement.

5.3 Costs to Include

Include costs such as taxes, freight, and installation charges when determining which cost threshold applies. Do not include the value of a trade-in. (Trade-in value should be considered, however, to determine the lowest bid when competitive bidding is used.)

5.4 Include Total Quantity Needed

Requirements for the total quantity of an item (when they can reasonably be projected) should be considered when determining which cost threshold and related purchasing requirements apply.

5.5 Multiphase Programs

If a project is to be completed in phases, the total accumulated cost for all phases should be considered when determining which cost threshold applies.

6.0 PURCHASING PARAMETERS:

6.1 Purchase of materials, supplies or equipment.

Purchasing Limitations. Purchase limitations apply to the cost of individual items or the sum of the same items purchased at the same time to fulfill a specific business need, which are not part of a public works project as defined by RCW 39.04.010 and these policies. Cost is inclusive of sales tax, delivery charges and any related miscellaneous charges. Limits shown and processes identified in the policy shall be followed when authorizing the acquisition of materials, supplies or equipment

6.1.1 Purchases of office supplies, operating supplies and equipment not connected with a public works project, may be made within the following limits and approval:

- \$7,500 or less – Department Head may use small purchase process, vendor list or formal competitive bidding.

6.1.2 Purchases costing more than \$7,500 and less than \$15,000 may use a vendor list or formal competitive bidding. The city requires written documentation of the quotes from a minimum of two vendors, unless the item(s) are from a sole source vendor. Purchases in this price range require the requesting department head or designee pre-approval and completion of a purchase order.

6.1.3 Purchase in excess of \$15,000 must use formal competitive bidding and require council approval.

Formal Competitive Bid – Materials, Supplies, or Equipment over \$15,000

- A. General. Unless otherwise specifically approved by the City Council, all contracts relating to the purchase of materials, equipment, or supplies shall be in accordance with the City budget.
- B. Invitation for Bids. An invitation for bids shall be issued which shall include the specifications and the contractual terms and conditions applicable to the procurement.
- C. Public Notice. Public notice of the invitation for bids shall be published at least once in a newspaper of general circulation within the City, not less than 13 calendar days prior to the date set forth therein for the opening of bids, unless for good cause shown, the City Council authorizes a different period of time. The public notice shall state the date and time of bid opening. Bids not received by the date and time stated for bid opening will not be accepted or considered.
- D. Bid Opening. Bids shall be opened publicly and recorded at the time and place designated in the invitation for bids.
- E. Withdrawal of Bids – Cancellation of Awards. Bids may be modified or the bid may be withdrawn by written notice received in the office designated in the invitation for bids prior to the time set for opening. After bid opening, withdrawal of bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence presented in a sworn affidavit or declaration submitted no later than 5:00 p.m. on the first business day after bid opening, that a clerical mistake was made and not a mistake in judgment, and the bid price actually intended. All decisions to permit the withdrawal of bids after bid opening, or to cancel awards or contracts based on bid mistakes, shall be made by the Mayor after consulting with legal counsel.
- F. Award. The City Council shall award purchases for amounts greater than or equal

to the limits as identified in the City budget. The award of bid shall be made to the lowest responsible bidder whose bid meets the specifications and evaluation criteria set forth in the invitation for bids. The City may reject all bids at its discretion.

- G. All purchases of over \$5,000 will have a completed and approved Capital Outlay Form submitted to the finance department prior to the purchase of materials, supplies, or equipment.

Lowest Responsible Vendor. The following factors, in addition to price, may be taken into account by the City in determining the lowest responsible vendor; these criteria shall also apply in selecting products or services either offered with, or associated indirectly with, City programs or facilities:

- Any preferences provided by law to local products and vendors;
- The ability, capacity, and skill of the vendor to perform the contract;
- The character, integrity, reputation, judgment, experience, and efficiency of the vendor;
- Whether the vendor can perform the contract within the time specified;
- The quality of performance of previous contracts or services;
- The previous and existing compliance by the vendor with laws relating to the contract;
- Such other information as may be secured having a bearing on the decision to award the contract.

6.2 Purchased Service Contracts:

Purchased services are those provided by vendors for routine, necessary and continuing functions of the city (other than architects or engineers) including but not limited to the following:

- Repair services, small equipment rental, laboratory testing services, computer and phone support services, janitorial services, and maintenance and servicing of equipment over a specified period.
- Consulting services such as accounting, inspection, plan review, finance, planning, legal or technical support on an On-call basis.

6.2.2 Consultants and service providers, other than architects and engineers will be recommended by the department and approved by the City Council. The documentation for an award decision for service contracts will include:

- Council project authorization (may be in budget)
- Type of services needed and method of solicitation (i.e., newspaper, direct contact, etc.)
- Approximate value of contract
- Term of contract
- Basis of selection and method of evaluation

6.2.3 Quotations will be used to ensure that a competitive price is established and the purchase contract will be awarded to the lowest responsible bidder as defined in this policy.

6.2.4 Service Contract Approvals

- All contracts and contract amendments for services require the approval of the city council regardless of dollar amount.
- Contracts for services and contract amendments where the total contract value is less than \$5,000 may be placed on the consent agenda for council approval.
- Contracts for services and contract amendments where the total contract value is \$5,000 or more must be approved by the city council as an affirmative action (i.e. placed on the agenda as an “action” item).

6.2.5 Purchases of services may be made within the following limits and approval:

1. Purchases between \$0 and \$5,000 require at least two documented telephone or electronic quotes and must be approved by the Department Head and by action of the City Council.
2. Purchases between \$5,000 and \$20,000 will require three written or documented quotes if phone quotes are obtained.
3. Purchases of \$20,000 or above require a formal competitive bid/proposal process as follows
 - Advertisement. The purchasing department shall advertise in appropriate publications and/or use the MRSC roster for professional services, as available, during the solicitation process.
 - Fourteen-Day Notice. Notice inviting RFPs should be allow at least fourteen calendar days before the due date of submission of the RFP.
 - Notice Contents. The notice shall, at a minimum, describe the general type of service needed, how the RFP minimum scope of work can be obtained, the requirement of a written sealed proposal, and state the closing date, place, and time for submission of the RFP.
 - Solicitation Procedure. Sealed request for proposals should be submitted to the city clerk or department head. RFP's need not be opened publicly. All proposals shall be analyzed by the mayor or city administrator and the requesting department for compliance with RFP requirements, value of total scope of services and a recommendation made to city council for selection, or for follow up interviews of those submitting a proposal.

Criteria for approval include, but are not limited to:

- cost
- quantity
- type of item
- past purchasing history
- purchasing intervals,
- availability
- previous vendor performance
- familiarity with available vendors
- requisitioning departments
- time line, etc.

6.3 Professional Services: Architect/Engineering (A/E) are services rendered by a consultant or any person, other than an employee of the agency, contracting to perform activities within the scope of the general definition of professional practices in RCW chapters 18.08 (Architects), 18.43 (Engineers and Land Surveyors, or 18.96 (Landscape Architects).

6.3.1 Contracts for professional architectural, landscape architecture, surveying and engineering services require an advertising and negotiation process (Request for Qualifications) in accordance with RCW 39.80.

- Advertisement. The purchasing department shall advertise in appropriate publications and/or use the MRSC professional services roster, as available, during the solicitation process.
- Fourteen-Day Notice. Notice inviting RFQ should be advertised at least fourteen calendar days before the due date of submission of the RFQ.
- Notice Contents. The notice shall, at a minimum, describe the general type of service needed, how the RFQ minimum scope of work can be obtained, the requirement of a written sealed proposal, and state the closing date, place, and time for submission of the RFQ.
- Solicitation Procedure. Sealed request for proposals should be submitted to the city clerk or department head. RFQ need not be opened publicly. All proposals shall be analyzed by the mayor or city administrator and the requesting department for compliance with RFQ requirements, value of total scope of services and a recommendation made to city council for selection, or for follow up interviews of those submitting a proposal.

6.3.2 Professional Service Contract Approvals

- All professional services contracts must be evaluate based on qualifications. The cost will be negotiated based on the final project scope, schedule and budget.
- All professional services contracts must be approved by the city council regardless of dollar amount.
- All professional services contracts and contract amendments for services require the approval of the city council regardless of dollar amount.
- All professional service contracts and contract amendments where the total contract value is less than \$5,000 may be placed on the consent agenda for council approval.
- All professional service contracts and contract amendments where the total contract value is \$5,000 or more must be approved by the city council as an affirmative action (i.e. placed on the agenda as an "action" item).

6.4 Public Works Projects:

6.4.1 Public Work Defined. The term “public work” is not clearly defined under state law; however, it does provide as follows:

The term public work shall include all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein. All public works, including maintenance when performed by contract, shall comply with the provisions of RCW 39.12.020.

RCW 39.04.010. The foregoing definition identifies some of the activities that constitute a public work and specifically excludes “ordinary maintenance.” The Department of Labor and Industries, which implement the prevailing wage requirements for public works, has by regulation adopted a definition of “public work” based upon the statutory definition. This definition identifies what work will be considered a public work and what work will not be considered a public work, providing as follows:

The term “public work” shall include:

(i) Work by Contract at the Cost of the City. All work, construction, alteration, enlargement, improvement, repair, and/or demolition that is executed by contract, purchase order, or any other legal agreement and that is executed at the cost of the state of Washington or of any municipality. (*The Office of the Attorney General has opined that even \$1.00 of public money triggers this requirement.*) The source of the funding shall not determine the applicability of the statute, and may include, but is not limited to, such sources as those payments made through contracts with insurance companies on behalf of the insured state or municipality; (*The Contract requirement differentiates this work from work done by city labor forces not subject to a bargaining agreement*)

(ii) All work, construction, alteration, enlargement, improvement, repair, and/or demolition which, by law, constitutes a lien or charge on any property of the state or of a municipality; (*This requirement is rarely in place because the courts have found that public projects that require retainage, like public works contracts, cannot be subject to a lien*)

(iii) All work, construction, alteration, repair, or improvement, other than ordinary maintenance that the state or a municipality causes to be performed by a private party through a contract to rent, lease, or purchase at least fifty percent of the project by one or more state agencies or municipalities, pursuant to RCW 39.04.260; (*This leasehold exception is intended to apply to projects where the City pays for owner improvements as part of a lease for occupancy*)

(iv) Maintenance, except ordinary maintenance as defined by (b)(iii) of this subsection, when performed by contract. Maintenance is defined as

keeping existing facilities in good usable, operational condition; (*this exception is very limited as will be discussed infra*)

(v) Janitorial and building service maintenance as defined by WAC 296-127-023 (*defined as work performed by janitors, waxers, shampooers, and window cleaners*), when performed by contract, on public buildings and/or assets; and

(vi) The fabrication and/or manufacture of nonstandard items produced by contract specifically for a public works project as defined by (a)(i) through (v) of this subsection.

WAC 296-127-010(7)(a).

The term “public work” shall **NOT** include:

(i) Community Service Contracts. Work, construction, alteration, enlargement, improvement, repair, demolition, and/or maintenance for which no wage or salary compensation is paid, consistent with the requirements of RCW 35.21.278 (*Contracts with community service organizations for public improvements — Limitations*);

(ii) Street Railway. The construction, alteration, repair, or improvement of any municipal street railway system;

(iii) Ordinary Maintenance. Ordinary maintenance which is defined as work not performed by contract and that is performed on a regularly scheduled basis (e.g., daily, weekly, monthly, seasonally, semiannually, but not less frequently than once per year), to service, check, or replace items that are not broken; or work not performed by contract that is not regularly scheduled but is required to maintain the asset so that repair does not become necessary.

6.4.2 **Purchasing Procedures.** Procedures for any public work or improvement shall be governed by RCW 35.23.352. At such time as the City’s population exceeds twenty thousand, purchases shall be governed by RCW 35.22.620.(RCW 35A.40.210) Cost for a public works project includes all amounts paid for materials, supplies, equipment, and labor on the construction of that project which is inclusive of sales tax, unless exempted by law.

6.4.3 **Purchasing Limitations.** The Mayor may authorize the purchase and execution of public works projects equal to or less than the dollar threshold for small works projects as provided under RCW 39.04.155 as amended.

7.0 Exceptions to Purchasing Limitations. The Mayor is authorized to allow open market purchases without obtaining the regularly required competitive quotes or bids under the following conditions:

- A. Surplus or Distress Sale. When it is possible to procure obvious bargains through the procurement of surplus or distress material, supplies or equipment. RCW 39.33.010 allows for the purchase of surplus property from other governmental agencies without regard to bid laws.
- B. Auctions. RCW 39.30.045 authorizes the City to acquire supplies, materials, and equipment through an auction conducted by the United States or any agency thereof, an agency of the state of Washington, a municipality or other government agency, or any private part, without quotations or bids, if the items to be purchased can be obtained at a competitive price.
- C. Inter-local Joint Purchasing Agreements. Materials, equipment, supplies and services may be purchased under RCW 39.34.080 using joint purchasing agreements with a city, county, state or other public agency where bid requirements of this policy have been followed by the cooperating agency in obtaining bids. Originating agency's bid process shall be vetted to assure compliance with all applicable laws.
- D. Sole Source Procurement. A contract for the purchase of materials, supplies, or equipment may be awarded without complying with the bidding requirements of this policy when the department director determines in writing, subject to council approval through resolution, after conducting a good faith review of available resources, that there is only one source of the required materials, supplies, or equipment. The department director or his/her designee shall conduct negotiations, as appropriate, as to price, terms, and delivery time. To comply with RCW 39.04.020, a record of sole source procurement shall be recorded with the County Auditor that lists each contractor's name, the amount and type of each contract, and a listing of the item(s) procured under each contract. The City Clerk or his/her designee shall perform this recording task.
- E. No Bids or Quotations Received. When no bids or quotations are received in response to an invitation to bid or request for quotations, the department director or his/her designee is authorized to procure the required item through direct negotiations with a vendor or to rebid as the Mayor or designee deems appropriate.

|