

**CITY OF GOLD BAR, WASHINGTON  
RESOLUTION NO. 26-05**

**A RESOLUTION OF THE CITY OF GOLD BAR, WASHINGTON AMENDING THE PURCHASE,  
PROCUREMENT, AND SALE POLICY**

**WHEREAS**, the audit of funding years 2023 and 2024 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 subsequently updated in later resolutions; and

**WHEREAS**, an updated and current purchase, procurement, and sale policy that reflects City processes is necessary for the purchase and disposition of goods, services, equipment, supplies, and property;

**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**

Previous Purchase and Procurement resolutions and policy revisions are hereby repealed in their entirety and replaced with Resolution 26-04 and its associated attachment.

**Section II, Adopt**

The City of Gold Bar Purchase, Procurement, and Sale Policy, as attached, 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 that do not materially change purchasing rules, contract rules, or procedures within the Policy, such as formatting edits, without further approval of the Council. This authorization does not include changes that modify contract approval authority, or that limit, modify, or amend, any other process or procedure which currently requires 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 \_\_\_\_\_ day of \_\_\_\_\_, 2026.**

APPROVED:

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Steve Yarbrough, Mayor

\_\_\_\_\_  
Lisa Stowe, Clerk/Treasurer

# City of Gold Bar

EST. 1910



107 – 5<sup>th</sup> Street, Gold Bar, WA 98251

## **Purchase, Procurement, and Sale Policy**

(as adopted through Resolution 26-04)

## Table of Contents

- I. Overview General
- II. Defining the Need; Types of Procurement
- III. Purchasing Code of Ethics
- IV. Prohibited Practices
- V. Signature Authority for Contracts
- VI. Grant and Federal Funding
- VII. Insurance, Licenses, and Prevailing Wages
- VIII. Determining Contract Value
- VIII. Technology
- IX. Electronic Data, Telecommunications, and Software
- X. Bid Splitting
- XI. Cooperative Purchasing
- ~~IX.~~ XII. Purchase of Materials, Supplies, and Equipment
- ~~X.~~ XIII. Purchase of Public Work Construction Activities
- ~~XI.~~ XIV. Purchase of Architectural and Engineering Services
- ~~XII.~~ XV. Purchase of Ordinary or Purchased Services
- XVI. Payments
- ~~XIII.~~ Purchase of Professional Services
- ~~XIV.~~ Purchase of Personal Services
- ~~XV.~~ XVII. Purchase of Real Property
- ~~XVI.~~ XVIII. Exemptions to Competitive Bidding Requirements
- ~~XVII.~~ How to Declare a Sole Source (or single source)
- ~~XVIII.~~ XIX. Disposal or Sale of Surplus Property or Equipment
- ~~XIX.~~ XX. Trade-Ins
- ~~XX.~~ Federal Code of Conduct
- ~~XXI.~~ Federal Award Standards
- ~~XXII.~~ Sale of City Property or Equipment

## I. **Overview** General

### A. 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~~ all applicable laws regarding the expenditure of public funds, to provide an open, fair, documented, and competitive process 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. to be used whenever reasonable and possible. The purchasing function's integrity, efficiency, and effectiveness are critical elements of sound government.

### B. Objectives

The objectives of the City's policy are as follows:

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

### C. Scope

This policy applies to purchases of public works projects, professional services, non-professional services, and supplies, materials, and equipment.

This policy does not apply to the acquisition, sale, or lease of real property.

If grant **or federal** 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.

### D. Controlling Laws

The expenditure of public funds for the purchase of, and contracting for, goods, services, supplies, and materials, shall comply with all applicable federal and state laws, regulations, grants, or 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. If the appropriate and relevant federal or state laws, regulations, grants, or requirements conflict or are more restrictive than these guidelines, such laws, regulations, grants, or requirements will be followed.

In the event any bid threshold limits in the RCWs are different from the values listed within this Policy, the RCW limits shall take precedence.

The City Attorney shall be consulted when questions regarding potential conflicts arise.

### E. 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 procedures 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*)

### F. 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; Types of Procurement**

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 ~~that 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. 1. Architectural and Engineering Services. These services are to be acquired under the authority and procedures outlined in RCW 39.80.~~
- ~~3. 2. General Services/Purchased Services. All other service-related work, including but not limited to, personal services (consultants that require specialized knowledge, education, professional licensing, or certification) and purchased services, including vendors retained to complete routine, necessary, or continuing functions for the City. 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. 3. 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~~ those 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~~ **that is** compatible with the best interests 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, **professional**, 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.

1. Reasonable Person Standard. Staff and elected officials must be aware of any perceived or actual conflicts of interest based on inappropriate opportunities to influence the solicitation and/or award process. The City uses the measure of how a reasonable person would perceive the situation. A Reasonable Person Standard considers how the situation would appear if viewed from the perspective of a taxpayer or someone not employed by the City or in an elected position.

a. No employee, officer, or agent may participate in the selection, award, or administration of a contract if they have 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. **If a City employee has a relationship or influence on any transaction involving the City purchases, contracts, leases, or public works, they must disclose the relationship or influence to the Mayor as soon as possible, so that safeguards can be established to protect the integrity of the procurement process.**

b. The City Attorney shall be consulted before initiating a contract with former City employees to determine if doing so would create an actual conflict of interest or the appearance of a conflict of interest.

2. Limitations on Gifts. City staff must **not solicit or accept any gifts, meals, gratuities, or invitations for themselves, their families, or others, that would or could result in financial**

or personal gain or advancement, or that could be reasonably perceived as improperly influencing performance of official duties, a reward for awarding a contract, or offered or given to influence, find favor, or with a reasonable expectation of creating an obligation to the giver. Vendors are prohibited from offering gifts during the solicitation and ensuing contract award process.

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.~~

#### *E. Confidentiality*

Documents, decisions, information, and opinions are generally to be kept confidential, except as required to be disclosed under the Public Records Act. Staff and elected officials shall not share information with anyone not directly involved in the evaluation and selection process.

Authorized staff may contact respondents to City solicitations seeking additional information and clarification regarding submittals, as well as to negotiate a contract. However, conversations or contact with respondents regarding details of the evaluation process should otherwise be limited, and care must be taken to maintain the objectivity of the evaluation process.

#### *F. Fair and Thorough Evaluation*

The process must be fair to all respondents and must be deliberative in order preserve the integrity of the public bid process.

1. City staff and/or elected officials invited to assist in specification development, solicitation efforts, and/or award processes, must be considerate of conflicts of interest and other public accountability rules.

2. In the event a member of the evaluation and selection process has a conflict of interest, or a perceived conflict of interest, they must immediately withdraw from the process and, if necessary, consult with the Mayor or legal counsel.

### **IV. Prohibited Practices**

#### *A. Collusion ~~a~~Among ~~b~~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 ~~f~~Formal ~~b~~Bid ~~e~~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 sSection shall at once become null and void.

### C. 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

### D. 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.

### E. 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.

~~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. (See also Title C(3)(2))~~

~~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. (See also Title C(3)(1)(b) relating to former employees)~~

~~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 for Contracts

Per RCW 35A.11.010, the City's authority to contract, and be contracted with, is vested in the City Council. Unless otherwise provided herein, the Council, by motion, authorizes signature authority to the Mayor to execute contracts and modifications. 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.

A. City Council approval is required for goods or services contracts that:

1. Are contracts with a total aggregate value of \$45,000 or more;
2. Are cost modifications that, either singly or combined with all previous modifications, pushes the total contract amount from under, to over, the \$45,000 signature threshold;
3. Are cost modifications for contracts with an original value between \$45,000 and \$99,000 that results in a new total contract amount \$10,000 or more over the original contract amount.
4. Are cost modifications for contracts with an original value of \$100,000 or more that results in a new total contract amount 110% over the original contract amount.

Examples:

If the current value of the contract is between \$45,000 and \$99,000 and a modification results in a new total that is \$10,000 or more above the original contract, council approval is required.

If the current value of the contract is less than \$45,000 and a modification results in a new total that is more than \$45,000, council approval is required.

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

C. Electronic Signatures. The City follows RCW 1.80, Uniform Electronic Transactions Act, which applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after June 11<sup>th</sup>, 2020. A document that is required by law to be signed in non-electronic media may not be digitally or electronically signed.

## **VI. Grant and Federal Funding**

Grants or federal funding projects often have their own procurement requirements. In the case of conflict, the most restrictive requirements shall apply.

*Federal Awards.* 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), **and any other applicable Federal laws, codes, and regulations.** ~~See *Federal Code of Conduct* and *Federal Award Standards* sections for summary requirements.~~

A. The City will also 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.

1. 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.

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

3. 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.

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

a. Be necessary and reasonable for the performance of the Federal award.

b. Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types of amount of cost items.

c. Be consistent with policies and procedures that apply uniformly to both Federal-financed and other activities of the City.

d. 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.

e 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.

f. Be adequately documented.

#### 5. Procurement.

a. 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.

b. 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.

c. 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.

d. 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.*

6. 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.

7. 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.

8. The federal government ~~does~~ may not recognize Washington State's Small Works Roster alternative procedures or thresholds. The City will not use small works rosters

procedures or thresholds if any federal funding is included or used without first verifying that such procedures or thresholds are recognized by federal regulations.

~~All grants are different. Some may require the City's procurement rules, while others require contracting clauses to be inserted into contracts.~~ B. Prior to initiating any purchases or contracts with federal funds, the ~~responsible~~ appropriate administrator will document that the procurement complies with the requirements of the Revised Code of Washington (RCW) 57.08.050 and any Uniform applicable Federal requirements 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 of Insurance, naming the City as an additional insured, with the contractor's insurance as primary, and any City insurance as secondary, 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 Compensation 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~~ may also be 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. A 'Statement of Intent to Pay Prevailing Wages' must be received from the contractor and all subcontractors before any payment by the City is made, and an 'Affidavit of Wages Paid' must be received from the contractor and all subcontractors following final acceptance of the contracted work.

~~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. Determining Contract Value**

Contract value refers to the total aggregate value of the contract, including all base periods, plus potential renewal periods. Example: a three year contract for \$40,000 per year is considered a \$120,000 contract.

### **VIII IX. Technology Electronic Data, Telecommunications Equipment, and Software**

A. The purchasing of cell phones, telephone equipment, computers, printers, scanners, copiers and related equipment, hardware, software, licensing, and technical services less than \$15,000 requires ~~approval of~~ prior review by the clerk/treasurer, mMayor and IT contractor.

B. For purchases of equipment and/or software costing above fifteen thousand dollars (\$15,000) the City may acquire the equipment as it would materials, equipment, and supplies (as provided in Section XIII herein), or follow the alternative process contained in a competitive negotiation process as an alternative to the bid process. RCW 39.04.270(3), which permits allows such purchases to be made 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; and

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 Springbrook 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.

## **X. Bid Splitting**

The breaking of any project into units, or accomplishing any project by phases, is prohibited if it is done for the purpose of avoiding compliance with bidding statutes.

The Washington Supreme Court has held that a City cannot break a public work project into phases for the purpose of estimating the cost of a public works project, even though those phases are performed at different levels of time. Instead, a City, while completing the actual project in phases, must total the cost of all phases of the public works project or purchase. If the aggregate cost exceeds the applicable bid limit, the City must bid each phase of the project even though a single phase may cost less than the bid limit.

To avoid bid splitting combine all phases of a public works project or vendor purchase when estimating cost.

## **XI. Cooperative Purchasing**

E. Cooperative Purchasing. RCW 39.34.030 allows the city to join with other governmental agencies for the purchase of supplies, equipment, or services. This is done by entering into a written interlocal agreement, which must be approved by the city council.

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 **requires the City to complete** 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 **agreement to ensure it is open and active for the relevant period, allows for use by other municipalities and/or agencies, and that it complied with the applicable public bidding requirements, including but not limited to, public solicitation and compliance with competitive bidding requirements.** ~~for any ‘piggyback’ requirements and work with the cooperative agent if necessary.~~
3. Contact vendors to verify **that** 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.~~

## **IX. XII. Purchase of Materials, Supplies, and Equipment**

This ~~s~~Section relates to the purchase and procurement of things unrelated to services or public works. Examples include office supplies, copy machines, maintenance supplies, etc.

Only authorized purchases that meet the following criteria are allowed.

1. Materials, supplies, and equipment used to conduct City business,
2. Materials, supplies, and equipment that are consistent with City priorities,
3. Materials, supplies, and equipment that are consistent with state and local laws, and
4. Materials, supplies, and equipment that are within predetermined budgets ~~are allowed~~.

A. Thresholds

The thresholds for materials, supplies, and equipment 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 <u>it</u> in files.	Staff may approve purchases up to \$2,000. Supervisors may approve purchases up to \$14,999.
\$15,000 – \$150,000 <u>\$50,000</u>	<del>3</del> <u>Formal competitive bid process</u> or <u>three</u> documented quotes <u>from the Municipal Research Services Center (MRSC) roster or from a roster maintained by the City in accordance with the requirements of RCW 39.04.190.</u> Phone quotes are acceptable up to \$20,000. Written <u>or emailed</u> quotes are required <del>over that amount</del> . Quotes must be attached to invoices. Note: <u>obtaining quotes is not a formal bid process. See further information below table.</u>	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 <u>\$150,000</u>	Formal <u>competitive bid process</u> <del>or RFP</del> . <u>Sealed bids may be required over \$150,000.</u>	Purchases requiring a formal bid <del>or RFP</del> process must have prior approval by the Council unless already approved through the budget process. The Mayor <u>or Public Works Director</u> awards winning bids <u>or RFPs</u> .

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

1. General Process.

Quotes, RFQs, RFPs, and/or bids will not be accepted verbally.

All vendors must include contact information.

All vendors must be provided the same information to ensure vendors are quoting on equal and comparable items. If one vendor offers an acceptable alternative and the city agrees, new quotes must be requested from all vendors with the alternative specifications.

The City will not pay for technical information from vendors. If the information is to be shared with other vendors, it must be stated up front. If a vendor's technical information is used without their approval, the City may face legal consequences.

On-site demonstrations or delivery of preview/trial items will not constitute a purchase or an agreement to purchase.

At the time quotes are solicited, staff shall not inform a vendor of any other vendor's quote.

A written record shall be made by staff of each vendor's quote on the materials, supplies, or equipment, and of any conditions imposed on the quote by such vendor.

An award shall be made to the lowest responsible vendor. All quotes must include, if possible, shipping and sales tax, or an estimate of both.

Whenever there is a reason to believe that the lowest acceptable quote is not the best price obtainable, all quotes may be rejected and the City may obtain new quotes.

All quotes must be documented and retained according to retention laws.

*2. Process: Informal Competitive Quotes, \$15,000 - \$999,000.*

Staff shall make an effort to contact at least three vendors, but may procure goods using the method that provides the greatest quality and value to the City. The number of vendors contacted may be reduced if the item being sought is only available from a smaller number of vendors. When fewer than three quotes are requested or if there are fewer than three replies, an explanation shall be attached to the documentation.

*3. Process: Vendor Rosters, \$15,000 - \$50,000.*

When purchasing materials, supplies, or equipment between \$15,000 - \$50,000, the City may award purchasing contracts through the formal competitive bidding process, or alternatively, through the vendor roster process authorized by RCW 39.04.190. If authorized, the process permits the City to utilize the vendor roster(s) developed and maintained by MRSC, or alternatively, use a City-developed and maintained roster. If the City elects to develop and maintain its own roster, at least twice per year, the City shall publish in the City's newspaper a notice of the existence of a vendor list and solicit the names of vendors for the lists. The City shall, by resolution, establish a procedure for securing telephone or written quotations, or both.

from at least three vendors whenever possible to ensure that a competitive price is established for the award of contracts. When fewer than three quotes are requested or if there are fewer than three replies, an explanation shall be attached to the documentation. Once the award is made, the bid quotations shall be recorded, open to the public for inspection, and shall be available by phone inquiry.

4. Process: Formal Bid Process, over \$50,000. Purchases of supplies, goods, materials, and/or equipment over \$50,000 that are not part of a public works project must use the formal bid process, with price being the primary factor in the contract award decision.

Unless otherwise specifically approved by the Council, all contracts relating to the purchase of materials, supplies, and equipment shall be in accordance with the City budget.

The Public Works Director shall compile bid packages, including technical specifications, bid and contract timeframes, pre-bid conference dates/times, a list of vendors if applicable, and any other bid documentation.

Public notice of the request for bids shall be published at least once in a newspaper of general circulation and on the City's website. 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.

The City may arrange a pre-bid conference if necessary or requested, and include that date in the published information. The City will maintain documentation of vendors and their bid information.

Bids shall be opened publicly and recorded at the time and place designated in the request for bids.

Bid awards may be withdrawn, modified, or canceled by written notice prior to the time of bid opening. After bid opening, withdrawal of bids shall be permitted only to the extent that the bidder can show clear and convincing evidence presented in a sworn affidavit or declaration submitted no later than 5:00 pm on the first business day after bid opening that a clerical mistake was made and not a mistake in judgment, and must specify the intended bid price. 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 consultation with the Public Works Director and/or legal counsel.

5. Lowest Responsible Vendor.

Contracts shall be awarded to the lowest responsible bidder. Bids shall be tabulated and documentation retained. The award of the bid shall be made to the lowest responsible bidder whose bid meets the City's specifications and evaluation criteria. The City may reject all bids at its discretion.

If recommendation for an award is made to anyone other than the lowest bidder, documentation must state the specific reasons why the lowest bid was not acceptable and the documentation must be reviewed by the Mayor and/or legal counsel.

#### **XIV. Payments**

~~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. XIII. 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 \$150,000 or less	Utilize the 'limited public work' process as described in RCW 39.04.155(3) and as described in the procedure below. <u>May utilize direct contracting as authorized by RCW 39.04.152 or a small works roster, described in detail below. If direct contracting or a small works roster is not used, formal competitive bidding is required.</u>	Projects awarded/approved by the Mayor or Public Works Director. Mayor may approve <u>projects up to \$60,000</u> if part of the approved budget. Council must be informed in a timely manner. <u>Over \$60,000, Council must approve projects in advance unless already approved through the budget process.</u>

\$35,000 – \$299,999 <u>\$350,000 or less***</u>	<u>May</u> utilize the small works roster process as described in RCW 39.04.155151-152 <u>described in further detail below.</u> If the small works roster is not used, formal competitive bidding is required for <del>single projects over \$40,000 and for multi-projects over \$65,000.</del>	Projects awarded/approved by the Mayor and City Council.
\$300,000 <u>\$350,000</u> and over	Formal competitive bidding is required as described in RCW 39.04. <u>and RCW 35.23.352.</u>	Projects awarded/approved by the City Council.

\*\*\*This threshold will increase to \$530,000 or less on January 1, 2027 – June 30 2027; \$560,000 or less on July 1 2027-June 30 2028; \$590,000 or less on July 1 2028 – June 30 2029; \$620,000 or less on July 1 2029 – June 30 2030; and \$650,000 or less on July 1 2030.

#### A. Process

Invitations to bid shall call for sealed bids in a newspaper of general circulation at least one time, and at least 13 days prior to the last date upon which bids will be received, describe the nature of the contemplated project, including an estimate of the contemplated cost, and direct prospective bidders where such bidders can review the full invitation to bid, including the contract documents, plans, and/or specifications.

Invitations to bid shall include:

1. directions as to when, where, and how to submit sealed bids;
2. contract documents containing all applicable public works requirements, including bond, retainage, and prevailing wage requirements;
3. a requirement that the bidders submit contractor lists in accordance with RCW 39.30.060;
4. a requirement that the bidders submit a signed statement in accordance with RCW 39.04.350(2);
5. a requirement that the bidders include a bid bond of a minimum of 5%, which must be in the form of a surety bond, cash, cashiers or certified check;
6. supplemental bidder criteria, if any; and
7. bid protest procedures, as appropriate.

Bids will not be accepted verbally.

All contractors must include contact information.

All contractors must be provided the same information to ensure vendors are quoting on equal and comparable items. If one contractor offers an acceptable alternative and the City agrees, new quotes must be requested from all contractors with the alternative specifications.

The City will not pay for technical information from contractors. If the information is to be shared with other contractors, it must be stated up front. If a contractor's technical information is used without their approval, the City may face legal consequences.

On-site demonstrations or delivery of preview/trial items will not constitute a purchase or an agreement to purchase.

At the time quotes are solicited, staff shall not inform a contractor of any other contractor's quote.

A written record shall be made by staff of each contractor and of any conditions imposed on the quote by such contractor.

An award shall be made to the contractor submitting the lowest or best responsive reasonable quote. Product availability may be taken into consideration.

Whenever there is a reason to believe that the lowest acceptable quote is not the best price obtainable, all quotes may be rejected and the City may obtain new quotes.

All quotes must be documented and retained according to retention laws. The City shall allow at least two full business days after providing bidders with copies of all bids before executing a contract for the project.

The City shall require the payment of prevailing wages based on the prevailing wage rates in effect at the beginning date for each contract year. Intents and affidavits of prevailing wages must be paid and submitted for all work completed. Except as provided herein, the City shall require performance and payment bonds for contracts valued at more than \$5,000. The City shall also require the use of apprenticeship utilization requirements, where projects meet the threshold established by RCW 39.04.320.

The City shall withhold 5% retainage from the moneys earned by any contractor pursuant to RCW 60.28; provided, however, the City may reduce or waive retainage requirements, and thereby assume liability for a contractor's nonpayment of labor, mechanics, subcontractors, materials, suppliers, taxes, and penalties; and further provided that, the City may elect to waive the requirement for payment and performance bonds on projects estimated to cost \$150,000 or less, at the option of the contractor, and instead retain 10% of the contract amount for a period of 30 days after final acceptance of the work or until receipt of all necessary releases from the Department of Revenue, Department of Labor and Industries, and Department of Employment Security, and the settlement of any liens under RCW 60.28, whichever is later. Any such waiver does not affect the City's right to recover against the contractor for any payments made on the contractor's behalf.

Finally, in addition to the procedures outlined herein, where applicable, the City may utilize the alternative public works processes authorized by RCW 39.10.

*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. Direct Contracting (on projects estimated to cost less than \$150,000)*

For contracts with an estimated cost of less than \$150,000, excluding sales tax, the City may contract directly with certified small businesses as defined by RCW 39.04.010(7), without a competitive process as follows:

1. If six or more contractors meeting the definition of a small business are on the applicable roster, the City *must* contract directly with one of those small businesses that indicated an interest in performing the work.

2. If five or fewer contractors meeting the definition of a small business are on the applicable roster, the City *may* contract directly with any contractor on the applicable roster.

If the City utilizes direct contracting, it must rotate through the contractors on the appropriate roster and must, when qualified contractors are available to perform the work within the budget described, utilize different contractors on different projects. The City must also establish a small, minority, women, and veteran-owned business utilization plan, and notify small, minority, women, or veteran-owned businesses on the applicable roster when direct contracting is utilized. In addition, at least once annually, the City must publish in the City's newspaper, the contractors contacted for direct negotiation as required by RCW 39.04.152(7). If the City elects not to use direct contracting, it shall invite bids by electronically notifying all contractors on the applicable roster that indicated interest in performing the work.

*C. Small Works Roster (on projects estimated to cost less than \$350,000)*

For projects estimated to cost less than \$350,000, excluding sales tax, the City may contract by securing written or electronic quotations from contractors on the appropriate small works roster(s) to assure that a competitive price is established and to award contracts to the lowest responsive responsible bidder. The City may create one or more small works rosters for different specialties or categories of anticipated work or geographic area, or alternatively, utilize MRSC's statewide small works roster.

If the City elects to create one or more small works rosters, it must require contractors desiring to be placed on the roster to indicate whether they meet the definition of women and minority-owned business as described by RCW 39.19.030(7)(b), veteran-owned as defined by RCW 46.60A.010, or small business as defined by RCW 39.04010, and keep current records of any

applicable licenses, certifications, registrations, bonding, insurance, and other appropriate matters on file. The disclosure and maintenance of such information must be a condition precedent for placement on the roster(s) and the award of any contract. In addition, at least once a year, the City shall publish in its newspaper, and provide the Office of Minority and Women's Business Enterprises ('OMWBE') with notice of the existence of the roster(s) and solicit the names of responsible contractors for such rosters. Responsible contractors must be added to the appropriate roster(s) any time they submit a written request and the required documents, and where required by law, are properly licensed and registered to perform such work in the State.

The City shall invite bids by notifying all contractors on the applicable roster(s) that have indicated an interest in performing the work. If an award is made, the City shall award the contract for the public works project to the lowest responsive and responsible bidder; provided that the City may waive informalities in bidding and/or reject all bids and call for new bids.

*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.*

~~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.~~

If the City uses the small works roster process to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property must make available a list of the contracts awarded under the process at least once every year. The list shall contain the name of the contractor or vendor awarded the contract, the amount of the contract, a brief description of the type of work performed or items purchased under the contract, and the date it was awarded. The list shall also state the location where the bid quotations for these contracts are available for public inspection.

#### *D. Traditional Competitive Bidding (for projects estimated to cost \$350,000 or more)*

Contracts estimated to cost more than \$350,000, excluding sales tax, shall be awarded using the public competitive bidding process. The City shall comply with RCW 39.04 in the solicitation and award of such contracts.

#### *B. E. On-call/unit Unit-Priced eContracts*

~~On-call work order~~ Unit-priced or 'on-call' 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. In other words, while traditional public works contracts are awarded

for specific projects with defined scopes or values, unit-priced contracts are not associated with a specific scope, amount of work, or dollar value. Unit-priced contracts may be based upon different units, including but not limited to, weight, surface area, volume, length/depth, time, and quantity. Unit-priced contracts must be competitively bid.

1. When a specific scope of work is identified, the City determines that certain types of anticipated work warrant the use of a unit-priced contract, 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. Unit-priced contracts shall not exceed one year, but the City, at its option, may agree to an extension of the initial term for one additional year.

2. Bidding and approval 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. Requests for bids should also include estimated quantities of the work and the manner in which the City will issue work orders, based on the hourly rates or unit prices, and specify how the City will issue or release work assignments, work orders, or task authorizations pursuant to a unit-priced contract for project tasks, or other work based on the hourly rates or unit prices bid by the contractor. Whenever possible, the City must invite at least one proposal from a minority, women-owned, or veteran-owned business. Unit-priced contractors must pay prevailing wages based on the wage rates in effect at the beginning date for each contract year, and must comply with the provisions of RCW 60.28.

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~~ Director 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 order(s) 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 bid amount. It is up to the City whether to accept a retainage bond in lieu of withholding retainage.~~

*D. F. Prevailing Wages*

To ensure prevailing wage laws are followed, refer to these points. Also refer to Section VII, Insurance, Licenses, and Prevailing Wages.

The City must require all contractors to pay prevailing wages on public works projects. For public works contracts:

~~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. 1. After a vendor has been selected~~ selection, the ~~vendor~~ contractor is required to file a 'Statement of Intent to Pay Prevailing Wages' with L&I *prior to starting work*. The ~~vendor~~ contractor must ~~show to~~ provide documentation 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; and

~~3. 2. After the work is completed, the vendor~~ contractor 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~~ will 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, and releases from those agencies have been obtained.

#### E. G. 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.~~

All material changes to contracts are required to be memorialized in writing at the earliest possible time in a change order or other equivalent document. Bids are not required when unforeseen extra work becomes necessary under an existing contract.

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~~ \$20,000, 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. H. 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. XIV. Purchase of Architectural and Engineering Services**

### **A. Process**

The City shall procure architectural and engineering services ('A&E Services') in accordance with the requirements of RCW 39.80. The City may obtain A&E Services by:

1. Publishing an RFQ soliciting statements of qualifications to provide A&E Services on a single project, evaluating the statements of qualifications received in response to the RFQ, and selecting the most highly qualified firm without regard to price; or
2. Selecting a qualified firm from a roster or list maintained in accordance with the requirements of RCW 39.80.030. The City may maintain its own roster and/or may utilize any roster maintained by the MRSC.

~~Architectural and engineering consultants are initially selected based upon their qualifications rather than price (see RCW 39.80.050).~~ RFQs issued for A&E Services shall concisely state the general scope and ature of the project or work for which services are required, and provide the name and telephone number of a City contact who can provide details. Price shall not be a consideration in RFQs for A&E Services. Instead, ~~t~~The City will negotiate a contract with the most qualified firm at a price which the City determines is fair and reasonable, as allowed by Revised Code of Washington, chapter 39.80.050. 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 of those services. 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. The City's authority ~~t~~Thresholds for architectural and engineering services procuring A&E Services are as follows:

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

## **XII. XV. 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.~~

Contracts for services are not subject to competitive bidding requirements. The City may procure services using the method it determines will provide the greatest attainable level of quality an value, including without limitation advertised bid, request for quote or proposal, and direct negotiating and contracting, so long as the procurement is within the City’s budget.

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, routine 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 <del>awards and</del> approves <u>purchased services</u> . <i>Note:</i> Director is required to notify the City Council at the next regular meeting <del>during staff reports</del> , for all <u>awards purchased services over \$10,000 that exceed the approved budget</u> .
\$15,000 – \$100,000	Three written quotes are required.	<del>The Mayor awards and approves.</del> <u>The Public Works Director obtains quotes and the Mayor approves purchased services. The Council is informed if purchased services exceed the approved budget.</u>
Over \$100,000	Formal RFP; may be sealed or not.	<del>Projects</del> <u>Purchased services</u> awarded/approved by the Mayor and City Council.

**XIII. XVI. Purchase of Professional Services Payments**

~~A ‘professional service contracts’ 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 year's 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 may be consulted for contract 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
\$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.

All questions regarding payments should be directed to the City's Clerk/Treasurer. Cash advances are prohibited. Expenditures paid with a City credit card shall be made in the amount of actual expenditures only. The City's Office Manager shall be the custodian of the City's credit cards. All purchases with City credit cards shall be accompanied by receipts, purchase orders if required, and supporting documentation, and given to the Clerk/Treasurer.

**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. XVII. Purchase of Real Property**

Leasing is generally used for mid-to-long-term contracts. Renting is usually a short-term solution that is a result of more causal events 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. Equipment leases must be part of the City's annual financial report.

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

## **XVI. XVIII. Exemptions to Competitive Bidding Requirements**

Washington state statutes contain exceptions to bidding requirements. Exceptions, when exercised, should make good business sense and be in the best interest of the City.

### A. Purchase of Goods

The City may waive purchasing requirements for the purchase of goods for the following reasons:

1. If an emergency arises where it is vital that the goods be purchased without a competitive process, and the City formally declares and/or otherwise makes a resolution waiving the competitive process as a result of such emergency; or
2. If a purchase is clearly and legitimately limited to a single source of supply; or
3. If a purchase involves special facilities or market conditions; or
4. If, after solicitation from several sources, the competition is determined to be inadequate, and efforts have been documented demonstrating such inadequacy.

Emergencies are defined as unforeseen circumstances beyond the control of the City that: (a) present a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life, if immediate action is not taken.

~~A. Sole Source Vendor.~~ A purchase is limited to a single source of supply when it is only feasible to obtain goods or services from one supplier or service provider (e.g., licensed, copyrighted, or patented products or services that only one vendor provides; new equipment or products that must be compatible with existing equipment or product; proprietary or custom-built software or information systems that only one vendor provides; or products or services where only one vendor meets the required certifications or statutory requirements). 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.

~~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.~~

Unless a specific and documented sole source condition exists, the City shall follow standard competitive processes.

Special facilities or market conditions are generally limited to goods that are available for a short period of time, or unique items provided by a vendor and/or contractor.

### *B. Public Works Emergency Procurement*

The City may enter into necessary public works contracts, execute change orders, or amend an existing contract in compliance with the procedures required by the policy upon making a determination that an emergency requires such action. Such deviation from the competitive process for public works projects is only possible when an emergency, as defined in Section XVIII(A) above, exists. The City must issue a written document declaring the existence of such emergency within a reasonable period of time following any such emergency project.

### *B. C. Repairs and ordinary maintenance. General Exceptions*

Additional items and/or circumstances in which competitive bidding is not required include:

~~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.~~

1. Ordinary maintenance and/or repairs;

2. The purchase of insurance and bonds;

3. The purchase of supplies, equipment, or materials at auctions;

4. Community service group contracts as permitted by RCW 35.21.278; and

5. the construction of pollution, water, or solid waste control facilities.

### *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. XIX. Disposal Or Sale of Surplus Property**

### *A. Surplus process*

**Except as otherwise provided herein or authorized by statute:**

- ~~1.-A. Upon recommendations of the Mayor or supervisor, p~~Property with an estimated value under \$15,000 may be declared surplus by the Mayor and/or supervisor.
- ~~2.-B. Property with an estimated value over~~ between \$15,000 and \$49,999 must be declared surplus by the City Council and must meet *one or more* of the following criteria:
  - ~~1. a.~~ **The City has, or soon will have, no foreseen practical and efficient use for the property.**

2. b. The purpose served by the property can be accomplished by use of a better, more effective, or more efficient alternative.
3. c. 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. d. The property is damaged, worn out, or otherwise inoperable, and the cost of repairing the same is unwise or impractical.

~~€.~~ 3. 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) Notification of the public hearing must be posted at least ten days, but not more than twenty-five days, prior to the hearing, and must be published in a newspaper of general circulation and on the City's website. Notification must include the date, time, and place of the hearing as well as identification of the property which can be easily understood by the public.

~~Đ.~~ 4. 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.

### *B. Sale of City Property or Equipment*

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.

1. 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.
2. 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)
3. 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.
4. A resolution shall be passed prior to the sale of all equipment or property valued at more than \$1,000, 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.

5. For equipment or property valued at less than \$1,000, 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.

6. 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 in a newspaper of general circulation, on the City's website, and by posting at the City Hall. The advertisement shall include a description of the equipment or property and the fair market value cost.

7. 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.

8. 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.

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

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

11. 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)

12. 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.

**~~XIX.~~ XX. 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 fFair market value should include the comparison sources and must be documented and retained according to retainage requirements.~~

## ~~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.~~