

**CITY OF GOLD BAR, WASHINGTON
RESOLUTION NO. 20-01**

**A RESOLUTION OF THE CITY OF GOLD BAR, WASHINGTON AMENDING RESOLUTION
NO. 17-11 RELATING TO THE PURCHASE, PROCUREMENT, AND SALE POLICY**

WHEREAS, the audit of funding years 2017 and 2018 conducted by the Washington State Auditor's Office included a review of the City of Gold Bar's Purchase and Procurement Policy as created in Resolution No. 17-11; and

WHEREAS, the review concluded that the policy included outdated information, restrictive thresholds, and requirements difficult to enforce for the City of Gold Bar employees; and

WHEREAS, an accurate purchase, procurement, and sale policy is necessary for the purchase and disposition of goods, services, equipment, supplies, and property; and

WHEREAS, the City may occasionally surplus or sell aged, or no longer needed, equipment and/or supplies;

NOW THEREFORE BE IT RESOLVED by the governing body of the City of Gold Bar that the purchase and procurement policy created by Resolution 17-11 be replaced in its entirety with the following City of Gold Bar Purchase, Procurement, and Sale Policy.

Section I	Repeal
Section II	Adopt
Section III	Revisions
Section IV	Severability
Section V	Effective Date

Section I, Repeal

Resolution No. 17-11 is hereby repealed in its entirety and replaced with Resolution 20-01 and its associated attachment.

Section II, Adopt

The City of Gold Bar Purchase, Procurement, and Sale Policy is attached and is hereby adopted and incorporated herein by this reference as though fully set forth herein.

Section III, Revisions

The Public Works Director and/or Clerk/Treasurer are hereby authorized to make minor, non-substantive, and/or procedural changes to the City of Gold Bar Purchase, Procurement, and Sale Policy without further approval of the Council. This authorization does not include changes that change or modify contract approval authority or that limit, modify, or amend, any other process or procedures which currently require the City Council's approval.

Section II, Severability


This resolution is severable and if any portion of it shall be declared invalid or unconstitutional, the remaining portion shall remain valid and enforceable.

Section III, Effective Date

This Resolution shall take effect from, and after, its passage and approval, as provided by law.

Resolved this 4th day of February, 2020.

APPROVED:



Bill Clem, Mayor

ATTEST/AUTHENTICATED:



Lisa Stowe, Clerk/Treasurer

City of Gold Bar
EST. 1910



107 – 5th Street, Gold Bar, WA 98251

Purchase, Procurement, and Sale Policy

(as adopted through Resolution 20-01)

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I. Overview

Purpose

The purpose of this policy is to implement the requirements of state law regarding procurement and bidding on public contracts for public works, goods, services, supplies, and materials. It is the City of Gold Bar's policy to follow state requirements regarding the expenditure of public funds, to provide a fair forum for those interested in bidding on public contracts, and to help ensure that public contracts are performed satisfactorily and efficiently, at least cost to the public.

Controlling Laws

The expenditure of public funds for the purchase of, and contracting for, goods, services, supplies, and materials, shall comply with all applicable state law requirements as set forth in the Revised Code of Washington (RCW), the Washington Administrative Code (WAC), and any applicable local and federal laws or regulations.

Monitoring and Compliance

The City of Gold Bar employees shall implement, monitor, and enforce these policies. In the event of any conflict in procurement requirements or questions about proper procedure or other requirements, the matter shall be referred to the Mayor for further action. Willful or intentional violations of public procurement requirements may result in personal penalties, financial liabilities, and/or discipline. (See RCW 39.30.020)

Proper Authorization

Only authorized employees acting within the scope of their authority may obligate the City in the acquisition of goods or services. Any employee purchasing goods on behalf of the City without proper authorization may be personally liable to the vendor and to the City, and subject to disciplinary action.

II. Defining the Need

Before determining the procurement method and approval authority, the type of purchase must be established. The major categories of purchase include the following.

A. Public Works (RCW 39.04)

Includes all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the City.

Examples include demolition, remodeling, renovation, road construction, building construction, and utilities construction.

Ordinary maintenance is not specifically defined in RCW 39.04 but is generally considered to include work not performed by contract, and performed on a regular basis.

For the purpose of prevailing wage requirements, public works includes ordinary maintenance when performed by contract.

B. Materials, Supplies, and Equipment

Materials, supplies, and equipment are considered tangible items which are manufactured and are moveable at the time of purchase. It is important to distinguish between materials, supplies, and equipment used in public works contracts as opposed to non-public works contracts as different bidding requirements apply to each.

C. Services

Services are the labor, time, or effort of a person. Distinguishing between services and public work is important as services may have different bidding requirements. The City of Gold Bar classifies services as:

1. **Professional Services.** Services provided by independent consultants that require specialized knowledge, advanced education, professional licensing or certification, and where the primary service provided is mental or intellectual, involving the consistent exercise of judgment and discretion.
2. **Architectural and Engineering Services.** These services are to be acquired under the authority and procedures outlined in RCW 39.80.
3. **General Services/Purchased Services.** All other service-related work that is not considered a public work or professional service, fall into this category. Most often these types of services are routine in nature.
4. **Technology Systems and Services.** Any technology hardware or software system purchase, or maintenance agreement.

D. Determining the Cost

Once a need has been defined, the estimated cost of the goods and/or services will generally determine what competitive selection process the City will follow. Estimated costs for competitive bidding purposes must include:

1. All construction-related work (with the exception of engineering/architectural design fees, as all such fees must be selected based on qualifications before cost is negotiated).
2. All phases of the project.
3. Any internal permitting costs of the project.

4. All applicable sales and use taxes.

Note: cost estimates should not include donated materials, labor, supplies, etc.

III. Purchasing Code of Ethics

The public must have confidence in the integrity of its government. The purpose of this Code of Ethics is to apply and give guidance to all employees so they may conduct themselves in a manner which will be compatible with the best interest of themselves and the City of Gold Bar.

To instill public confidence in the award of public contracts and the expenditure of public funds, the City of Gold Bar adopts the following code of ethics regarding public contracting.

A. Actions of City employees shall be impartial and fair.

B. Government decisions and policies shall be made in compliance with required procedures and within the proper channels of government structure.

C. Public employment shall not be used for personal gain, and City employees shall not solicit, accept, or agree to accept, any gratuity for themselves, their families, or others, that would, or could, result in personal gain.

D. Purchasing decisions shall be made impartially, based upon the City's specifications for the contract and the responses of those bidding on the contract.

E. No employee, officer, or agent may participate in the selection, award, or administration of a contract, if he or she has a real or apparent conflict of interest. This conflict of interest extends beyond the individual employee, officer, or agent, to include that individual's immediate family members, partners, and/or other employers.

IV. Prohibited Practices

A. Collusion among bidders. Agreement or collusion among bidders or prospective bidders to either buy or sell in restraint of freedom of competition, whether a fixed price or otherwise, shall render the bids void. Such bidders may be subject to possible exclusion from future bidding with the City.

B. Disclosure of formal bid contents. Disclosure in advance of opening bids of any information contained in the sealed or formal bid, made or permitted by a City officer or employee, may render each bid void by the City. Bids submitted by bidders taking advantage of any information revealed contrary to this section shall at once become null and void.

C. Gratuities. Except for normal business courtesies, or donations publicly given and accepted, the acceptance of any gift or gratuity in the form of cash, merchandise, or services of significant

value by an official or employee of the City from any vendor or contractor in return for a commitment to continue or initiate a purchasing agreement is prohibited.

D. Employee-Owned Businesses. Generally, City goods or services shall not be obtained from businesses in which City officials, employees, or their immediate family members, have a majority ownership interest, except as allowable by RCW 42.23.030.

E. Sale of materials and supplies. The City shall not use its purchasing power or lend its credit to acquire goods or services for any private party, nor shall the City sell its materials or supplies to City officials, employees, or the public except when said materials have been declared surplus.

F. Conflict of interest. An employee is not to participate directly or indirectly in a procurement when they are aware of, or know there is, a conflict of interest.

G. Solicitation of donations. The City will not accept donations of materials or services in return for a commitment to continue, or initiate a purchasing agreement.

H. Bid splitting. Breaking a project into phases to avoid bidding is against state law. Combine the total of foreseen identical items purchased at the same time, or similar items (or items that are used together) within a calendar years' time, in which the cost exceeds competition limits or when it is determined that volume discounts can be obtained by combining City-wide usage.

All local governments in Washington are subject to the state's *Conflicts of Interest* statute (RCW 42.23). Generally, municipal officers are prohibited from having financial interests in contracts made by, or under, the officer's supervision or for the benefit of their office. RCW 42.23.020(2) defines 'municipal officer' broadly and means any city employee acting on behalf of the City. RCW 42.23.020(3) defines 'contract' as including any contract, sale, lease, or purchase.

Violating these rules can bring serious penalties, including monetary fines, nullification of contracts, and possible forfeiture of employment. If any municipal officer or employee is confused by these rules, legal counsel shall be consulted.

V. **Signature Authority**

The Mayor has ultimate signature authority for the City of Gold Bar. The Mayor may authorize a department head or supervisor to sign contracts, bids, or interlocals, for amounts less than twenty-thousand dollars (\$20,000). Such designations do not supersede making the City Council aware of actions being taken, even if Council approval is not required.

Federal grant reimbursements requests must be signed by the Mayor, and designees are not permitted to sign federal reimbursement requests.

VI. **Grant and Federal Funding**

Purchases made, or work performed, with federal grant funds must follow the standards identified in the *Federal Uniform Administrative Requirements, Cost Principles and Audit*

Requirements for Federal Awards (OMB Title 2, Subtitle A, Chapter II, Part 200). See *Federal Code of Conduct* and *Federal Award Standards* sections for summary requirements.

The federal government does not recognize Washington State's Small Works alternative procedures or thresholds. The City will not use small works rosters procedures or thresholds if any federal funding is included or used.

All grants are different. Some may require the City's procurement rules, while others require contracting clauses to be inserted into contracts. Prior to initiating any purchases or contracts with federal funds, the responsible administrator will document that the procurement complies with the requirements of RCW 57.08.050 and Uniform Guidance. The most restrictive procurement method will be used whether it be federal, state, or local law. The documentation shall be retained in the associated files.

VII. Insurance, Licenses, and Prevailing Wages

Four requirements need to be met when hiring for projects for the City.

A. **Certificates of Insurance.** Before any contractor is allowed to work on City property, no matter the dollar amount of the work, the City's insurance carrier should determine if a Certificate of Insurance is required. If required, the contractor must furnish the City with a Certificate, naming the City as primary, and including any verbiage required by the City's insurance carrier.

B. **Responsibility Criteria for Contractors.** Anyone hired to do construction work on City property must have a valid State of Washington Contractor's License. The City must verify Worker's Comp Premium Status and check for debarment with the Department of Labor and Industries. For Federal contracts, any firm hired to do business with the City must be registered and in good standing with the US government. The status of these entities can be checked through the System of Award Management (SAM) portal. The City will print out the relevant pages and file them in the Clerk's Audit documentation notebook.

C. **Business Licenses.** A City of Gold Bar business license is also required dependent on licensing requirements found in the City's Municipal Code.

D. **Prevailing Wage Requirements.** RCW 39.12 requires that workers be paid certain hourly wages for all public works and public service maintenance contracts, no matter the dollar amount of the project.

This prevailing wage law was enacted to protect the employees of contractors performing public works construction/maintenance, from substandard earnings and to preserve local wage standards.

The Department of Labor and Industries administers the law; the State Attorney General prosecutes violators; and the State Auditor ascertains if policies, practices, and procedures meet the requirements of the law.

Owners and operators that do not have any employees do not need to pay themselves prevailing wages. However, they do need to file Intents and Affidavits with the Department of Labor and Industries, and list in section three (3) of those relevant forms, that they are the owner/operator of the business.

Any worker, laborer, or mechanic performing public work must be paid prevailing wages. This does not typically apply to work that is clerical, executive, administrative, or professional. Grant-funded projects may be an exception to this.

VIII. Technology

A. The purchasing of hardware, software, licensing, and technical services requires approval of the clerk/treasurer, mayor, and IT contractor.

B. For purchases of equipment and/or software costing above fifteen thousand dollars (\$15,000) the City may follow a competitive negotiation process as an alternative to the bid process. RCW 39.04.270(3) allows purchases through use of an alternative competitive negotiation process requiring, at a minimum, the following steps.

1. A request for proposals (RFP) must be published in the City's newspaper of record at least thirteen (13) days before the last date on which the proposals will be received.
2. The RFP must identify significant evaluation factors, including price, and their relative importance.
3. The City must provide reasonable procedures for technical evaluation of the proposals, identification of qualified sources, and selection for awarding the contract.
4. The award must be made to the qualified bidder whose proposal is most advantageous to the City. The City may reject all proposals for good cause and request new proposals.

C. Technology purchases include any technology hardware or software system purchase or maintenance agreements. There are two types of maintenance agreements.

1. *Sole Provider*. When annual maintenance of a City system is performed by the sole proprietor/vendor of that hardware/software, and there are no other maintenance providers available, a competitive process is not reasonable. For these situations, annual maintenance agreements are treated as standalone agreements. An example of a sole provider for the City is the BIAS software utilized for billing and cash receipting. Annual maintenance costs for sole providers, once the initial contract is approved, shall be part of the annual budget as presented to the City Council.
2. *Multiple Providers*. When there are multiple maintenance providers available for a particular system, and competition clearly exists for the service, a quote or RFP process may be required depending on the dollar amount. Because data may be handled,

accessed, or stored by multiple providers it is imperative that the City's IT person be contacted prior to purchasing such products.

IX. Purchase of Materials, Supplies, and Equipment

This section relates to the purchase and procurement of things unrelated to services or public works.

Only authorized purchases used to conduct City business, consistent with City priorities, consistent with state and local laws, and within predetermined budgets are allowed.

A. The thresholds included in this section consist of items purchased within a calendar year that are identical, similar or alike, or items used in conjunction with one another.

\$0 - \$14,999	Competition is not required. Supervisors are encouraged to determine price is fair and reasonable and document in files.	Staff may approve purchases up to \$2,000. Supervisors may approve purchases up to \$14,999.
\$15,000 – \$150,000	3 documented quotes. Phone quotes are acceptable up to \$20,000. Written quotes are required over that amount.	Supervisors may approve purchases up to \$20,000. Purchases over \$20,000 must have prior approval by the Mayor, and must be approved by the City Council if not already approved through the budget process.
Over \$150,000	Formal bid or RFP. Sealed bids may be required over \$150,000.	Purchases requiring a formal bid or RFP process must have prior approval by the Council unless already approved through the budget process. The Mayor awards winning bids or RFPs.

All dollar limits include freight, handling, and set-up costs, plus appropriate sales tax.

B. Payments. All questions regarding payments should be directed to the City's Clerk/Treasurer.

1. Cash advances are prohibited.
2. Expenditures paid with a City debit card shall be made in the amount of actual expenditures only.
3. The City's Office Manager or designee shall be the custodian of the City's debit cards.
4. All purchases with City debit cards shall be accompanied by receipts and/or supporting documentation and given to the Clerk/Treasurer.

C. Procedure to obtain quotes (\$15,000 – 150,000). Employees may obtain phone quotes up to \$20,000. Written quotes are required above \$20,000.

1. A minimum of three vendors must be contacted for quotations. Ensure vendors are quoting on equal and comparable items. All vendors must be provided the same information. If one vendor offers an acceptable alternative, new quotes must be requested using the alternate specifications.
2. The City will not pay for any technical information from the vendor. If the information is to be shared with other vendors, it must be stated so up front. If a vendor's technical information is used without their approval, the City may face legal consequences.
3. On-site demonstrations or delivery of preview/trial items does not constitute a purchase or an agreement to purchase.
4. All quotes must include, if possible, shipping and tax charges, or an estimate of both.
5. All quotes, whether by phone or in writing, must be documented and must include contact information. Documentation, the original request for quotes, and any resulting invoices or purchase orders, must be filed with the City Treasurer.
6. Selection will be made based on the recommendation of the requesting employee or supervisor, considering the price, quality, history of reliability, and product availability.

D. Procedure for formal bids or RFPs (over \$150,000). Bids/RFPs are required whenever the cost of materials, supplies, equipment, or ordinary services exceeds \$150,000. Supervisors are responsible for the bidding/RFP process.

1. Notify the Mayor and Clerk/Treasurer regarding projected costs.
2. Create specifications, a bid/RFP packet, and have the packet reviewed by the Mayor and/or the Clerk/Treasurer. The packet may also require review by the City attorney.
3. Publish information in the City's newspaper of record.
4. Arrange a pre-bid conference if necessary, and include that date in the published information.
5. Distribute bid/RFP packets to those who request it and maintain documentation of vendors and their information.
6. If bids/RFP packets are sealed, conduct a bid opening with the Mayor and/or Clerk/Treasurer.
7. If bids/RFP packets are not sealed, document the bids and do not reveal the contents to other bidders until awarded.

8. Tabulate bids and verify responsiveness.

9. Award the bid/RFP after opening bids on the date listed in the packets and reviewing the bids with the Mayor. The bid/RFP must be awarded for the most responsive bid from a responsible bidder. If recommendation for award is made to anyone other than the low bidder, documentation must be attached listing the specific reasons why the lowest bidder was not awarded the bid/RFP.

E. Cooperative Purchasing. Bids and/or contracts by municipalities and cooperative organizations can be used to acquire goods and services. When using a cooperative option, the City is, in essence, 'piggybacking' off of the original entity's competitive process, thus eliminating the need to perform the City's own purchase and procurement process.

An example of such 'piggybacking' includes the City's contract with Snohomish County for vehicle purchases.

The cooperative purchasing process utilizes the following steps.

1. Confirm the City has a signed cooperative purchasing agreement or interlocal agreement with the municipality or agency. This involves working with the City's Clerk/Treasurer and executing an agreement if necessary.
2. Review the cooperative contract or interlocal for any 'piggyback' requirements and work with the cooperative agent if necessary.
3. Contact vendors to verify the vendor will honor the cooperative organization's contract pricing. This involves obtaining details regarding all aspects of purchasing, including invoicing, availability, delivery, etc.
4. Contact the vendor to place the order and follow normal invoicing requirements.
5. Compile all documentation and provide records to the City's Clerk/Treasurer for audit documentation.
6. Ensuring that, as part of the completion process, all terms and conditions of the underlying cooperative contract/interlocal apply and have been met.

The City has the option to change contract requirements. If this happens, the City must utilize its own contract that identifies those requirements that are unique to the City's purchase and that do not allow for a cooperative process.

The use of cooperative purchasing allows the City to utilize another entity's competitive process. It does not, however, change the authorized levels for procurement and approvals. The procurement and approval process will be determined by the purchase type, as defined in this policy.

When a vendor demonstrates ongoing problems, staff will document the issues. Canceling a contract or not awarding a new contract will not be possible without documentation.

X. Purchase of Public Work Construction Activities

Public works consists of all work, construction, alteration, repairs, maintenance, or improvements that the City has performed or contracted. Dollar thresholds for public works projects determine when competition is required and are summarized below. It is the responsibility of the Public Works Director and/or Mayor to determine who shall order work for the Public Works Department when under respective quote limits.

\$0 - \$9,999	Competition is not required. <i>Note: prevailing wage and insurance are still required.</i>	Projects awarded/approved by the Mayor or the Public Works Director.
\$10,000 – \$34,999	Utilize the ‘limited public work’ process as described in RCW 39.04.155(3) and as described in the procedure below.	Projects awarded/approved by the Mayor or Public Works Director.
\$35,000 - \$299,999	Utilize the small works roster process as described in RCW 39.04.155. If the small works roster is not used, formal competitive bidding is required for single projects over \$40,000 and for multi-projects over \$65,000.	Projects awarded/approved by the Mayor and City Council.
\$300,000 and over	Formal competitive bidding is required as described in RCW 39.04; and RCW 35.23.352.	Projects awarded/approved by the City Council.

A. City labor force. The City may use public works employees to perform and execute all projects not exceeding \$65,000 for multi- projects or \$40,000 for single projects. These projects include equipment, supplies, and labor costs. All projects conducted with City labor must be documented in a list format for audit purposes.

B. On-call/unit priced contracts. On-call work order contracts are bid and awarded without a specific public works project or scope of work in place, but rather are categorized around general types of anticipated work or trades.

1. When a specific scope of work is identified, individual work (or task) orders are authorized based on either a ‘not-to-exceed time and materials’ basis or on a negotiated lump sum amount, using the unit prices bid by the contractor. The contractor then proceeds to complete the work. Typically these types of contracts are used for repair, renovation, and maintenance of public facilities, all of which are included in the definition of public works in RCW 39.04.010. These contracts are typically on an annual basis, with optional renewals.

2. Bidding and approval thresholds apply toward the total 'master' on-call contract amount. The Mayor or Public Works Director will approve individual task/work orders up to \$100,000 with the Mayor notifying the City Council. For individual task/work orders over \$100,000, the projects must be approved by the Council.
3. Such contracts should be limited to a total dollar amount over the life of the contract to an amount less than an agency's bid limits when possible.
4. Requests for bids under such a contract should incorporate unit price and lump sum price bid items as much as is practical.
5. Award of such a contract should be to a responsible contractor with the lowest total price based on the sum of the unit price and lump sum bid item extensions.
6. Task or work orders shall be completed by the Public Works Department for each new project.
7. All other public work requirements apply based on contract amount and on an individual task order basis.
8. If the original lump sum bid items will not cover work to be accomplished, new line items may be added by change orders or the work may be accomplished under a time and materials work order if the total contract amount will not be exceeded.

C. Small Works Roster. RCW 39.04 provides small works roster provisions to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property. The small works roster may be used for public works projects less than \$300,000.

The small works roster maintained by the Municipal Research and Services Center allows the City to evaluate the professional qualifications on file when a proposed project is scheduled. Use of the small works roster allows the City to preclude the advertisement requirements of the formal competitive process.

Vendors/contractors selected from the small works roster are not relieved from the City's contract requirements as outlined below.

1. For contracts between \$150,000 and \$300,000: if the City solicits bids from less than all the contractors listed under the appropriate category on the small works roster, the City will notify the remaining contractors that quotations on the work are being sought. The City may notify the remaining contractors using publication in the City's newspaper of record, mailing notices, sending notices by facsimile, and/or sending notices by electronic mail.
2. For contracts less than \$150,000: proposals will be solicited from a minimum of five qualified contractors in a specific category on the small works roster. If the roster

includes less than five qualified contractors, then all contractors for the category will be solicited.

3. For limited public works contracts less than \$35,000, electronic or written quotations will be solicited from a minimum of three contractors on the small works roster. No advertisements are necessary, bid bonds are optional, payment/performance bonds can be waived, and retainage can be waived. However, prevailing wage intents/affidavits are required, as is insurance.

4. The contract must be awarded to the contractor submitting the lowest responsive quote.

5. Contract awards and purchases over \$100,000 require approval and award by the City Council.

For limited public works (\$10,000 - \$34,999) the City may waive the payment and performance bond requirements of RCW 39.08 and may waive the retainage requirements of RCW 60.28.011(1)(a), thereby assuming the liability for any contractor's nonpayment of laborers, mechanics, subcontractors, material persons, suppliers, and taxes, increases, and penalties imposed under RCW titles 50, 51, and 82 that may be due from the contractor for limited public works projects. However, the City shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

For competitive bids over \$300,000, or for projects over \$40,000 that do not utilize a small works roster, the following steps must take place.

1. A request for authorization from the Mayor or Council to call for bids is required except for those projects or items identified in the currently approved budget. In special circumstances where the publication of bids may impinge on the safety of staff or City assets, the Mayor may waive portions of the bid procedures.

2. After receiving authorization, a call for bids shall be published in the City's newspaper of record at least fourteen days prior to bid submittal deadline.

3. Calls for bids should contain a summary of the project and a link to the full definite specifications and procedures for bidders to use to estimate their bids, and bid opening deadlines.

4. Bids shall be submitted to the City's Office Manager for date stamps and processing.

5. Bids shall be opened by the Mayor in the presence of the Public Works Director and/or the Clerk/Treasurer on the date stipulated in the bid packet. The opening may be open to the general public.

6. Except as otherwise provided in this policy, the City shall accept the bid of the lowest responsive bidder. The Mayor shall inform the City Council of the award of bid.

7. When the bid award is not given to the lowest bidder, a statement of the reasons for not selecting the lowest bid shall be prepared by the Public Works Director or the Clerk/Treasurer and submitted to the Mayor and Council, then filed with records relating to the project.

8. The Mayor and/or designee may reject without cause any and all bids and may re-advertise for bids pursuant to the procedures herein. If no bids are received, the Mayor and/or designee may negotiate the project with a vendor at the lowest possible cost. If the negotiated bid exceeds the current approved budget, the bid will be brought before the City Council for approval of award.

9. The contractor will provide a performance bond in an amount as determined necessary by the Mayor and/or designee to protect the best interests of the City and to assure compliance with the contract.

10. RCW 60.28.011 requires agencies to withhold up to five percent of the value of a public improvement contract, not including sales tax, as retainage until the project is completed and the contract is accepted. Some grant requirements may require a higher percentage of retainage.

11. Instead of having retainage withheld from the contract payments, a contractor may opt to submit a retainage bond instead, that covers any or all of the amount. It is up to the City whether to accept a retainage bond in lieu of withholding retainage.

D. Prevailing Wages. To ensure prevailing wage laws are followed, refer to these points.

1. Prior to getting an estimate or a quote the vendor must be notified that they must pay prevailing wages. More information may be obtained by the vendor from the Department of Labor and Industries (L&I).

2. After a vendor has been selected, the vendor is required to file a 'Statement of Intent to Pay Prevailing Wages' with L&I *prior to starting work*. The vendor must show to the City that this filing has taken place and must insert the City Contract number in the contract number box on the Statement form.

3. After the work is completed the vendor must also file an 'Affidavit of Wages Paid' with L&I. The vendor must insert the City Contract number in the contract number box on the Statement form. Final payment and/or retainage from the City must not be released until certified intents and affidavits have been received. For contracts over \$35,000, Notice of Project Completion has been submitted to the Department of Revenue, Employment Security, and L&I through the normal retainage process.

E. Change orders. A purchaser's written authority to the supplier to modify or add to a purchase/project results in a change order created by the City or its designee.

The Mayor and/or Public Works Director may authorize individual change order increases up to twenty percent of the project or \$20,000, whichever is less. Change orders increasing project cost more than that, or that cause the project as a whole to go over the budgeted amount, must receive prior approval from the City Council. In cases of emergencies, approval of change orders that may cause the project as a whole to go over budget, may receive pre-approval from the Mayor. Such emergency pre-approval must be documented.

F. Final project acceptance. The Public Works Director is authorized to formally accept all projects as final, followed by a report to the City Council. The Public Works Director may choose to defer final project acceptance to the City Council.

XI. Purchase of Architect and Engineering Services

Architectural and engineering consultants are initially selected based upon their qualifications rather than price (*see RCW 39.80.050*). The City will negotiate a contract with the most qualified firm at a price which the City determines is fair and reasonable. In making its determination, the City shall take into account the estimated value of the services to be rendered as well as the scope, complexity, and professional nature. If the City is unable to negotiate a satisfactory contract with the firm selected at a price the City determines to be fair and reasonable, negotiations shall be terminated and the City shall begin negotiations with the next highest qualified firm. These services are to be acquired under the authority and procedures outlined in RCW 39.80 for architectural and engineering services.

The City may use Municipal Research Services Center Consultant Roster for architectural, engineering, and surveying services.

A. Thresholds for architectural and engineering services.

1. Services from \$0 - \$100,000 shall be awarded/approved by the Mayor.
2. Services over \$100,000 shall be awarded/approved by the City Council.

XII. Purchase of Ordinary or 'Purchased' Services

Ordinary/Purchased services are those provided by vendors for routine, necessary, and continuing functions of the City and are typically related to physical activities. Many such services require prevailing wages. To find out if such service does, refer to the Department of Labor and Industries.

A. Follow the procedures listed below for purchases that are repetitive, routine, or mechanical in nature.

1. Purchases must contribute to the day-to-day business operations.
2. Purchases must be related to assigned and specific tasks.

3. Decision making for such purchases must be routine or perfunctory in nature and not tied to purchases requiring Mayor/Council approval.

4. Examples include delivery/courier service, building maintenance such as janitorial services, landscaping, vehicle inspection, lubricating, and repair services, regular or routine maintenance services.

B. Thresholds for ordinary or ‘purchased’ services:

\$0 - \$14,999	Competition is not required. Public Works Director is encouraged to determine price is fair and reasonable and document in files.	Public Works Director and/or Mayor awards and approves. <i>Note:</i> Director is required to notify the City Council at the next regular meeting during staff reports, for all awards over \$10,000.
\$15,000 – \$100,000	Three written quotes are required.	The Mayor awards and approves.
Over \$100,000	Formal RFP; may be sealed or not.	Projects awarded/approved by the Mayor and City Council.

XIII. Purchase of Professional Services

A ‘professional service contract’ means an agreement with an independent contractor for providing professional services to the City.

B. There is not a state law requiring competition when procuring professional service contracts. However, the City requires the following.

1. On-call contracting may be used for all types of professional services. A minimum of three quotes must be solicited for professional services estimated between \$15,000 and \$100,000. A RFP/RFQ process is required when the total cost in a calendar years’ time exceeds \$100,000.

2. For professional service contracts for legal services, management consulting, accounting and auditing, and/or real estate brokers, it is advised that the City attorney or risk management services review the contracts prior to signing.

C. Thresholds for professional services.

\$0 - \$14,999	Competition is not required. Public Works Director is encouraged to determine price is fair and reasonable and document in files.	Public Works Director and/or Mayor awards and approves. <i>Note:</i> Director is required to notify the City Council at the next regular meeting during staff reports, for all awards over \$10,000.
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\$15,000 – \$100,000	Three written quotes are required.	The Mayor awards and approves.
Over \$100,000	Formal RFP; may be sealed or not.	Projects awarded/approved by the Mayor and City Council.

XIV. Purchase of Personal Services

\$0 - \$14,999	Competition is not required. Public Works Director is encouraged to determine price is fair and reasonable and document in files.	Public Works Director and/or Mayor awards and approves. <i>Note:</i> Director is required to notify the City Council at the next regular meeting during staff reports, for all awards over \$10,000.
\$15,000 – \$100,000	Three written quotes are required.	The Mayor awards and approves.
Over \$100,000	Formal RFP; may be sealed or not.	Projects awarded/approved by the Mayor and City Council.

XV. Purchase of Property

Leasing is generally used for mid-to-long-term contracts. Renting is usually a short-term solution that is more causal and can be approved by the Public Works Director.

A. Bids are not required on equipment leases, however the City may opt for legal or Council review, and the Mayor or designee must approve all equipment leases. The lease should also be reviewed by the clerk/treasurer prior to signing to ensure budgeting and financial accountability. Lease-to-own purchases are to be budgeted and accounted for as if the total expense is to be incurred when the item is purchased.

B. A lease of property (equipment) with option to purchase that is valued at more than \$15,000 is subject to competitive bidding. See ‘purchasing’ thresholds for bidding requirements.

XVI. Exemptions to Competitive Bidding Requirements

A. Sole Source Vendor. Purchases which by their nature are not adapted to competitive bidding, such as items which meet a specific need or criteria as determined by the City, and may only be purchased from a single source, shall not be subject to the competitive bidding requirements of this policy. Purchases above the threshold requiring multiple quotes or bids, from a sole source vendor, require prior approval of the Mayor or designee. Follow procedures for how to declare Sole Source, in section XVII.

B. Repairs and ordinary maintenance. Purchases for ordinary maintenance, repairs, or additions to City equipment which may be more efficiently added to by a certain person or firm, shall not be subject to the competitive bidding requirements of this policy.

C. Purchasing involving special facilities or market conditions. The Mayor or designee may waive established bidding requirements if an opportunity arises to purchase favorably-priced equipment at an auction, or supplies or used goods that will be sold before the City can conduct the bid process when over bid thresholds. Written documentation of the special condition must be prepared for justification of the purchase and waiver of bidding requirements, and then approved by the Council through a resolution.

D. Purchase of insurance or bonds are exempt.

E. Surplus property. The City may, by agreement, acquire surplus property from another government without the use of bids. (*See RCW 39.33.010*)

F. Interlocal agreements in letting of contracts for commodities or services (piggybacking). RCW 39.34.030 permits governmental agencies to utilize other entities' contracts without going to bid. Please reference Section IX(e) for the criteria to be followed.

G. Emergency purchases are exempt. In the event of an emergency, the City Council, Mayor, or designee may declare that an emergency situation exists, waive competitive bidding requirements, and award necessary contracts on behalf of the municipality to address the emergency situation. If a contract is awarded without competitive bidding due to an emergency, a written finding of the existence of an emergency must be made by the governing body or designee and duly entered into record during a Council meeting at the next regularly scheduled meeting.

H. Acquisition of real property is exempt from the competitive bidding requirements of this policy. Upon approval of the City Council, the Mayor or designee may proceed to acquire real property through negotiation. Such negotiations shall be based upon an independent fee appraisal of the property. The City shall not pay more than fair market value for real property without prior Council approval. If the property is acquired in part or in whole with federal funds, such acquisition shall additionally comply with the Uniform Real Property Acquisition and Relocation Assistance Act of 1970 as amended. *Note: negotiations relating to property acquisition are typically handled through executive session during council meetings.*

XVII. How to Declare a Sole Source (or single source)

A sole source is where there is only one supplier of the product or service. A single source is where the vendor is 'one vendor among others', when other competitive sources may be available.

A. On a case by case basis, the bid or quote requirement may be waived and a sole/single source purchase approved, in accordance with RCW 39.04.280. There should be careful deliberation before going to a sole/single source as this type of purchase eliminates competition and tends to drive prices up. The City's clerk/treasurer should be involved in deliberations.

B. Threshold authority. Sole/single source purchases between \$15,000 and \$150,000 require approval by the Mayor. For sole/single source purchases over \$150,000, Council approval is required.

C. A sole/single source purchase may be approved if *one or more* of the following conditions are met.

1. Standardization or compatibility to existing City standards or to existing equipment, inventory, systems, data, programs, or service. This must be evaluated for cost benefit and/or safety.

2. Licensed or patented product with only one dealer (and the license or patent is paramount to procurement).

3. Only authorized service providers or repair and/or warranty services where such repairs or warranties may be negated if someone else worked on equipment.

4. Unique designs that require unique features that are essential, aesthetic, or not practical to match to existing design or equipment. Document the unique specifications that are needed that could drive the research in finding a product that fits the specific needs of the City.

5. Special market conditions can be used to purchase items at auction (RCW 39.30.045) or other items that are offered at a very favorable price and will be sold before an entity will have a chance to complete the bidding process.

6. Emergency situations such as a coming flood and the need to obtain sandbags.

7. Situations where a fund must be expended immediately.

8. Situations where there is a critical delivery date deadline.

XVIII. Disposal of Surplus Property

A. Upon recommendations of the Mayor or supervisor, property with an estimated value under \$15,000 may be declared surplus by the Mayor or supervisor.

B. Property with an estimated value over \$15,000 must be declared surplus by the City Council and must meet *one or more* of the following criteria.

1. The City has, or soon will have, no foreseen practical and efficient use for the property.

2. The purpose served by the property can be accomplished by use of a better, more effective, or more efficient alternative.

3. The purpose served by the property no longer exists as determined by a change of policy evidenced by an ordinance or resolution of the City Council.

4. The property is damaged, worn out, or otherwise inoperable, and the cost of repairing the same is unwise or impractical.

C. If the value of the property the City seeks to surplus is greater than \$50,000, then a public hearing is required. (*See RCW 39.33.020*)

D. RCW 35.94.040 requires that a public hearing be held if real estate or personal property originally purchased for utility purposes is no longer needed for that use, and the City desires to lease, sell, or convey the property. A hearing is required regardless of the value of the property.

XIX. Trade-Ins

Trade-ins are allowed on new purchases if approved in advance by the City Clerk/Treasurer and/or the Mayor.

A. Trade-ins with a value less than \$15,000 must be negotiated, documented at fair market value, and declared surplus ahead of time by the Mayor or Clerk/Treasurer.

B. Trade-ins with a value of more than \$15,000 must be negotiated, documented at fair market value, and declared surplus ahead of time by the City Council.

C. Fair market value can be obtained by finding comparable units that have been sold at other sources. Documentation of fair market value should include the comparison sources.

XX. Federal Code of Conduct

The purpose of the Code of Conduct is to ensure the efficient, fair, and professional administration of federal grant funds and compliance with applicable federal and state standards, regulations, and laws.

This Code of Conduct applies to all elected officials, employees, or agents of the City that are engaged in the award or administration of contracts supported by federal grant funds.

A. Requirements. No elected official, employee, or agent of the City shall participate in the selection, award, or administration of a contract supported by federal grant funds if a conflict of interest, real or apparent, is involved. Such a conflict would arise in the following situations.

1. The City employee, elected official, or agent has a financial or other interest that is real or apparent.

2. Any immediate family member of a City employee, elected official, or agent has a financial or other interest that is real or apparent.

3. Any partner of a City employee, elected official, or agent has a financial or other interest that is real or apparent.

4. Any organization which employs, or is about to employ, any person listed above.

B. Gifting and Gratuities. The City's elected officials, employees, or agents shall neither solicit, nor accept, gratuities, favors, or anything of monetary value from contractors, potential contractors, or subcontractors.

C. Remedies. To the extent permitted by federal, state, or local laws or regulations, violation of these standards may cause penalties, sanctions, or other disciplinary actions to be taken against the City's elected officials, employees, or agents, or the contractors, potential contractors, subcontractors, or their agents. Any potential conflict of interest will be disclosed in writing to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.

XXI. Federal Award Standards

The City will provide reasonable assurance that Federal awards are being managed in compliance with all Federal regulations and with the terms and conditions of the award. The City shall review all federal requirements in Federal CFR 200.318 - 200.326.

A. Internal Controls. The City will maintain effective internal controls over the Federal award, providing reasonable assurance that the City is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award.

B. The City will take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

C. The City will take reasonable measures to safeguard protected, personally identifiable information, and other information the Federal awarding agency or pass-through entity designates as sensitive.

D. Allowable Costs. Federal awards will meet the following general criteria in order to be allowable except where otherwise authorized by statute.

1. Be necessary and reasonable for the performance of the Federal award.
2. Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types of amount of cost items.
3. Be consistent with policies and procedures that apply uniformly to both Federal-financed and other activities of the City.

4. Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.

5. Not be included as cost or used to meet cost sharing or matching requirements of any other Federally-financed program in either the current or a prior period.

6. Be adequately documented.

E. Procurement.

1. The City must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and other penalties as appropriate.

2. The City will comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.

3. The City must verify and document that vendors are not suspended or debarred from doing business with the Federal Government. Federal guidelines require grant recipients to ensure vendors with contracts or purchases exceeding \$25,000 are not suspended or debarred from participating in federal programs. All City purchases and contracts issued from federal resources that exceed \$25,000 are subject to these guidelines.

4. Before initiating any purchases or contracts with federal funds that exceed, or may potentially exceed, \$25,000 within a fiscal year, the responsible City personnel shall verify that the vendor is not listed on the System for Award Management Exclusion list. If a vendor is listed on this list, the City shall not complete the purchase or contract with the vendor. If the list shows no records for the vendor, document this, retain a copy in City files, and proceed.

Note: the Washington State Department of Enterprise Services does not check for suspension or debarment on State bid contracts.

F. Single Audit Act. The City, when receiving Federal funds, shall adhere to the Federal regulations relating to the requirement for single audits as outlined in applicable Federal and State statutes and regulations.

G. Closure. A project agreement end date will be established and any costs incurred after the project agreement end date are not eligible for Federal reimbursement.

XXII. Sale of City Property or Equipment

A. Overview. The City may occasionally need to sell or convey equipment or property which is no longer needed for municipal purposes. The underlying authority for the sale and/or surplus of City equipment or property is found in the Revised Code of Washington (RCW) 35.23.010.

B. Prior to sale, the City will determine the fair market value of the equipment or property in order to avoid violating the 'gift clause' in the State Constitution. If the equipment or property is to be sold at less than fair market value, a reason must be demonstrated and approved by the City Council.

C. For equipment or property valued at \$50,000 or more, the City will hold a public hearing during its normal City Council meeting. The public hearing will be posted in the City's newspaper of record no less than twenty-four hours prior to the Council meeting, and shall be posted on the City's website. The public hearing shall describe the item or property to be sold, the reason for no longer needing the equipment or property, and the fair market value of the equipment or property.

1. A public hearing is required for any sale of real estate or personal property originally purchased for utility purposes that is no longer needed for that use, regardless of the value of the property. (See *RCW 35.94.040*)

2. No public hearing is required for the sale of equipment or property valued at less than \$50,000 unless it relates to the sale of real estate or personal property purchased for utility purposes.

D. A resolution shall be passed prior to the sale of all equipment or property valued at more than \$500, declaring the equipment or property to be surplus, and specifying how the equipment or property shall be sold, or delegating that task to the Mayor or designee.

E. For equipment or property valued at less than \$500, approval must be obtained by the Mayor prior to sale. Approval shall be documented and documentation shall be filed by the City Clerk/Treasurer with audit paperwork for the current year. Items shall be listed for sale on the City website and/or posted at the City Hall.

E. The sale can be through any commercially reasonable way. This may be by auction, private sale, sealed bid, etc. The equipment or property to be sold must be advertised either in the City's newspaper of record, on the City's website and/or by posting at the City Hall. The advertisement shall include a description of the equipment or property and the fair market value cost.

F. The final sale must include a waiver or document signed by the City's designee and the buyer, releasing the City from all liability related to the equipment or property sold.

G. The City's elected officials and employees may be restricted from purchasing surplus equipment or property due to conflict of interest concerns. Any elected official or employee directly involved in making the *decision* to surplus equipment or property, or any elected official or employee *administering* the actual sale, may not purchase the equipment or property.

H. The City Council may elect to discuss during executive session, the selection of property for purchase or lease (or the price), if public knowledge regarding such consideration would cause a likelihood of increased price. (See *RCW 42.30.110(1)(b)*)

I. The City Council may elect to discuss during executive session, the minimum price at which it will sell a particular parcel of real estate if public knowledge regarding such consideration would cause a likelihood of increased price. *(See RCW 42.30.110(1)(c))*

J. The City may transfer, lease, or dispose of property at low or no cost for affordable housing and related facilities for low-income and very low-income households, consistent with local regulations and the City's comprehensive plan. *(See RCW 39.33.015 and 43.63A.510)*

K. The City may sell or transfer property to other governmental entities at less than value in some instances. Such sales or transfers must meet the requirements of RCWs 39.33.010 and 43.09.210 as well as the Washington State Attorney General's Office publication 1997 No. 5.