



**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF SUNNYSIDE, WASHINGTON, ESTABLISHING A  
PROCUREMENT OF GOODS AND SERVICES POLICY**

**WHEREAS**, the City of Sunnyside expends public funds in an effort to provide numerous services to the public; and

**WHEREAS**, it is imperative that expenditure of these funds be done in the most efficient manner possible to safeguard the interests of the public; and

**WHEREAS**, a Procurement of Goods and Services Policy, attached hereto as Exhibit "A" and incorporated herein by this reference, will ensure that all staff receive clear guidance and understand the appropriate steps to take when making purchases; and

**WHEREAS**, the City Council finds and determines that adopting such policy is in the best interest of residents of the City of Sunnyside and will promote the general health, safety and welfare.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON**, as follows:

**Section 1.** That the Procurement of Goods and Services Policy, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, is hereby approved; and the City Manager is hereby authorized to execute and administer this agreement for and on behalf of the City of Sunnyside.

**Section 2.** This Resolution shall be effective upon passage, approval and signatures hereon as required by law.

**PASSED** this 27<sup>th</sup> day of May, 2014.

  
\_\_\_\_\_  
JAMES A. RESTUCCI, MAYOR

**ATTEST:**

  
\_\_\_\_\_  
DELILAH SAENZ, CMC, CITY CLERK

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
KERR LAW GROUP, PLLC  
Attorneys for the City of Sunnyside

## CITY OF SUNNYSIDE

### PROCUREMENT OF GOODS AND SERVICES POLICY

#### I. PURPOSE

The City of Sunnyside is committed to providing the best services possible while ensuring that the public's money is wisely spent. This policy is intended to provide guidance in the procurement of all goods and services to the City of Sunnyside.

#### II. Definitions.

- (a) *Award*: The presentation by the City of Sunnyside of a purchase order or contract to a vendor, bidder, or proposer.
- (b) *Best value*: Determined by evaluating price and other valid predetermined evaluation criteria pursuant to a request for proposal, in order to identify a particular proposal as the most beneficial to the city. The overall combination of quality, price, and various elements of required services or performance characteristics that in total is optimal relative to the city's needs.
- (c) *Bid*: A price based written response to a Request for Bids (RFB) which clearly states that the bidder understands and accepts the conditions outlined in the RFB.
- (d) *Bidder's proposal*: Any solicitation of pricing for supplies, where an award is made based upon the lowest, responsive bid received from a qualified, responsible bidder.
- (e) *Proposal*: A written response to a Request for Proposals (RFP) or a Request for Qualifications (RFQ) which is based on the qualifications and abilities of the proposer to meet the scope of work identified in the RFP/RFQ. A proposal may include price as a predetermined criteria.
- (f) *Personal Property*: All tangible items which are purchased for use by the city having a value of less than \$5,000. Tangible Personal Property does not include real estate and capital assets.
- (g) *Qualified bidder or proposer*: Any person, firm or corporation determined to be qualified after submittal of evidence satisfactory to the Director of Finance that they have a practical knowledge of the particular good or service required and the necessary financial

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resources to perform and to complete the requirements in the bidder's proposal or request for proposal.

- (h) *Request for proposal:* Any solicitation of pricing for supplies where an award is made in consideration of best value and not necessarily lowest price from a responsive, responsible, qualified proposer. A request for proposal may also be referred to as a competitive sealed proposal.
  
- (f) *Responsible bidder or proposer:* A qualified bidder or proposer who is not in arrears to the city, upon debt or contract. A bidder or proposer that is a defaulter, as surely or otherwise, upon any obligation to the city, or that has failed to attain or demonstrate compliance with any law, ordinance, city regulation, or contract term or condition in any city contract, shall be considered not responsible and not qualified for award of any bid or proposal.
  
- (g) *Responsive bidder or proposer:* A bidder or proposer whose bid or proposal is in conformance with the requirements of the bid or proposal including, but not limited to, all information, signatures, evidence of knowledge or experience, attachments, bonds, insurances, disclosures which may be required at the time of the bid opening or receipt of proposals or following the bid opening or receipt of proposals.
  
- (h) *Standardization:* The designation of a particular product or equipment specification or a particular component of a product or equipment specification as "no substitute" or "approved, acceptable equal." Valid justification for standardization must be presented by the manager of the department or agency requesting the designation to the satisfaction of the Director of Finance utilizing at least two (2) of the following criteria:
  - (1) The specification will substantially stabilize or decrease parts inventory;
  - (2) The specification will substantially stabilize or decrease training requirements for product use, equipment operation, equipment repair and/or preventive maintenance programs;
  - (3) The specification will substantially contribute toward the health and safety of the user or operator of the product or equipment. The best interests of the city must be served due to the quality, reliability, dependability or performance characteristics of the product or equipment specified. The Director of Finance shall determine the validity of the standardization requested by the department or agency and may request additional information, data or materials prior to making that determination.
  
- (i) *Supplies:* All personal property, materials, equipment and services in connection therewith, used by the city or any of its departments, agencies, boards, commissions or authorities. Further, the word "supplies" shall include contractual services which are

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subject to competition but not such contractual services which are in their nature unique and not subject to competition, such as professional services. The City Manager may define additional terms relevant to procurement through policy and procedure or memoranda.

### III. Contracts.

Contracts may be used for the purchase of items of personal property, public works projects and other capital improvements, or services. All contracts shall be let to the lowest qualified, responsive and responsible bidder or in the case of request for proposals, to the most qualified, responsive, responsible proposer whose proposal represents the best value to the city.

- A. Bids or proposals for supplies for which standards and specifications are established pursuant to this division shall be examined in accordance with such standards and specifications and, in the case of request for proposals, in accordance with any valid evaluation factors included therein. All bids or proposals may be rejected. Each bid or proposal, with the name of the bidder or proposer, shall be entered of record, and each record, with the successful bid or proposal, if any, indicated, shall be preserved as prescribed by law and open to public inspection.
- B. In letting of contracts the department shall impose such conditions upon bidding with regard to bonds and securities and such guarantees of good faith and responsibility on the part of the bidders or for any other material matter or thing in connection therewith as shall be determined by the City Manager to be in the best interests of the city.
- C. Bond for the proper performance of each contract may be required or waived in the discretion of the City Manager, unless specifically required by Ordinance or law. If a bond is required, the form and legal sufficiency shall be subject to the approval of the city attorney.
- D. In order to ensure timely and affective responses to change order requests, and to ensure that capital improvement projects are completed within contractual timeframes and to ensure against claims for liquidated damages resulting from delays, the City Manager is authorized to approve Change Orders up to a maximum aggregate amount of 7% of the contract price, excluding tax. Any change order exceeding authorized and available funds must be approved by the City Council. This authorization may be adjusted by the City Council on a case by case basis, depending on the nature and scope of work.

**IV. Evaluation of bids.**

Responsive bids and proposals shall be evaluated by the Finance Department, in conjunction with the primary department or agency having an interest in the bids or request for proposal. In the case of requests for proposals, determination of the most qualified proposer shall be made upon predetermined evaluation criteria and price which may be weighted on a numeric or percentage basis according to the requirements of the specific proposal or in some other predetermined manner as stated in the proposal. The specific numeric values assigned to weighted factors or percentages need not, however, be revealed until after proposals have been received. Proposals which are determined not to be reasonably likely of being selected for award or are found to be non-responsive to the requirements of the request for proposal shall be identified as such and the proposers notified of the same and no further consideration of the proposal shall be required. The records required to be maintained herein shall include the identity of the persons or agencies who evaluated the bids or proposals, the written recommendation for the award of the contract, and the basis for the recommendation.

**V. Bidding procedures.**

(a)

*Formal procedure:* Formal advertisement by official publication shall precede the issuance of any bidders proposal or request for proposal estimated to amount to twenty-five thousand dollars (\$25,000.00) or more. Such advertisement shall specify the supplies or services to be purchased or refer to the standards and specifications established pursuant to the request for bids or proposals.

If formal advertisement is not practicable, bids or proposals shall be requested from at least three (3) responsible bidders or proposers dealing in the supplies, equipment or personal property required. All bids or proposals in response to advertisements or requests by the city shall be submitted, in sealed form, delivered to the office of the City Manager or to any location as may be from time to time determined by the manager as the "bid opening location" or the "proposal acceptance location" and shall be publicly opened at the time specified in the advertisement of notice or request of the city. The City Manager or his or her representative may be present and inspect all bids. All bidders may be present and, after examination and tabulation, the results shall be subject to inspection by competing bidders. In the case of requests for proposals, proposers may be present for the receipt of proposals by the city, but may not inspect proposals until an award has been made.

**VI. Purchases not subject to bidding procedures.**

(a)

*Nonemergency situations.* The City Manager may forego the bidding procedures in sections III, IV, and V when purchasing the following:

(1)

Supplies or services indispensable to the city which are obtainable, for practical purposes, from only one (1) single source (a sole source purchase);

(2)

Supplies which are perishable by reason of imminent spoilage or decay and which would spoil or decay if the procedures in sections III, IV, and V were followed;

(3)

Supplies, equipment or services required by reason of preferences based on professional advice. For purposes of this ordinance a "professional" shall be defined as a person(s) who is uniquely knowledgeable and technically qualified in the supply, equipment or service to be provided due to an on-going day-to-day familiarity with the supply, equipment or service to be provided and because of professional qualifications such as a degree or professional certification related thereto;

(4)

Supplies required by reason of practicality, to-wit, supplies required in respect to uniformity of equipment presently in operation as it relates to the day-to-day operation of the equipment and replacement and repair parts for said equipment. All purchases under this section shall be made in the most economical manner possible (standardization purchases);

(5)

Supplies or services which amount to five thousand dollars (\$5,000.00) or less;

(6)

The City Manager or his designee may establish policy and procedure related to purchases not subject to bidding procedures that may include, but may not be limited to, compliance with these informal procedures.

All purchases made under this section shall be made in the most economical manner possible. In all cases, the requesting department head shall obtain quotes from qualified vendors.

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(b)

*Emergency situations.*

(1)

The City Manager may forego the bidding procedures in sections when a purchase is necessary to address an emergency. For purposes of this section, an emergency is defined as a situation which, if it continues to exist, would endanger the health or safety of the public or employees and requires a remedy sooner than the supplies, materials, equipment, personal property or services would be delivered if the normal purchasing procedures were followed; or, a situation which would place an excessive financial burden on the city unless addressed in a shorter time than the bidding procedures require.

(2)

An emergency purchase shall be made only in the following manner:

a.

Emergency purchases made Monday through Friday, from 8:00 a.m. to 5:00 p.m.: No such purchase shall be made without first contacting the City Manager or his/her designee and receiving prior approval.

b.

Emergency purchases made at other times: No such purchase shall be made without first attempting to obtain the prior approval of the City Manager or his/her designee.

c.

The manager or department head making such a purchase shall, in any case, send a confirming requisition and a letter of justification explaining the reasons for the emergency purchase to the City Manager within seventy-two (72) hours after such a purchase.

(3)

Emergency purchases shall consist only of the minimum quantity necessary to address the emergency situation.

(c)

*Approval of City Manager:* When the City Manager determines that an emergency, as defined in subsection (b), above exists and that the emergency requires the purchase of capital equipment which has not been authorized by the annual appropriating ordinance or amendments thereto, he or she may make such purchase; provided, however, that no such purchase shall be made until the

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manager shall have determined that all other means of addressing the situation, including renting or borrowing the equipment and contracting for services, are impractical or not possible. Subsequent ordinance approval for the equipment purchased under this provision shall be obtained by amendment to the annual appropriating ordinance.

### **VII. Cooperative purchasing.**

If the City Manager determines that such purchases are in the best interests of the city, he or she may authorize purchases under any general bid or purchase contracts of the United States Government, State of Washington, or other governmental jurisdictions at the prices, terms, and conditions therein contained,. The City Manager may authorize purchases of goods and services pursuant to any intergovernmental agreement which, in the opinion of the manager, is in the best interest of the city. Further, the City may, with City Council approval, participate in the sponsorship or administration of any cooperative procurement endeavor undertaken by any governmental jurisdiction, any cooperative procurement endeavor undertaken on behalf of any governmental jurisdiction or any cooperative procurement endeavor which utilizes general public bidding guidelines and may authorize purchases related thereto.

### **VIII. Financial interest.**

Neither the City Manager nor any employee of the city shall have any personal beneficial interest either directly or indirectly in any purchase made by the city, nor in any firm, corporation or association furnishing or bidding on any such purchase.

### **IX. Requisitions.**

Supplies and services shall be purchased by or furnished to a city department, agency, board, commission, or authority by the Director of Finance upon requisition to the director, or pursuant to procedures prescribed by him. Requisitions shall be approved by the head or a designated representative of the head of the department, agency, board, commission or authority by their signature thereon; or by electronic transmission of the requisition to the Director of Finance. The approval shall affirm that there is sufficient unencumbered balance existing in the appropriation of the department, agency, board, commission or authority requesting the purchase to pay for the purchase. The electronic transmission of the requisition shall constitute an approval if the electronic approval is affirmed as appropriate and secure by the Director of Finance. The Director of Finance shall prescribe the form, contents, number and distribution of requisitions. The Director shall examine each requisition and may revise it as to quality, or estimated cost; but revision as to quality shall be in accordance with the standards and specifications, if any, established pursuant to the

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requesting department head. A requisition may not be required for purchases made pursuant to a bidder's proposal or request for proposal issued by the City Manager or Department for supplies, equipment, or personal property which are required and may be utilized by one or more department, agency, board, commission or authority with a term exceeding ninety (90) days. No department, agency, board, commission or authority may utilize such a contract unless there is sufficient unencumbered balance existing in its appropriation to pay for the purchase.

**X. Standards.**

(a)

The provisions of this section are intended to enable the Department Head to conduct purchasing in the most efficient manner possible. In connection with any particular contract for or in connection with the use of supplies or services commonly required by the city, a Department Head may compile a set of standards and specifications which will reasonably meet the needs of the city in respect to economy, strength, safety, sanitation, environment and health. All standards and specifications shall be in conformance with accepted best practice for the affected agency or use and shall be specifically set forth in the bidder's proposal or request for proposal.

**XI. On-call services and supply contracts.**

The city may award contracts for supplies or services to be utilized in emergencies. Such contracts shall not exceed one hundred thousand dollars (\$100,000.00) nor one (1) year with the possibility of two (2), one (1) year extensions. The Director of Finance shall award such contracts by formal bid or proposal, as required in Section III. In no case shall any employee or officer authorize a contractor so engaged to perform any services or furnish any goods in excess of ten thousand dollars (\$10,000.00) for an incident, unless the City Manager declares in writing that the incident is an emergency. The City Manager shall not declare an incident to be an emergency unless:

(1)

The situation must be remedied before the city can carry on its normal business; and

(2)

a.

In the case of services, city employees are not qualified or available within a reasonable time to do the work;

b.

In the case of supplies, the procedures for obtaining supplies described in Section III would cause undue delays; or

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c.

The health and safety of the public would be at risk if the situation is not remedied immediately.

**XII. Political contributions and donations.**

(a)

*Legislative declaration.* It is in the public interest to require disclosure of political contributions and certain donations by certain persons who do business with the city. To the extent city laws may allow certain contracts or similar instruments to be awarded by the city without the use of competitive bidding or any other competitive selection process, it is particularly important for the public to know whether or not the recipients of these contracts have made political contributions to the elected officers who may exercise authority or influence over the award of the contract, or whether the recipients of these contracts have made donations to the city or to a charitable organization to the behest of an elected officer. The purpose of this section is to improve the availability and accessibility of information to the public about such campaign contributions and donations.

(b)

*Applicability.* The requirements of this section shall apply only to:

1.

Expenditure contracts and purchase orders awarded by the city to any person or business entity without the use of formal competitive bidding procedures or other competitive selection process, and not expressly exempted from competitive bidding requirements under Section IV.

2.

Any lease or concession agreement granted by the city to a person or business entity without the use of formal competitive bidding procedures or other competitive selection process.

3.

Any amendment to a lease or concession agreement which grants a term extension longer than one year without the use of formal competitive bidding procedures or other competitive selection process.

(c)

*Certificate required.* Any person or business entity awarded a contract, purchase order, lease or concession agreement as defined in subsection (b) of this section shall furnish to the city a written certificate disclosing the following:

(1)

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Whether any political contribution or contribution in-kind, as required by law, has been made to any current city elected officer by any of the following persons: the person or his or her spouse; the business entity; any officer, director, principal of the business entity or his or her spouse; or any shareholder who owns or controls five (5) percent or more of the stock in the business entity or his or her spouse. If and only if a political contribution or contribution in kind has been made by any such person or business entity, the certificate shall identify the name of the contributor, the elected officer to whom the contribution was made, the date of the contribution, and the amount of the contribution.

(2)

Whether any donation or donations in an aggregate amount of five hundred dollars (\$500.00) or more has been personally and directly solicited by any current city elected officer and made to any charitable organization by any of the following persons: the person or his or her spouse; the business entity; any officer, director, principal of the business entity or his or her spouse; or any shareholder who owns or controls five (5) percent or more of the stock in the business entity or his or her spouse. If and only if a donation has been made by any such person or business entity, the certificate shall identify the name of the donor, the elected officer who solicited the donation, the date of the donation, the amount of the donation, and the purpose for which the donation was made.

(3)

Whether, within the preceding five (5) years, any donation or donations in an aggregate amount of five hundred dollars (\$500.00) or more has been to the city itself or any of the city's departments, agencies or programs by any of the following persons, regardless of whether or not the donation was personally or directly solicited by any current city elected officer: the person or his or her spouse; the business entity; any officer, director, principal of the business entity or his or her spouse; or any shareholder who owns or controls five (5) percent or more of the stock in the business entity or his or her spouse. If and only if a donation has been made by any such person, the certificate shall identify the name of the donor, the date of the donation, the amount of the donation, and the purpose for which the donation was made.

(d)

*Documentation.* Any person or business entity awarded a contract, purchase order, lease or concession and required to furnish a certificate under subsection (c) of this section shall file the certificate with the clerk prior to execution of the contract, purchase order, lease or concession by the city. The clerk shall keep a file of such certificates and make the certificates available for public inspection in accordance with any and all state and city laws providing for access to public records.

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