REQUEST FOR COUNCIL ACTION

SUBJECT: An ordinance repealing Title 3, Chapter 1 “Purchases and Encumbrances” and replacing the chapter with a new procurement code.

SUMMARY: This amendment reflects proposed changes necessary to support the new form of government. In addition, it presents an ordinance that reflects best procurement practices and proposes updated guidance with regard to spending limits and processes.

FISCAL/ASSET IMPACT: None

STAFF RECOMMENDATION: Staff recommends approving the ordinance.

MOTION RECOMMENDED: “I move to adopt Ordinance No. 19-54, an Ordinance Amending Title 3, ‘Revenue, Finance, and Taxation,’ of the West Jordan City Code, by repealing the current procurement code and replacing the chapter with a new procurement code, as attached.”

Prepared and to be Presented by:

Joe Bryant
Purchasing Manager

Recommended by:

Danyce Steck, CPFO
Finance Director

Authorized for Council Consideration:

David R. Brickey
City Manager

Reviewed for Legal Sufficiency

City Attorney’s Office
BACKGROUND:

This ordinance repeals Title 3, Chapter 1 Purchases and Encumbrances and replaces this chapter with a new Procurement Code. It reflects best practices, supports transparency, and fosters competition while focusing on quality. It is the result of a collaborative effort between Public Works, Finance, the City Manager’s Office, and the City Attorney’s Office. This ordinance has the full support of staff.

This ordinance will save considerable time and staffing resources previously used during the procurement and award process.

In creating this ordinance, staff referenced the Institute for Public Procurement (NGIP) as well as purchasing ordinances from the State of Utah, Logan City, Murray City, Salt Lake City, Ogden City, Provo City, South Salt Lake, Taylorsville, and Sandy City.
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THE CITY OF WEST JORDAN, UTAH
A Municipal Corporation

ORDINANCE NO. 19-54
[PROCUREMENT]

AN ORDINANCE AMENDING
TITLE 3, "REVENUE, FINANCE AND TAXATION."

WHEREAS, the City of West Jordan adopted a City Code in 2009, for the purpose of carrying into effect and discharging all powers and duties conferred by law upon the City and its officers, employees and inhabitants, and to provide for the safety, preserve the health, promote the prosperity, improve the morals, peace, good order, comfort and convenience of the City and its inhabitants, and to protect property in the City; and

WHEREAS, the West Jordan City Council finds and determines that the purpose of the 2009 City Code, and the public health and welfare, will best be reached by the adoption of the following amendments to Title 3, Chapter 1 of the 2009 City Code.

NOW THEREFORE, IT IS ORDIANED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH:

Section 1. Title 3, Chapter 1, Sections 1 through 17 of the 2009 City Code shall be repealed and replaced with Title 3, Chapter 1, Sections 1 through 19 and hereafter read as follows:

Chapter 1
CITY PROCUREMENT

3-1-1: PURPOSE AND SCOPE:
3-1-2: DEFINITIONS:
3-1-3: GENERAL PURCHASING REQUIREMENTS:
3-1-4: PROCUREMENT AUTHORITY:
3-1-5: GENERAL FORMAL COMPETITIVE SOLICITATION THRESHOLDS:
3-1-6: FORMAL COMPETITIVE SOLICITATION THRESHOLDS FOR INDIVIDUAL CATEGORIES:
3-1-7: COMPETITIVE SOLICITATION METHODS AND PROCESSES:
3-1-8: INFORMAL COMPETITIVE SOLICITATION:
3-1-9: FORMAL COMPETITIVE SOLICITATION:
3-1-10: ADDITIONAL PROCUREMENT TOOLS:
3-1-11: EXCEPTIONS TO COMPETITIVE SOLICITATION REQUIREMENTS:
3-1-12: DEBARMENT AND SUSPENSION:
3-1-13: PURCHASING CARD ISSUANCE AND APPROVALS:
3-1-14: CONTRACT ADMINISTRATION:
3-1-15: CONSTRUCTION PROJECTS:
3-1-16: RIGHT TO INSPECT PLACE OF BUSINESS OF CONTRACTORS AND SUPPLIERS:
3-1-17: PROTESTS AND APPEALS:
3-1-18: ETHICAL STANDARDS FOR CURRENT AND FORMER CITY OFFICERS AND EMPLOYEES:
3-1-19: MANAGEMENT, DISPOSAL, AND DONATION OF PERSONAL AND REAL PROPERTY:

3-1-1: PURPOSE AND SCOPE:

The purpose of this chapter is (1) to maximize the purchasing value and efficiencies of public funds in procurement; (2) to provide safeguards for maintaining a procurement system of quality and integrity; (3) to foster transparency and effective broad-based competition while providing quality goods and services to the citizens and businesses of the city; and (4) to provide for the fair and equitable treatment of all persons who conduct public procurement and related business activities within the city.

Unless otherwise required by state or federal law, this chapter shall govern all procurement processes, contracts, and expenditures of the city on and after 12:00 noon, January 6, 2020. Nothing in this chapter shall be construed as adopting the state or federal procurement codes or any portions therein.

Nothing in this statement of purposes shall create rights, interests, or causes of action against the city, its officers, agents or employees. (Ord. 19- , - -2019, Effective at 12 noon on January 6, 2020)

3-1-2: DEFINITIONS:

Definitions, as stated herein, shall apply exclusively to this chapter and is not intended to apply or conflict with like or similar definitions that may be stated in other city ordinances.

ADDENDUM OR AMENDMENT: A written modification or revision to any document used in the competitive solicitation process or contract document.

AGENCY CONTRACT: A contract between the city and another governmental agency to buy goods or services.

APPEAL: A document or set of documents that are filed in compliance with 3-1-17(B)(2).

APPELLANT: A person having standing who files an appeal to an administrative law judge for review and a determination whether the purchasing manager’s decision on a protest should be upheld.

APPROVED VENDOR LIST (AVL): A list of vendors that were individually evaluated by city staff and deemed qualified to perform certain services for the city in later competitive solicitations based on information submitted by the vendor in a response to the city’s request for a statement of qualifications.
BEST AND FINAL OFFER (BAFO): An offeror’s revised terms of its proposal after initial reviews, scoring, interviews, and discussions have concluded with all offerors who have progressed through the advancement criteria as stated in an RFP.

BID: A sealed document or set of sealed documents representing the bidder’s offer to sell goods or services at a specified price, terms, and specifications set forth in the invitation for bids.

BUILDING IMPROVEMENT: The construction or repair of a public building or structure.

COMPETITIVE SOLICITATION: Competitive solicitation may be either informal or formal as set forth below:

A. Informal Competitive Solicitation Process: An informal process in which potential bidders, offerors, and contractors are invited to submit quotes or surveys by telephone, email, online procurement service, direct vendor delivery or another written price comparison.

B. Formal Competitive Solicitation Process: A formal process in which potential bidders, offerors, and contractors are invited to submit bids and proposals through an online procurement service.

CONFLICT OF INTEREST: Any action that is taken by an elected official or employee of the city that that may cause direct or financial benefit or detriment to themselves, their immediate family, or an entity that they own or hold an interest in, if that benefit or detriment is distinguishable from the effects of that action on the public or on the elected official or employee’s profession, occupation, or association generally.

CONSTRUCTION: The process of building, altering, repairing, improving, or demolishing any city structure or building, or other improvements to any city real property. It does not include routine repair, or maintenance of existing structures, buildings, or real property.

CONTRACT: A legally enforceable agreement between two or more competent parties for the procurement of goods or services.

CONTRACTOR: Any person that legally buys and/or sells goods or services to the city or desires to do so through the competitive solicitation processes.


DESIGNEE: Person who has been delegated purchasing authority to perform functions that would regularly be held by another person.

DISBURSEMENT: The payment of the following liabilities, goods, and services: 1) newspaper advertising, 2) insurance premiums, 3) legal fees, 4) credit card payments, 5) land and building purchases or rentals, 6) registration for meetings or training sessions, including pre-paid hotel costs, 7) subscriptions, memberships, professional registrations, and publications, 8) utility payments, 9) petty cash reimbursements, 10) employee reimbursements including eyewear, health insurance, and educational, 11) postal charges/fees, 12) parking fees, 13) worker compensation fees, 14) credit reporting fees, 15) bond releases, 16) witness fees, 17) phone bills,
18) radio service (UCAN), 19) refunds of city fees or charges, 20) title searches / rights-of-ways, 21) animal control adoption, spay, and neuter program, 22) seized assets (police), 23) found property (police), 24) K9 veterinary services, and 25) revenue generating contracts

EMERGENCY CONDITION: An event or action that creates an immediate and serious need for goods and services that cannot adequately be addressed using customary procurement methods. Such a need may arise, as examples, by reason of a natural disaster, epidemic, riot, equipment failure or other reason.

EMERGENCY PROCUREMENT: The procurement of goods and services that cannot be reasonably purchased through normal procurement methods due to an existing or imminent emergency condition, public threat, or unforeseen circumstances without compromising city property or without delaying any work that may affect the life, health, safety, or welfare of the public.

FORMAL COMPETITIVE SOLICITATION THRESHOLD: The estimated dollar amount of a good or service that would require the use of formal methods of competitive solicitation as set forth in this title.

GOODS: Tangible items that are sold for use, including but not limited to, all materials necessary for construction.

GOVERNMENT AGENCY COOPERATIVE CONTRACT: An agreement between a vendor and another government agency that allows other government agencies to procure goods and services from the vendor upon the same price and terms as was in the initial agreement.

INFORMAL SURVEY: A procurement process where a department may informally survey one or more vendors regarding their services and pricing on specific matters to determine the most appropriate vendor in a given circumstance. Such matters might include vendor experience, unique qualifications, processes, business theories, technologies, best practice concepts and standards or other specialized criteria.

INVITATION FOR BIDS (IFB): A document, and all attachments thereto, that is used for seeking bids on purchases usually estimated to be greater in total value than twenty-five thousand dollars ($25,000) over the term of the proposed contract.

MINOR IRREGULARITY / INFORMALITY: A variation in an official bid, offer, or contract that does not: (i) affect the price of the bid, offer, or contract, (ii) give a bidder or offeror an advantage or benefit not shared by other bidders or offerors, or (iii) adversely impact the interest of the city. Examples include but are not limited to:

A. Failing to sign the bid, proposal, or other procurement documents requiring a signature, but only where they are accompanied by other materials clearly demonstrating an intent to be bound by the bid, proposal, or other procurement documents;

B. Failing to acknowledge receipt of an addendum, but only if the materials clearly demonstrate the bidder or offeror received the addendum and intended to be bound by the addendum, or the addendum has a negligible effect on the bid, proposal or other offer or submission that would not result in a change in the originally submitted price; and
C. Minor mistakes if the intent of the bid, proposal or other offer or submission is clearly evident on the face of the document. Some examples of minor mistakes include typographical errors, errors in extending unit price, transposition errors, and arithmetical errors.

MULTIPLE STAGE PROCUREMENT: A procurement process used in an IFB or RFP to advance qualified bidders through a series of criteria and stages before a bidder is allowed to submit a cost element for a bid or proposal. Some examples of criteria and qualifications that may be used, include but are not limited to the following: Experience, education, licensing, work examples, concepts, demonstrations, quality of work and/or goods, licensing, certifications, and years in business.

ONLINE PROCUREMENT SERVICE: A website or group of websites designed to assist in posting IFBs, RFPs, RFQs, SOQs, and other procurement solicitations and receiving responses to such solicitations by vendors.

PERSON: An individual, corporation, company, business, organization, association, or governmental entity, and their respective employees and agents.

PROFESSIONAL SERVICES: The furnishing of labor, time, or effort by a professional that possesses an elevated degree of specialized knowledge and discretion that may be exemplified by formal education, certification, advanced training, or other qualification, as required by a trade industry, a licensing organization, or the inherent characteristics of the work or services desired. Professional services may include the labor, time, and effort within the following disciplines (this is not an exhaustive list of disciplines or examples):

A. Accounting
B. Architecture
C. Auditing
D. Banking
E. Consulting
F. Construction design and management
G. Engineering
H. Environmental
I. Financial
J. Information technology
K. Artistic endeavors
L. Law
M. Medicine
N. Psychiatry
O. Underwriting
P. Veterinary

PROTEST: A document or set of documents filed in compliance with the requirements of section 3-1-17(A).

PROTESTOR: A person who has standing and has filed a protest in connection with the city’s procurement of goods or services. A protestor shall not mean an appellant, as otherwise defined herein.

PUBLIC THREAT: A circumstance that appears likely to adversely impact the public's health, welfare, convenience, or safety. Such may arise when circumstances appear to create, as examples, a risk of environmental contamination, traffic congestion or hazards, disruption of utility or other public services provided by the city, or other matters.

PURCHASING: The process of buying, procuring, renting, leasing, or otherwise acquiring any good or service. The term "procurement" shall be interchangeable with the term "purchasing". It also includes all functions that pertain to the purchase of good or service, including:

A. Description of requirements
B. Selection and solicitation of bids, proposals, qualifications, or quotes
C. Preparation and award of contract; and
D. All phases of contract administration

PURCHASING CARD (P-CARD): City-issued credit card generally used for expenditures less than twenty-five thousand dollars ($25,000).

PURCHASING DIVISION: A division within the finance department that is responsible for obtaining goods and services needed in support of the city’s departments.

PURCHASING MANAGER: An authorized agent of the city to review purchase requests, prepare bids, quotes, proposals, specifications, issue purchase orders and contracts, evaluate responses to solicitations, and award contracts.

PUBLIC AUCTION: An online or in-person forum that provides the general public an opportunity to bid on goods or services being sold to the highest bidder.

PUBLIC WORKS PROJECT: The construction, replacement, or repair of:

A. A park or recreational facility;
B. A pipeline, culvert, dam, canal, or other system for water, sewage, stormwater, or flood control;
C. An airport or any part thereof;
D. A street, transit facility, or transportation facility;

E. Class C roads, including maintenance and resurfacing; or

F. Any other city facility except a building improvement.

PURCHASE ORDER (PO): A document drafted and issued by the purchasing manager or designee to formalize a purchasing transaction with a supplier. The PO should contain specific information regarding quantity, description, and price of the goods or services being ordered.

REQUEST FOR INFORMATION (RFI): A document or set of documents that solicits information, comments, or suggestions from potential bidders or offerors before any competitive solicitation begins. An RFI may not result in an award of a purchase order or contract.

REQUEST FOR PROPOSALS (RFP): A document, and all attachments thereto, that is used for seeking proposals for goods and services usually exceeding twenty-five thousand dollars ($25,000) over the term of the proposed contract or purchase order.

REQUEST FOR QUOTES (RFQ): A verbal or written request for the cost of goods or services estimated to be in total value less than twenty-five thousand dollars ($25,000) over the term of the proposed contract or purchase order.

REQUEST FOR STATEMENT OF QUALIFICATION (SOQ): A document or set of documents requesting the qualifications of potential offerors for a specific project or goods or services that, if approved, would allow the offerors to submit proposals or bids on specific city projects requiring the qualifications set forth in the city’s request.

REQUISITION: An internal document by which a requisitioner requests the purchasing manager or designee to initiate a purchase.

REQUISITIONER: The person who creates a requisition which is sent to the purchasing manager or designee to initiate a purchase.

RESPONSIBLE: A person that has the capability, as determined in the sole discretion of the city, to perform all requirements of the competitive solicitation, the final contract, and/or purchase order.

RESPONSIVE: A person that has submitted a quote, bid, or proposal that conforms in all material respects to the competitive solicitation specifications, terms and conditions, and all other requirements of the competitive solicitation, as determined in the sole discretion of the city.

SERVICES: Labor, effort, or work that provides a benefit to the city, including but not limited to construction work necessary to complete public works projects or building improvements.

SIGNIFICANT PARCEL OF REAL PROPERTY DEFINED: For purposes of this chapter, a significant parcel of real property is:

A. a single parcel of real property or a combination of contiguous parcels of real property, having an estimated value in excess of one-hundred thousand dollars ($100,000) as determined by using the county assessed value;
B. a single parcel of real property or a combination of contiguous parcels of real property, having a size in excess of one acre as determined by using the county assessed acreage; or

C. an agreement involving an interest in property less than a fee, the value of which exceeds fifty thousand dollars ($50,000).

SPECIFICATION: Any description of the physical or functional characteristics or of the nature of the good or service being procured through the competitive solicitation process. It may include a description of any requirement for inspecting, testing or preparing an item being procured for installation and/or delivery.

STANDING: A protesting potential or official bidder, offeror, or contractor ("Bidder, Offeror, or Contractor") will only have standing if all following conditions are present:

A. The bidder, offeror, or contractor that has suffered an injury or harm or is about to suffer an imminent injury or harm ("Harm"), and if the cause of the harm is or would be:

   1. an infringement of the protestor’s own right and not the right of another person who is not a party to the procurement;

   2. reasonably connected to the procurement unit’s conduct; and

   3. the sole reason the bidder, offeror, or contractor is not considered or is no longer considered for an award of a contract under the procurement that is the subject of the protest.

B. A decision on the protest in favor of the protestor is reasonably likely to redress the harm and would give the bidder, offeror, or contractor a reasonable likelihood of being awarded a contract or not terminating the contract. A subcontractor or potential subcontractor shall not have standing to protest or appeal a protest, or act as an agent of the bidder, offeror, or contractor in the bidder, offeror, or contractor’s protest or appeal.

SUPPLIER: Person(s), business entity, or business entities who or which provide goods and services in response to any procurement solicitation. The term "supplier" shall be interchangeable with the terms "vendor," "provider," and "contractor."

SURPLUS PROPERTY: City real and personal property set forth in section 3-1-19.

UNFORESEEN CONDITION: A circumstance that creates a need to procure goods or services within time frames that could not be reasonably anticipated or reasonably accommodated under customary procurement methods to preclude identifiable adverse impact to the city or to the public’s health, welfare, convenience, or safety. (Ord. 19-____, ____-2019, Effective at 12 noon on January 6, 2020)
3-1-3: GENERAL PURCHASING REQUIREMENTS:

The following general requirements applies to all purchases for goods and services:

A. A requisition or purchase order for goods and services is required (in advance) for all purchases that are (i) not paid for with a P-Card, (ii) applied to an approved contract, or (iii) listed as a disbursement. Requirements related to requisitions are listed as follows:

1. Content of Requisition: The requisition submitted to the purchasing manager must contain the following, if applicable:
   a. The program and account numbers.
   b. The quantity, description, specifications, and scope of work.
   c. All quotes and supporting documentation.
   d. Department head or designee financial system workflow approval.
   e. Email addresses of known potential suppliers.

2. Supporting Documentation: The supporting documentation attached to the requisition shall be submitted and recorded as follows:
   a. If the purchase amount is less than seven thousand five hundred ($7,500), attach the supporting vendor quote documentation in the requisition.
   b. Specifications and requirements are sent to the purchasing manager or designee to initiate a procurement process. After the procurement process has resulted in an award, the requesting department will enter a requisition with the supporting documentation provided by the purchasing manager for processing.

3. Approval: Requisitions are approved through the financial systems approval workflow process.

B. Unless otherwise exempted, all purchases over two thousand dollars ($2,000) require competitive solicitation as defined in this chapter.

C. Purchases that have been divided into two or more smaller purchases to avoid using a standard procurement process are prohibited.

D. Purchases that have been made without a requisition or purchase order ("after-the-fact" purchases), are considered non-compliant with the city’s purchasing policies. Employees failing to comply with this policy may be subject to disciplinary action, up to and including termination.

E. For any purchase using federal funding, the contractors must be checked to ensure they have not been excluded from providing goods and services for federal award programs by checking the www.sam.gov/SAM website.
F. All elected officials, city officers, and employees who use a P-Card must submit to the purchasing manager on a monthly basis all receipts, supporting documentation, and account funding information pursuant to their respective purchasing card agreement.

G. When determining the proper level of procurement authority for a given purchase or whether competitive solicitation is required pursuant to this chapter, the length of the contract, including all potential renewal terms, shall be considered for purposes of calculating the total estimated price of the procurement of goods or services. For example, pursuant to the required thresholds below, if the purchasing manager estimates that the purchase of a particular good or service is expected to have a value of twenty thousand dollars ($20,000) annually for a contractual term of one (1) year with the option to renew for an additional four (4) one-year terms, the value of the contract would be one hundred thousand dollars ($100,000) and not twenty thousand dollars ($20,000). Therefore, in this example, competitive solicitation would be required.

H. The mayor, purchasing manager, or their respective designees may allow others to assist in the preparation of specifications for the city's use in making procurements, provided there is no conflict of interest involved.

I. The city reserves the right to reject or cancel any or all invitation for bids, request for proposals, request for quotations or other solicitation. The city, in its sole discretion, may waive any informality, immaterial error, minor technicality, or other irregularity of any procurement processes or procedures if doing so would be in the best interest of the city, as determined by the mayor or purchasing manager. (Ord. 19-___, ___-__-2019, Effective at 12 noon on January 6, 2020)

3-1-4: PROCUREMENT AUTHORITY:

A. Purchases Under Twenty-Five Thousand Dollars: The purchasing manager or designee shall have the authority to purchase goods and services where the total estimated value is less than twenty-five thousand dollars ($25,000).

B. Purchases for Building Improvements: The public works department head or designee shall be authorized to purchase necessary goods and services required to complete building improvements where the dollar amount is less than fifty thousand dollars ($50,000).

C. Purchases for Public Works Projects: The public works department head or designee shall be authorized to purchase necessary goods and services required to complete a public works improvement project where the dollar amount is less than one hundred seventy-five thousand dollars ($175,000).

D. Purchases for Professional Services: Each department head or designee shall be authorized to purchase professional services pursuant to section 3-1-8B or section 3-1-9B.

E. Purchases for Furniture: Each department head or designee shall be authorized to purchase furniture (desks, chairs, tables, system furniture, benches, filing systems, bookcases, stools, etc.) that has a value of less than two thousand dollars ($2,000). The purchasing manager shall be authorized to purchase furniture at a value of two thousand dollars ($2,000) or more.
F. General Delegation of Authority: Notwithstanding the other provisions of this chapter, the mayor may delegate to the purchasing manager, department heads, or any other city employee, authority to purchase goods and services for the city as deemed appropriate and within his scope of procurement authority. These delegations shall be in writing and may be limited in scope, as the mayor directs.

G. Where the dollar value exceeds the limits described in this section, procurement of goods and services shall require approval by the mayor before being awarded. (Ord. 19-__, __-2019, Effective at 12 noon on January 6, 2020)

3-1-5: GENERAL FORMAL COMPETITIVE SOLICITATION THRESHOLD:

Except for the individual formal competitive thresholds set forth below in the following sections or as otherwise exempted in this chapter, the procurement of goods and services do not require formal competitive solicitation unless the estimated total amount of the purchase or contract exceeds twenty-five thousand dollars ($25,000). For each year after 2020, this general competitive solicitation threshold shall increase by three percent (3%) or the actual positive net percent change in the consumer price index, whichever is less. (Ord. 19-__, __-2019, Effective at 12 noon on January 6, 2020)

3-1-6: FORMAL COMPETITIVE SOLICITATION THRESHOLDS FOR INDIVIDUAL CATEGORIES:

The formal competitive solicitation thresholds set forth below for building improvements and public works projects shall, for each year after 2020, increase by three percent (3%) or the actual positive net percent change in the consumer price index, whichever is less.

A. Building Improvements: The procurement of building improvements does not require formal competitive solicitation unless the estimated total amount of the purchase or contract exceeds fifty thousand dollars ($50,000). The procurement of building improvements with an estimated total amount of the purchase or contract totaling fifty thousand dollars ($50,000) or less shall be performed by a request for quote process pursuant to 3-1-8A.

B. Public Works Projects: The procurement of public works projects does not require formal competitive solicitation unless the estimated total amount of the purchase or contract exceeds one hundred seventy-five thousand dollars ($175,000). The procurement of public works projects with an estimated total amount of the purchase or contract totaling one hundred seventy-five thousand dollars ($175,000) or less shall be performed by a request for quote process pursuant to section 3-1-8A. (Ord. 19-__, __-2019, Effective at 12 noon on January 6, 2020)

3-1-7: COMPETITIVE SOLICITATION METHODS AND PROCESSES:

Competitive solicitation methods may be either informal, pursuant to section 3-1-8, or formal, pursuant to section 3-1-9. Additional procurement processes may be used if in the best interests of the city, pursuant to section 3-1-10. Formal or informal competitive solicitation methods are not required if excepted, pursuant to section 3-1-11. (Ord. 19-__, __-2019, Effective at 12 noon on January 6, 2020)
3-1-8: INFORMAL COMPETITIVE SOLICITATION:

A. Request for Quote (RFQ) Process: This process may only be used when the expected total amount of the purchase is less than twenty-five thousand dollars ($25,000). A minimum of two quotes shall be obtained by telephone, email, online procurement service, direct vendor delivery or another price comparison. The public works department head is authorized to use the request for quote process for public works projects and building improvements when a purchase or contract is estimated to be less than the respective formal competitive thresholds set forth in section 3-1-6. All other department heads are authorized to use the request for quote process only if the estimated amount of the purchase or contract is equal to or less than seven thousand five hundred dollars ($7,500). The purchasing manager is authorized to use the request for quotes process, if necessary, for all purchases not otherwise required to be procured through a formal competitive process or an informal survey.

B. Informal Survey Process: A contract for professional services may be solicited by an informal survey process. Selection of professional services using an informal survey process shall be pre-approved by the mayor before informal survey process may be used. Survey information should contain information regarding the type of service needed, the methodology to be used during the selection process, the anticipated or projected monetary value of the envisioned product of work, and the expected term of the provided service.

After the department head selects the professional firm using data gathered from the informal survey, a written and signed award recommendation shall be presented to the mayor for final approval. After mayor approval, all supportive documentation and approvals shall be provided to the purchasing manager who will retain the information in the project purchasing file. A department head that uses an informal survey for professional services that exceeds or is likely to exceed ten thousand dollars ($10,000) shall give a written disclosure to the city council within fourteen (14) days from the mayor’s final approval of the award. (Ord. 19-__, __-2019, Effective at 12 noon on January 6, 2020)

3-1-9: FORMAL COMPETITIVE SOLICITATION:

A. Invitation for Bids: The purchasing division may solicit sealed bids which shall be awarded to the lowest responsible and responsive bidder.

1. Bid Preparation: The department head or designee seeking to procure a good or service shall prepare an IFB using standard city formats with complete, accurate, and understandable specifications and submit such to the purchasing manager. The purchasing manager will review the IFB and proposed contract for compliance with federal and state law (if federal or state funds are applicable) and this chapter and other applicable city ordinances. Once the purchasing manager has reviewed and approved the IFB for advertisement, he or she will advertise the IFB pursuant to this section.

2. Advertisement: All invitations for bids shall be advertised at least once in a generally and widely available medium including but not limited to newspapers, business journals, city websites, and online procurement service. The city shall post the notice as described above at least five (5) business days in advance of the bid due date, unless a
department requests a shorter time that is approved by the mayor or designee. All requests to shorten the advertisement period to a period less than five (5) business days should be in writing, submitted to the mayor, and include (i) the requested reduced time of posting, (ii) verification that there is sufficient competition from multiple sources who can respond within the shortened advertisement time line, and (iii) the unique nature of the request. Notwithstanding this subsection, any procurement subject to noticing requirements of state and/or federal law shall comply with those requirements.

3. Bid Clarifications and Specification Substitution Requests: Bidders may submit questions, requests for clarification of specifications, or product and/or specification substitution prior to the question due date specified in the bid requirements. All requests shall be made through the online procurement service. All responses by the purchasing manager or designee, if any, to the bidder’s questions, clarifications, and substitutions of specifications may be posted on the online procurement service in the “Question and Answer” section or by modifying the specifications through an official addendum.

4. Receipts of Sealed Bids: All sealed bids shall be received through the online procurement service by the time and date specified in the invitation for bids. If no sealed bids are received by the deadline to submit, the purchasing manager, upon the mayor’s approval, may seek bids using any method described herein without further competition.

5. Verification: The city may verify and investigate any part of the competitive solicitation process, including but not limited to requesting documents and questioning potential or official bidders. If the potential or official bidder fails to respond to questions or requests, the potential or official bidder may be found to be a non-responsible or non-responsive bidder and disqualified from continuing the solicitation process or being awarded the contract. The city’s failure to discover any matter shall not preclude any subsequent evaluation or action. The city shall determine in its sole discretion (i) what actions may be appropriate for verification or investigation, (ii) the responsiveness of questions or requests, (iii) disqualification or qualification, and (iv) successful bid and/or award of contract.

6. Bid Review: Bids shall be received and reviewed by the purchasing manager and verified by the department head or designee making the purchase or entering into the contract that bidders meet the requirements stated within the bidding document. The purchasing manager or designee may request additional information from vendor(s) at any time throughout the procurement process. The city reserves the right to evaluate and waive any minor informalities to determine the overall impact of the bid process and value to the city.

7. Awarding the Winning Bid: Subsequent to the deadline for the submission of bids, the purchasing manager shall post the bid tabulation sheet showing the total bids for each bidder. After the purchasing manager and department head or designee have determined the lowest bid which complies with all solicitation requirements, the purchasing manager may award the bid to the lowest responsible and responsive bidder. Within three days after the purchasing manager awards the bid, the purchasing manager will post notice of the award on the online procurement service.
B. Requests for Proposals: The purchasing division may solicit sealed proposals which shall be awarded to the highest scoring responsive and responsible offeror.

1. Process for Solicitation of Proposals: Unless otherwise stated below, the general principles and processes related to solicitation of sealed bids shall apply to the process of soliciting sealed proposals.

2. Proposal Review: Once the sealed proposals are received through the online procurement service, the purchasing manager and the department head or designee requesting the sealed proposals may review the proposals for compliance with all solicitation requirements. The purchasing manager, in coordination with the department head or designee, shall form an evaluation committee to evaluate and score the proposals based on criteria set forth in the RFP.

3. Evaluation Criteria: All proposals will be evaluated based on criteria set forth in the request for proposals. The evaluation criteria may, but is not required to, include the following evaluation criteria:

   a. The extent of the specialized experience of the individual or firm in the type of work required;

   b. The degree and depth of professional qualifications available through the applicant for performance of the services required;

   c. Past performance of the applicant on similar projects, in general, and city projects in particular;

   d. Location and accessibility of the offices of the professional submitting the proposal;

   e. The proposed schedule for completing the scope of work;

   f. The facilities and equipment at the disposal of the professional submitting the proposal;

   g. The projected work hours and costs associated with providing the services outlined in the scope of work;

   h. For construction projects, an offeror’s company general safety plan and project specific safety plan;

   i. The offeror’s ability to work cooperatively with the city, including, without limitation, whether the bidder has previously failed to comply with city agreements or other requirements, nonpayment of sums due to the city, poor working relationships with or adversarial actions against the city, suspension, or other proceedings by the city against the bidder, or failure to assist the city in determining responsibility; and
j. The offeror’s capacity to perform contractual requirements, including whether the bidder has available appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain them, including without limitation, legal capacity to enter an agreement, the ability to perform within required times, or the ability to perform any necessary future service and maintenance.

4. Evaluation Committee: The department head or designee shall appoint an evaluation committee that shall be comprised of no less than three (3) members.

5. Best and Final Offers: As provided in the RFP, discussions and/or RFP modifications may be conducted with the responsible offerors who submit proposals determined to have a reasonable chance of being selected. Offerors shall be accorded fair and equal treatment to discuss and revise proposals in writing and such written revisions may be permitted by the selection committee after submissions and prior to award to obtain best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors, except for the names of the offerors. Discussion may also occur with vendors who are on the approved vendor list.

The purchasing manager may request best and final offers from:

   a. All responsive and responsible offerors when the evaluation committee wants to verify full understanding of, and conformance to, the solicitation requirements of the RFP;

   b. All responsive and responsible offerors who score within twenty percent (20%) of the highest scoring offeror; or

   c. All responsive and responsible offerors who have the highest identical scores.

6. Selection and Awarding of the Winning Proposal: The evaluation committee shall evaluate the proposals and may require the offerors to give an oral presentation to further understand each of the offerors proposals. The evaluation of the proposals may be performed in successive stages that eliminate a certain number of offerors from continuing through the evaluation process. Once each stage has concluded and all members of the evaluation committee have scored each proposal according to the processes set forth in the RFP, the individual scoring shall be submitted to the purchasing manager. The purchasing manager will confirm that the highest scoring offeror is compliant with all the solicitation requirements and submit a recommendation to the mayor that the highest scoring proposal be awarded the contract. Within three days after the mayor or designee awards the contract, the purchasing manager will post notice of the award on the online procurement service.

7. Public Access to Sealed Proposals: Sealed proposals shall remain confidential and withheld from public disclosure until an award is posted. After the award is posted, all proposals shall be available for public inspection upon a written Governmental Records Access and Management Act (GRAMA) request, except for information or data that the bidder designated as proprietary or confidential or that the city classifies as "privileged" under Utah law. All records retention schedules and access shall be consistent with GRAMA. (Ord. 19-___, ___-2019, Effective at 12 noon on January 6, 2020)
3-1-10: ADDITIONAL PROCUREMENT PROCESSES:

A. Multiple Stage Procurements: IFB or RFP processes may be completed in multiple stages to determine the qualifications, experience, quality of work and/or goods that would be provided before a bid cost sheet is submitted as the final stage of the multiple stage process. A multi-stage process may result in a single or multiple award. Multi-stage processes may be used regardless of bid value.

B. Requests for a Statement of Qualifications: When the mayor determines, based on recommendations from the department heads and the purchasing manager, that a procurement for services requires a certain level of qualifications, skill, experience, understanding of specific needs, key personnel, availability, or other reasonable criteria, the purchasing manager may request a statement of qualifications from potential bidders or offerors.

C. Approved Vendor List: An approved vendor list may be created from a request for a statement of qualifications. Upon evaluation of the responses from vendors, those vendors meeting the qualification and advancement criteria shall be included on the AVL.

1. Timing for Inclusion on an AVL: The AVL may be an open-ended or closed-ended list as follows:

   a. Closed-ended AVL: A closed-ended AVL is a list of vendors approved for a finite period, specified in the SOQ, during which additional vendors may not be added to the AVL. Once the specified period expires, the city may request vendors to submit their statement of qualifications again and, if determined to be qualified, include the qualified vendors on the AVL.

   b. Open-ended AVL: An open-ended AVL is a list of vendors approved for a finite period to which additional vendors may be added through the remaining term of the list. The interval period(s) stated in the SOQ generally range from six (6) months to eighteen (18) months.

2. AVL Procurement Methods: The AVL may be used as one or more of the following methods, regardless of estimated total cost of the good or service:

   a. A rotation system, organized alphabetically, numerically, or randomly;

   b. Assignment of vendors to a specified geographic area;

   c. Assignment of vendors based on vendors’ particular expertise or field; or

   d. Another method approved by the purchasing manager.

D. Request for Information: The city may request information, comments, or suggestions from potential bidders or offerors before using any competitive solicitation methods. A request for information may be used to gather information including, but not limited to, availability of a procurement item, delivery schedules, industry standards and practices, product specifications, training, new technologies, capabilities of potential providers of a procurement item, and alternate solutions. A request for information may not be used to
solicit a firm fixed cost or guaranteed pricing, negotiate fees, make a purchase, or enter into a contract. All information received by potential bidders, offerors, or industry specialists does not bind either party to any commitments to one another and is subject to GRAMA classification. (Ord. 19-__-, __--2019, Effective at 12 noon on January 6, 2020)

3-1-11: EXCEPTIONS TO COMPETITIVE SOLICITATION REQUIREMENTS:

The procurement of goods, and services are exempt from competitive solicitation under the following circumstances:

A. Direct Government Agency Purchases: Procurement of goods, and services that are declared surplus of or made by another governmental agency are not subject to competitive solicitation requirements.

B. Governmental Agency Cooperative Contract: Procurement may be approved, without additional competition otherwise required in this chapter, when the purchasing manager or designee determines that another governmental agency or branch thereof has issued a procurement contract based on competitive solicitation and that the city is authorized to purchase under the terms of the same contract.

C. Sole Source Procurement: The purchasing manager or designee may approve procurement of goods and services without using a competitive solicitation process if the purchasing manager determines, in writing, that:

1. Only one known source is reasonably available to provide the goods or services being procured; or

2. Only specific parts, equipment, accessories, and/or specialized service, training, geographical area, region, boundary, or other unique characteristics of the goods or services meet the city’s needs and there are no comparable goods or services reasonably available.

D. Emergency Procurement:

1. Based upon approval of the mayor or designee, goods and services may be procured to address emergency conditions, public threats, or unforeseen conditions. In such circumstance priority over and exclusion of customary procurement processes shall be allowed to meet the needs of such conditions and threats.

2. Process. The mayor shall examine the circumstances and determine whether they constitute an emergency condition, a public threat, or an unforeseen condition. If so, the mayor may take any action to address such condition so long as such action is (i) reasonable under the circumstances, (ii) consistent with applicable law, and (iii) accomplished within existing budget constraints. The mayor shall deliver to the city council within fourteen (14) calendar days of the purchase or execution of a contract a written determination and explanation of the condition and justification for actions taken under this section. The purchasing manager shall file this written determination in the procurement file relating to purchase or execution of a contract. Only those goods and services to address the conditions identified by the mayor may be procured under this Section.
E. Waiver or Modification: The mayor may waive or modify competitive solicitation requirements when the purchase or execution of a contract is (i) advantageous to the city, (ii) performed in a manner that is fair and equitable, (iii) provides transparency as is practicable under a given circumstance, and (iv) consistent with applicable law. The mayor shall deliver to the city council within fourteen (14) calendar days of the purchase or execution of a contract a written determination and explanation of the condition and justification for actions taken under this section. The purchasing manager shall file this written determination in the procurement file relating to the purchase or execution of the contract.

F. Disbursements: Disbursements do not require competitive solicitation.

G. Grant, Gift, Bequest. In complying with the terms and conditions of any grant, gift, or bequest to the city, or to one of the city’s departments or subdivisions, committees, or a community organization which functions under city auspices if such action is approved by the mayor. (Ord. 19-___, ___-2019, Effective at 12 noon on January 6, 2020)

3-1-12: DEBARMEMENT AND SUSPENSION:

A supplier that fails to meet the requirements of any city procurement process or at any time throughout the duration of a contract or engagement with the city is subject to the actions and penalties described herein. The city, in its sole discretion, may take any of the following actions against a supplier:

A. Order an audit, at the sole expense of the supplier to determine the extent of such non-compliance;

B. Terminate the contractor’s contract for failure to comply with the terms of the bid, RFP or resulting contract;

C. Immediately award the affected contract to the next lowest responsive and responsible bidder; or

D. Bring legal action against the contractor, on behalf of the city and affected employees, for monetary damages.

E. The penalties that may be imposed if a bidder or contractor to which this section applies violates the requirements of this chapter include:

1. For a first violation, a twenty-four-month suspension of the bidder from bidding on city projects; and

2. For a second violation, an action for permanent debarment of the bidder from bidding on city projects. (Ord. 19-___, ___-2019, Effective at 12 noon on January 6, 2020)
3-1-13: PURCHASING CARD ISSUANCE AND APPROVALS:

A. Issuance and Limitations of Credit Card (P-Card): P-Cards may be issued to persons under the following conditions:

1. City Mayor, Officers, and Department Heads: The mayor and administrative officers may be issued a P-card upon the mayor’s direction. Department heads may be issued a P-Card upon the approval of the mayor or designee or the purchasing manager. The mayor, with the advice of the finance department head and procurement manager, may set the purchasing limit of the P-Card for him or herself and other administrative officers.

2. City Council Members, Council Office Director, and Council Staff: City council members, the council office director, and other council staff may be issued city P-Cards upon the majority vote of the council. The city council, with the advice of the finance department head and procurement manager, may set the purchasing limit of the P-Cards for themselves, the council office director, and other council staff by a majority vote of the council.

3. All Other City Employees: Unless otherwise set forth in this section, all other city employees may be issued a P-Card if such issuance is first approved by their department head and the purchasing manager. The finance department head and purchasing manager shall set the limits of the P-Cards of all other city employees.

B. Credit Card (P-Card) Purchases: Purchasing cards are generally used for single transactions below two thousand dollars ($2,000). Monthly single transaction and monthly card limits may be defined by card user with higher spending limits assigned on a per user basis. P-Cards may be used as a direct payment mechanism for (i) purchases under seven thousand five hundred ($7,500), (ii) approved purchases over seven thousand five hundred ($7,500), and/or (iii) when a vendor requires payment with a P-Card. Such purchases may include but are not limited to:

1. Online purchases
2. Purchases from suppliers that the city does not have an account with
3. Seminar/conference registrations
4. Membership fees
5. Suppliers that do not accept PO’s
6. Books
7. Footwear
8. Clothing
9. One-time purchases
C. Abuse of a P-Card: Abuse or misuse of a P-Card, including any failure to comply with the related P-card agreement, may result in an immediate cancellation of the P-Card, criminal prosecution, and/or termination of employment, if applicable. (Ord. 19-__,-__-2019, Effective at 12 noon on January 6, 2020)

3-1-14: CONTRACT ADMINISTRATION:

A. Except for purchase orders, the mayor or designee shall sign all contracts.

B. Exclusivity of Contracts: Exclusive and non-exclusive contracts may be awarded by the city at any time. Unless a contract specifically states it is exclusive, it shall be deemed to be nonexclusive. "Nonexclusive" means that the city may award multiple contracts to more than one contractor(s) for similar goods or services, as it deems appropriate.

C. Period of Time for Contracts:

1. Permitted Contract Duration: Unless otherwise prohibited or unauthorized as stated in this section, contract(s) for goods and services may be entered into for any period of time stated in the bidding documents and is deemed to be in the best interest of the city. Term renewals as stated in the contract are allowed without additional mayor approval provided that the council has approved the expense within the current fiscal year.

2. Prohibited Contract Duration: "Open-ended" (starting date only) contracts and "evergreen" (automatically renewed) contracts are prohibited, unless authorized by the purchasing manager in writing or otherwise authorized by federal or state law.

D. Contract Amendments: Contracts (including purchase orders) may be amended, modified or supplemented only by written amendment, executed by the parties to the contract.

E. Change Orders:

1. For Building Improvements and Public Works Projects: A department head is authorized to approve a change order on building improvements and public works projects in a single amount or total aggregate amount (when multiple change orders exist for the same project) not to exceed twenty percent (20%) ("20% Approval Limit") of the contract so long as (i) there is funding available in the budget, (ii) does not materially change the original scope of work, and (iii) the change order is in the best interests of the city according to the department head. Notice of such provision may be included in the IFB or RFP.

2. For Goods and Services Not Listed in 3-1-14(E)(1): A department head is authorized to approve a change order for goods and services in a single amount or total aggregate amount (when multiple change orders exist for the same good or service) not to exceed ten percent (10%) ("10% Approval Limit") of the contract so long as (i) there is funding available in the budget, (ii) does not materially change the original scope of work and (iii) the change order is in the best interests of the city according to the department head.
3. Mayor Approval Required: A department head must obtain the mayor's written approval for any change order, which when added to the aggregate amount of all other prior change orders related to the same project, if any, exceeds the 20% Approval Limit or 10% Approval Limit, as applicable.

F. Bonds and Other Security: Bid, payment, and performance bonds or other securities may be requested for contracts as the purchasing manager or designee deems advisable to protect the city's interests. Any such bonding or other security requirements shall be set forth in the solicitation. Bid, payment and performance bonds shall not be used as a substitute for a determination of a bidder or offeror's responsibility. (Ord. 19-___, ___-2019, Effective at 12 noon on January 6, 2020)

3-1-15: CONSTRUCTION PROJECTS:

Municipal construction projects are governed by the appropriate state statutes and may be procured by any method not prohibited by state code. (Ord. 19-___, ___-2019, Effective at 12 noon on January 6, 2020)

3-1-16: RIGHT TO INSPECT PLACE OF BUSINESS OF CONTRACTORS AND SUPPLIERS:

The mayor or designee may, at reasonable times, inspect the place of business of a contractor or supplier which is related to the performance of any contract awarded or to be awarded by the city. (Ord. 19-___, ___-2019, Effective at 12 noon on January 6, 2020)

3-1-17: PROTESTS AND APPEALS:

A. Protest:

1. Protest Permitted: A protestor may file a protest with the purchasing manager or designee only in accordance with the requirements set forth in this section.

2. Content of Protest: For a protest to be considered by the purchasing manager or designee, the protest must be in writing and contain the following:

   a. The protestor's name, mailing address, and daytime telephone number, the signature of the protestor or protestor's attorney, and the date the protest is signed;

   b. In sufficient detail to provide adequate review by the purchasing manager or designee (i) a statement of facts, (ii) an explanation of the relief sought, (iii) a recitation of the reasons for and legal authority in support of the protest, and (iv) a statement supporting the protestor's claim of standing.

   c. A protest may not be considered unless it contains facts and evidence that, if true, would establish:

      (1) a violation of this chapter or other applicable law or rule;

      (2) the procurement unit's failure to follow a provision of a solicitation;
(3) an error made by an evaluation committee or conducting procurement unit;

(4) a bias exercised by an evaluation committee or an individual committee member, excluding a bias that is a preference arising during the evaluation process because of how well a solicitation response meets criteria in the solicitation;

(5) a failure to correctly apply or calculate a scoring criterion; or

(6) that specifications in a solicitation are unduly restrictive or unduly anticompetitive.

d. A protest may not be based on:

(1) the rejection of a solicitation response due to a protestor’s failure to attend or participate in a mandatory conference, meeting, or site visit held before the deadline for submitting a solicitation response;

(2) a vague or unsubstantiated allegation; or

(3) a person’s claim that, despite the city abiding by noticing requirements herein, the person did not receive individual notice or received the notice late.

3. Timing of Protest:

a. Bids: A protest arising from an invitation for bid shall be submitted prior to the closing date for receiving bids unless the protestor did not know and could not reasonably have known of the facts giving rise to the protest prior to such time, but in any event, all such protests shall be submitted within five (5) business days after the award of contract.

b. Proposals: A protest arising from a request for proposal shall be submitted prior to the closing date for receiving proposals unless the protestor did not know and could not reasonably have known of the facts giving rise to the protest prior to such time, but in any event, all such protests shall be submitted within five (5) business days after the notice of award is posted by the purchasing manager.

c. Quotes, Purchase Orders, Multi-Stage, Approved Vendor List Selection: A protest arising from a request for quotes, purchase order, multi-stage procurement, and approved vendor list selection shall be submitted within five days after the protestor knew or should have known of the facts giving rise to the protest, but in any event, all such protests shall be submitted in accordance with the following deadlines:

(1) for quotes, within five (5) business days from the due date;
(2) for purchase orders that do not result from a competitive solicitation process, within five (5) business days from the date of the purchase order;

(3) for multi-stage procurements, within five (5) business days from the date the protester was notified that they were not being selected to advance to the next stage or being selected as the winning offeror; and

(4) for approved vendor list selection, within five (5) business days after the notice of award is posted by the purchasing manager.

d. Calculation of Days: For purposes of this chapter, the following rules shall be followed in calculating business days:

(1) A person shall exclude the business day of the event that triggers the applicable timeline;

(2) A person shall count every day except intermediate Saturdays, Sundays, and city holidays;

(3) A person shall include the last business day of the period; and

(4) A business day shall begin at 8:00 a.m. and close at 5:00 p.m. pursuant to the time indicated in the city clerk’s office.

4. Procurement Process During Protest Period: In the event of a timely protest, the city may proceed with the procurement, or the purchasing manager or designee may suspend the procurement process, in his or her sole discretion, for so long as he or she determines is appropriate.

5. Purchasing Manager Assistance: The purchasing manager, or designee, may designate other individual(s) to assist in reviewing the protest, which assistance may include finding facts, analyzing the protest, and making recommendations to the purchasing manager, or designee.

6. Discovery of Documents: The purchasing manager or designee may request additional information from the protester or from other persons to decide the protest. The protester shall have three (3) business days to provide all information requested by the purchasing manager or designee reasonably needed to decide the protest. The purchasing manager may dismiss the protest if the protester fails to provide the requested information within the three (3) business days.

7. Decision on Protest: The purchasing manager, or designee shall review and decide protests, and shall issue a written decision to the protester within thirty (30) business days of receipt of the protest. If the purchasing manager fails to issue a written determination within thirty (30) business days, said failure shall be considered the equivalent of an order denying the protest.
Appeal of the Purchasing Manager’s Final Decision:

1. Appeal Permitted: The protestor may appeal the written decision of the purchasing manager by filing (i) an appeal with the city clerk/recorder and (ii) the bond required by this section with the finance department, within five (5) business days from the purchasing manager’s written decision on the protest, or if no written decision is provided by the purchasing manager, within thirty-five (35) business days from the filing of the protest.

2. Content of the Appeal: For an appeal to be considered by the administrative law judge, the appeal must be in writing and contain the following:
   a. The appellant’s name, mailing address, and daytime telephone number, the signature of the appellant or appellant’s attorney, and the date the appeal is signed;
   b. In sufficient detail to provide adequate review by the city, (i) a statement of facts, (ii) an explanation of the relief sought, (iii) a recitation of the reasons for and legal authority in support of the appeal, (iv) a statement supporting the appellant’s claim of standing, and (v) a statement that a final decision has been made by the purchasing manager or that the time to deliver a decision on the appellant’s protest by the purchasing manager has expired;
   c. An attached copy of (i) all documents used as evidence or exhibits in the protest, (ii) any recording or other record of any proceeding, if applicable, and (iii) the purchasing manager or designee’s written decision of the protest, if any.

3. Bond Required: A protestor that files an appeal under this section will not have it considered unless he or she also files a security deposit in the amount described herein with the finance department before the expiration of the time to file an appeal. The entire security deposit shall be forfeited and be deposited in the general fund of the city if the administrative law judge makes a finding that (i) the appellant’s appeal fails and (ii) the protest or appeal was frivolous or that its primary purpose was to harass or cause a delay.

The amount of the security deposit shall be as follows:

a. $1,000, if the total contract value or purchase order is under $25,000;

b. $2,000, if the total contract value or purchase order is $25,000 or more but less than $50,000;

c. $4,000, if the total contract value or purchase order is $50,000 or more but less than $100,000;

d. $10,000, if the total contract value or purchase order is $100,000 or more but less than $250,000;

e. $20,000, if the total contract value or purchase order is $250,000 or more but less than $500,000;

f. $25,000, if the total contract value or purchase order is $500,000 or more but less than $1,000,000;
g. $50,000, if the total contract value or purchase order is $1,000,000 or more but less than $2,000,000;

h. $95,000, if the total contract value or purchase order is $2,000,000 or more but less than $4,000,000;

i. $180,000, if the total contract value or purchase order is $4,000,000 or more but less than $8,000,000;

j. $320,000, if the total contract value or purchase order is $8,000,000 or more but less than $16,000,000;

k. $600,000, if the total contract value or purchase order is $16,000,000 or more but less than $32,000,000; and

l. $1,100,000, if the total contract value or purchase order is $32,000,000 or more.

4. Scheduling of the Hearing: The administrative law judge shall review and hear the appeal. No later than five (5) business days after receiving a notice of appeal, the administrative law judge shall schedule a hearing on the appeal. Unless otherwise agreed to by the city and appellant, the hearing shall be held no sooner than five (5) business days and not later than thirty (30) business days from the date of the filing of the appeal.

5. Hearing: During the hearing before the administrative law judge, the appellant and the city’s representatives shall be allowed to testify, present evidence, and comment on the issues. The administrative law judge may allow other interested persons to testify, comment, or provide evidence on the issues. Notwithstanding any other provisions of the code, appellant may not present evidence or testimony that was not presented in its protest or present new or additional arguments or grounds in support of its position that were not made in support of its protest.

6. Order: No later than fifteen (15) business days after the hearing, the administrative law judge shall issue a signed order either granting or denying the appeal, in whole or in part. If the administrative law judge fails to issue a decision within thirty (30) business days after the hearing, said failure shall be considered the equivalent of an order denying the appeal.

7. Basis of Order: The administrative law judge shall consider and decide the appeal based solely on (i) the appeal, (ii) the protest record, and (iii) the admissible evidence at the hearing. The administrative law judge may dismiss an appeal if the appeal does not comply with the requirements of this chapter; and shall uphold the protest decision unless the protest decision is found to be arbitrary and capricious or clearly erroneous.

8. Content of Order: The order of the administrative law judge shall include:

a. The decision on the appeal, and any reasons for the decision the administrative law judge may wish to provide;
b. A statement that any party to the appeal may appeal the decision to the Utah Court of Appeals; and

c. A determination as to whether the bond should be forfeited to the city pursuant to this chapter.

9. Appeal to the Utah Court of Appeals:

a. If an appellant appeals the dismissal, denial, or adverse decision of an administrative law judge, the appellant must file the appeal to the Utah court of appeals.

b. The Utah Court of Appeals:

(1) shall consider the appeal as an appellate court;

(2) may not hear the matter as a trial de novo; and

(3) may not overturn a finding, dismissal, or decision unless the finding, dismissal, or decision, is arbitrary and capricious or clearly erroneous. (Ord. 19-__, __-2019, Effective at 12 noon on January 6, 2020)

3-1-18: ETHICAL STANDARDS FOR CURRENT AND FORMER CITY OFFICERS AND EMPLOYEES:

By submitting a quote, bid or proposal, in response to any solicitation request, the bidder, offeror, or contractor represents that they have not: 1) provided an illegal gift or payoff to a city officer or employee or former city officer or employee, or his or her relative or business entity; 2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than as exempted in the city conflict of interest ordinance; or 3) knowingly influenced (and hereby promises that it will not knowingly influence) a city officer or employee or former city officer or employee to breach any of the ethical standards set forth in the ethics ordinance in title 1, chapter 11 of the West Jordan city code. (Ord. 19-__, __-2019, Effective at 12 noon on January 6, 2020)

3-1-19: MANAGEMENT, DISPOSAL, AND DONATION OF PERSONAL AND REAL PROPERTY:

A. Management of Property:

1. Personal Property Management: Department heads shall exercise supervision of the receipt, storage and distribution of all inventories of city personal property within the control of or assigned to their respective departments. All city property located in warehouses and similar storage areas shall be inventoried annually, and accountability for the property shall reside with the respective department heads.

2. Real Property Management: The real property administrator shall exercise supervision of the acquisition, purchase, sale, and disposal of all real property of the city. The real property administrator shall update the mayor annually upon all acquisitions, disposals, and leasing of city-owned real property.
B. Surplus of Personal Property: Department heads shall dispose, sell, or donate property as follows:

1. Internal Surplus Property: Except as otherwise specified below, the department head having control or possession of city property, including any vehicle, that is so used, obsolete, damaged, unsafe for use, depreciated, excess or is no longer necessary to current and projected needs as to be determined unfit or undesirable for use or retention by the city may recommend to the mayor that such property be surplused. Department head shall present a written list to the mayor or designee at a regularly scheduled meeting with all of the department heads. If no department heads are in need of the property on the list, the mayor may approve in writing the property as surplus, whether in whole or in part, and authorize the disposal, sell, or gift of the property at a public auction in accordance with applicable law.

2. Property No Longer Needed as Evidence: The police chief having control or possession of property, including firearms, no longer needed as evidence shall follow the procedures set forth in Utah Code Annotated 24-3-101 et seq., as amended. All dispositions of such property shall be for a public interest use, including the donation of property to public or private charities, and must first be approved by the city council in accordance with Utah state code.

3. Lost, Mislaid, Unclaimed, or Abandoned Property: The police chief having control or possession of property that is lost, abandoned, unclaimed or mislaid shall follow the procedures set forth in Utah Code Annotated 77-24a-1 et seq., as amended. All dispositions of such property shall be for public interest use, including the donation of property to public or private charities, and must first be approved by the city council in accordance with Utah state code.

4. Unique, Special, or Limited Use Property: Unless otherwise stated above, a department head having control or possession of property that is unique or special, dangerous to the public, or is limited in its public use shall present a written list to the mayor or designee with a recommendation to dispose, sell, or donate the property to another person or governmental agency to use or dispose of. Examples under this category include, but is not limited to, fire trucks, dangerous weapons, police vehicles, equipment only specific persons or agencies are trained and licensed to use.

5. Unsold Property: If the surplus item is subjected to sale to the highest bidder at public auction and remains unsold, the mayor may sell, donate to a charitable organization, or to any person for such price as the mayor deems appropriate or may dispose of as the mayor shall direct.

C. Surplus of Real Property: The mayor or designee may authorize the sell or donation of real property as follows:

1. Sale or Donation of Real Property that is Not a Significant Parcel: From time to time, the mayor or designee may compile a list of surplus city real property. If a parcel of surplus property is not a "significant parcel", the mayor may sell it for fair market value using any means that is reasonable, fair, and advances the best interest of the city.
2. Sale or Donation of Real Property that is a Significant Parcel: From time to time, the mayor or designee may compile a list of significant parcels of real property and shall follow the procedures as set forth below:

   a. Public Hearing: The mayor or designee shall schedule and provide reasonable notice of a public hearing that public comment may be received regarding the sale of the significant parcel of real property. The mayor or designee shall conduct the public hearing.

   b. Public Hearing Notice: Reasonable notice of the public hearing must be published but not less than fourteen (14) days before the public hearing. "Reasonable Notice," as used herein, means (i) publication in a newspaper or newsletter of general circulation within the city, (ii) posting in public places within the city, (iii) posting on the city's website, or (iv) other means of notification accessed by city residents. Notice shall contain the date, time, and location of the public hearing.

D. Fund Credited: Monetary proceeds from the sale or other disposition of items pursuant to this section shall be credited to the general fund account. (Ord. 19--__, __--2019, Effective at 12 noon on January 6, 2020)

Section 2. Additions or amendments to the 2009 City Code when passed in such form as to indicate the intention of the City Council to make the same a part of the 2009 City Code shall be deemed to be incorporated in the 2009 City Code, so that reference to the 2009 City Code hereafter includes the additions and amendments.

Section 3. This Ordinance shall become effective at 12 noon on January 6, 2020.

Passed and adopted by the City Council of the City of West Jordan, Utah this _____ day of ______, 2019.

CITY OF WEST JORDAN

By:

JIM RIDING
Mayor

ATTEST:

JAMIE BROOKS, CMC
Interim City Clerk
Voting by the City Council

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<th>Name</th>
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<td>Mayor Jim Riding</td>
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**CITY CLERK/RECORDER'S CERTIFICATE OF PUBLICATION**

I, Jamie Brooks, certify that I am the City Clerk/Recorder of the City of West Jordan, Utah, and that the foregoing ordinance was published in the Legal Section, of the Salt Lake Tribune, on the ______ day of ______________, 2019, pursuant to Utah Code Annotated, 10-3-711.

JAMIE BROOKS, CMC  
Interim City Clerk/Recorder  
[SEAL]
Chapter 1
PURCHASES AND ENCUMBRANCES

3-1-1: PURPOSE AND SCOPE:
The purpose of this chapter is to simplify, clarify and modernize the procurement policies of the City; ensure the fair and equitable treatment of all persons who deal with the City procurement system; and provide increased economy in the City procurement activities. (2001 Code § 2-7-301) ; §3-1-1, Rep. by Ord. 19-16-____-2019, Effective at 12 noon on January 6, 2020) ; §3-1-1, Rep. by Ord. 19-____-____-2019)

3-1-2: PROCUREMENT AUTHORITY:
A. The City Council delegates to the City Manager authority to purchase supplies, services or construction items where the dollar amount is less than twenty thousand dollars ($20,000.00), or the payment of a particular obligation has been approved by the City Council as part of the annual City budget, regardless of the dollar amount.

B. The City Manager may delegate to the City Purchasing Agent, department directors or any other City employee, authority to purchase supplies, services or construction for the City as deemed appropriate and within his scope of procurement authority. These delegations shall be in writing and may be limited in scope, as the City Manager directs.
C. Where the dollar value exceeds twenty thousand dollars ($20,000.00), procurement of supplies, services or construction work or items shall require approval by the City Council before being awarded, unless the purchase is for a specific service or for the payment of a particular obligation that the City Council has approved as part of the annual City budget. (2001 Code § 2-7-302) § 3-1-2, Rep. by Ord. 19---,-19-19, Effective at 12 noon on January 6, 2020) § 3-1-2, Rep. by Ord. 19---,-19-19

3-1-3: COMPETITIVE SOURCING REQUIREMENTS:

A. Procedure Defined: The City Manager's administrative purchasing procedure shall define the competitive procurement requirements for all purchases under twenty thousand dollars ($20,000.00) and for any exceptions to the City Council approval requirement for purchases exceeding twenty thousand dollars ($20,000.00).

B. Competitive Sealed Bids: When Required: Except as permitted in this chapter, purchases exceeding twenty thousand dollars ($20,000.00) shall require competitive sealed bids and shall be awarded to the lowest responsible and responsive bidder, whose bid meets the requirements and criteria set forth in the invitation for bids.

C. Waiver Or Modification Permitted: The City Manager may waive or modify requirements within a particular bid process, proposal or other solicitation process when: 1) advantageous to the City; 2) consistent with mandatory applicable legal requirements and fair and equitable practices; and 3) not in conflict with mandatory State law to the contrary.

1. Sealed Bid Process:

a. Specifications: The Ordering Department shall be responsible for developing complete, accurate and understandable specifications for the item or service being bid. Specifications shall be in a format acceptable to the City Purchasing Agent, and shall comply with all requirements of any applicable City, State or Federal contract and procurement policies and regulations, including, but not limited to, bond and insurance requirements.

b. Review And Approval: The Ordering Department shall prepare a bid request package using standard City formats, and the package reviewed by the Purchasing Agent. Completed packages shall be submitted to the City Manager for review and approval prior to advertising.

c. Advertisements: All sealed bid requests shall be advertised at least once in a generally and widely available medium, which may include newspapers, business journals and websites, a minimum of two (2) weeks in advance of the bid due date. Any procurement subject to notice requirements of State and/or Federal law shall comply with those requirements.

d. Bid Clarifications: Bidders may submit challenges or requests for clarification of specifications, prior to the date specified in the bid requirements. Responses to challenges and requests shall only be through official addenda issued by the Purchasing Agent.

e. Receipts Of Bids: All sealed bids shall be received at the place, time and date specified in the request for bids.

f. Bid Review And Recommendation: Bids shall be reviewed by the Purchasing Agent and the Ordering Department to verify that bidders are responsible and responsive. With the concurrence of the Purchasing Agent, the department will prepare a recommendation for award of bid to the City Manager for review and approval, prior to submittal to the City Council for final action.
g. Notification And Appeals: The Purchasing Agent shall notify all bidders of the
bid award, within three (3) business days following the award by City Council. Appeals to the
award decision shall be submitted in writing to the City Clerk/Recorder within five (5)
business days of receipt of notification.

h. Administrative Procedures: The City Council shall authorize the City Manager
to develop additional administrative procedures related to the sealed-bid process as needed,
which procedures shall not be inconsistent with this chapter. No administrative procedure
shall be interpreted to circumvent or replace any part of this policy.

2. Alternatives To Sealed-Bid Process:

a. Requests For Proposals (RFP):

(1) Solicited Proposals: Proposals may be solicited in lieu of sealed bids
when the City Manager determines in writing that: a) bidding is not
practicable or is not advantageous to the City; b) waiving sealed bids would
not be in contravention of applicable State law; and c) the process will be fair,
just and equitable. These solicited proposals will be evaluated based on
scope, approach, experience, effectiveness, maintainability, or other
reasonable criteria set forth in the request for proposals. Costs shall be
submitted as part of the proposals, and considered as part of the overall
evaluation.

(2) Sealed Proposals: Sealed proposals shall remain confidential, and
withheld until an award is made. After award of a contract, the successful
proposals shall be available for public inspection, except for information or
data that the bidder designates as proprietary or confidential, such as trade
secrets, which may be classified as privileged and withheld as provided by
law. All records retention schedules and access shall be consistent with Utah
Governmental Records Access and Management Act.

b. Requests For Qualifications (RFQ): When the City Manager determines,
based on recommendations from department directors and the City Purchasing Agent, that a
procurement for consulting services requires particular emphasis on the qualifications of the
consultant, qualifications may be solicited and evaluated based on experience, references,
qualifications, understanding of specific needs, key personnel, availability, or other
reasonable criteria. Requests for qualifications may include a separate sealed-cost proposal,
or price may be negotiated.

c. Sole Source Procurement: Procurement may be approved, without
competition, when the City Manager determines in writing that: 1) there is only one source
for the required purchase; or 2) the award is a condition of a donation or grant that will fund
the full cost of the purchase. Examples of potential reasons for sole source procurements
include, but are not limited to:

(1) The compatibility of equipment, accessories, replacement parts or
service is the paramount consideration;

(2) Trial use or testing;

(3) Procurement of items for resale;

(4) Procurement of public utility service; or

(5) Unique properties.
When a sole source procurement has been approved by the City Manager, the Purchasing Agent shall negotiate the price and terms. Unsatisfactory results of such negotiations may prompt additional evaluation of alternatives.

D. Government Agency Contracts: Procurement may be approved, without additional competition otherwise required in this chapter, when the City Manager determines that another governmental agency has issued a procurement contract based on competitive quotes or bids and either: 1) the City is authorized to purchase under the terms of that contract; or 2) the City is offered by a vendor a price equal to or less than the bid price offered through the other agency.

E. Direct Government Agency Purchases: When the City Manager determines that the City would benefit from purchases of goods or services either surplus or manufactured by another governmental agency, procurement may be approved without additional competition otherwise required in this chapter. (2001 Code § 2-7-303; amd. 2009 Code; Ord. 19-20, 6-26-2019); §3-1-3, Rep. by Ord. 19-____-____-2019, Effective at 12 noon on January 6, 2020; §3-1-3, Rep. by Ord. 19-____-____-2019)

3-1-4: CANCELLATION AND REJECTION OF BIDS:

An invitation for bids, request for proposals, request for quotations or other solicitation may be canceled or any or all bids or proposals may be rejected, in whole or in part, when it is in the best interests of the City, as determined by the City Manager or the City Council. (2001 Code § 2-7-304); §3-1-4, Rep. by Ord. 19-____-____-2019, Effective at 12 noon on January 6, 2020; §3-1-4, Rep. by Ord. 19-____-____-2019

3-1-5: EXCLUSIVE AND NONEXCLUSIVE PROCUREMENT CONTRACTS:

Exclusive and nonexclusive contracts may be awarded by the City. Unless a contract specifically states it is exclusive, it shall be deemed to be nonexclusive. "Nonexclusive" means that the City may award multiple contracts to more than one contractor for similar supplies or services, as it deems appropriate. (2001 Code § 2-7-305); §3-1-5, Rep. by Ord. 19-____-____-2019, Effective at 12 noon on January 6, 2020; §3-1-5, Rep. by Ord. 19-____-____-2019

3-1-6: PERIOD OF TIME FOR CONTRACTS:

A. Terms Included: A contract for supplies or services may be entered into for any period of time deemed to be in the best interest of the City; provided, that the term of the contract and the conditions of renewal or extension, if any, are included in the solicitation.

B. Pay And Performance Obligations: Pay and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriations of funds by the City Council.

C. Prohibited Contracts: "Open ended" (starting date only) contracts, and "evergreen" (automatically renewed) contracts, are prohibited, unless it is subject to a written provision authorization of the City to cancel without penalty or charge on not greater than thirty (30) calendar days' notice. Notwithstanding any City Code provisions to the contrary, and pursuant to Utah Code Annotated section 17B-2a-1005(8)(b), as amended, the City may enter into contracts for the purchase, lease, or other disposition of the use of water even if the contractual terms are in perpetuity. (2001 Code § 2-7-306; amd. 2009 Code; Ord. 19-15, 3-27-2019); §3-1-6, Rep. by Ord. 19-____-____-2019, Effective at 12 noon on January 6, 2020; §3-1-6, Rep. by Ord. 19-____-____-2019
3-1-7: MODIFICATION OF CONTRACTS:

Contracts (including purchase orders) may be amended, modified or supplemented only by written amendment to the contract, executed by the parties to the contract. (2001 Code § 2-7-307) ; §3-1-7, Rep. by Ord. 19--____-2019, Effective at 12 noon on January 6, 2020) ; §3-1-7, Rep. by Ord. 19--____-2019

3-1-8: CONSTRUCTION PROJECTS:

Municipal construction projects are governed by the appropriate State Statutes. (2001 Code § 2-7-308) ; §3-1-8, Rep. by Ord. 19--____-2019, Effective at 12 noon on January 6, 2020) ; §3-1-8, Rep. by Ord. 19--____-2019

3-1-9: SPECIFICATIONS:

The City Council, City Purchasing Agent, City Manager or designee may allow others to prepare specifications for the City's use in making procurements, provided there is no substantial conflict of interest involved. (2001 Code § 2-7-309) ; §3-1-9, Rep. by Ord. 19--____-2019, Effective at 12 noon on January 6, 2020) ; §3-1-9, Rep. by Ord. 19--____-2019

3-1-10: PREFERENCE FOR RESIDENT SUPPLIERS OR CONTRACTORS:

The City shall grant a five percent (5%) preference to resident suppliers or contractors for purchases under twenty thousand dollars ($20,000.00). If the resident supplier is within five percent (5%) of the lowest quoted nonresident supplier, the resident supplier will have the opportunity to match the lower quoted amount in writing within seventy-two (72) hours, provided they possess a current City business license and are otherwise qualified and meet all applicable specifications. (2001 Code § 2-7-310; amd. Ord. 16-08, 1-27-2016) ; §3-1-10, Rep. by Ord. 19--____-2019, Effective at 12 noon on January 6, 2020) ; §3-1-10, Rep. by Ord. 19--____-2019

3-1-11: RIGHT TO INSPECT PLACE OF BUSINESS OF CONTRACTORS AND SUPPLIERS:

The City Manager or designee may, at reasonable times, inspect the place of business of a contractor or supplier which is related to the performance of any contract awarded or to be awarded by the City. (2001 Code § 2-7-311) ; §3-1-11, Rep. by Ord. 19--____-2019, Effective at 12 noon on January 6, 2020) ; §3-1-11, Rep. by Ord. 19--____-2019

3-1-12: PROTEST OF SPECIFICATIONS OR AWARD OF CONTRACT:

A. Permitted: Any actual or prospective bidder, offer or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the City Purchasing Agent.

B. Protest Of Specifications: A protest regarding the specifications of a solicitation must be submitted in writing, prior to the opening of the bid, and must list the pertinent facts giving rise to the protest.

C. Protest Of Contract Or Purchase: A protest regarding the award of a contract or purchase order must be submitted in writing, within five (5) working days of the award of a contract or purchase order and must list the pertinent facts giving rise to the protest.

D. Stay Of Proceedings: In the event of a timely protest, the City shall not proceed further with the solicitation or with the award of the contract or purchase order until the protest is sustained or rejected by the City Purchasing Agent, unless an immediate award of the contract is required to protect substantial interests of the City. Un timely protests will not be considered.
E. Final Authority: After a review of the protest, the City Purchasing Agent shall have final authority to sustain or reject the protest. (2001 Code § 2-7-312; §3-1-12, Rep. by Ord. 19__-____-2019, Effective at 12 noon on January 6, 2020) ; §3-1-12, Rep. by Ord. 19__-____-2019)

3-1-13: PROHIBITED ACTIVITIES:

A. Conflicts Of Interest: It shall be unlawful for any employee of the City (or family member of an employee) to ask for or receive, or for a supplier, provider or contractor to offer, a gratuity, gift, reward, tickets, or anything of value, to any employee of the City (or family member of an employee) which could reasonably be intended to influence the award of any contract or purchase order, or otherwise violate State or City conflict of interest laws.

B. Gifts Permitted: Conditions: Reasonableness shall be interpreted conservatively, and may be additionally defined or limited by the City Manager, as occasions warrant. Seasonal gifts offered to general City staff and not intended for exclusive personal use, are acceptable if not in violation of the City Conflict of Interest Ordinance. Other minor gifts, including business meals, may be acceptable if they otherwise comply with this Code, but in no case shall such gifts exceed fifty dollars ($50.00) in value in any fiscal year. Any such gift shall be reported by the employee within five (5) working days to the supervising department director and the City Manager. (2001 Code § 2-7-313; and 2009 Code) ; §3-1-13, Rep. by Ord. 19__-____-2019, Effective at 12 noon on January 6, 2020) ; §3-1-13, Rep. by Ord. 19__-____-2019)

3-1-14: SURPLUS PROPERTY:

A. Declaration Of Surplus Required: No City owned property, except such items as are consumed in their use for official City business and as described in subsection E of this section, shall be disposed of or released to ownership, unless such property has been declared surplus by the City Council.

B. Notification Requirements: Whenever City property is surplus, unused, obsolete, unsuitable or otherwise no longer needed, the department hearing from such property shall notify the City Manager. The City Manager shall notify other City departments of the availability of such property. The City Manager shall supervise the transfer of such property to the department requesting the property. If the property is obsolete or unsuitable for public use, the property shall be disposed of in accordance with this section.

C. Sale Of Property Permitted: When necessary, the City Manager or his designee shall prepare and present a listing to the City Council of all City owned property which is obsolete, unsuitable for use and which should be declared surplus. After the City Council has declared the property to be surplus, the property may be sold at an auction to the highest bidder. Such sale may be, in the discretion of the City Manager, at public auction or by sealed bid.

D. Notice Requirements For Auction Or Bid Opening: Notice of such public auction or invitation for sealed bids shall be published at least once in a newspaper of general circulation in the City at least ten (10) days but not earlier than thirty (30) days prior to such auction or opening of bids. The notice shall describe the property to be sold, the terms of sale and the place and time of such auction or bid opening. The City Manager or his designee shall be responsible for conducting such public auction or bid opening. The City Manager shall have the right to reject all bids.

E. Unsold Property: If the surplus item is subjected to sale to the highest bidder at public auction and remains unsold, the City Manager may sell the surplus item to any person for such price as the City Manager deems appropriate or may dispose of as the City Manager shall direct.
F. Fund Credited: Monetary proceeds from the sale or other disposition of items pursuant to this section shall be credited to the fund sundry account.

G. Waiver Of Procedure: Where real or personal property is of such a size, shape, or is so unique as to be unmarketable, the above requirements may be waived and such property may be sold or otherwise disposed of in any reasonable manner, with the approval of the City Council.

H. Significant Parcel Of Real Property Defined: For the purpose of this section, a significant parcel of real property as referenced in Utah Code Annotated section 10-8-2(4) shall mean a parcel of real property, or a combination of contiguous parcels, having an estimated value in excess of seventy-five thousand dollars ($75,000.00) as determined by using the County assessed value of a parcel of real property, or a combination of contiguous parcels, having a size in excess of one acre.

If a significant parcel of real property is declared surplus by the City Council and the City executes two (2) bid cycles for its sale as outlined in this Code to which the City does not receive a bid, at that time, the real property shall no longer be considered a significant parcel of real property.

A significant parcel of real property shall not include property being conveyed under any Federally funded program for which the Governing Body has adopted program guidelines.

I. Disposition Notice: The City shall provide reasonable notice of the proposed disposition of a significant parcel of real property as defined herein at least fourteen (14) days before the proposed disposition for the public to have an opportunity to comment on the disposition.

The notice shall give the date, time, and place of the public hearing. Each notice shall be mailed to all adjacent land owners of the property being disposed. The notice shall be posted at the office of the City, on the Utah Public Notice website and be published in at least one newspaper of general circulation within the geographic jurisdiction of the City.

The public hearing requirements imposed herein is not intended to apply if the conveyance is subject to different notice and public hearing requirements under the provisions of State law or other City ordinance. (2001 Code § 2-7-314; amd. Ord. 17-23, 5-24-2017; §3-1-14, Rep. by Ord. 19-____-____-2019, Effective at 12 noon on January 6, 2020) ; §3-1-14, Rep. by Ord. 19-____-____-2019)

3-1-15: WAREHOUSING AND STORAGE:

Department directors shall exercise reasonable supervision over receiving, storage and distribution facilities and services within their purview. (2001 Code § 2-7-315; §3-1-15, Rep. by Ord. 19-____-____-2019, Effective at 12 noon on January 6, 2020) ; §3-1-15, Rep. by Ord. 19-____-____-2019)

3-1-16: INVENTORY MANAGEMENT:

Department directors shall exercise supervision of all inventories of tangible City property with the control of or assigned to their departments. All City property located in warehouses and similar storage areas shall be inventoried annually, and accountability for the property shall reside with the respective department directors. (2001 Code § 2-7-316; §3-1-16, Rep. by Ord. 19-____-____-2019, Effective at 12 noon on January 6, 2020) ; §3-1-16, Rep. by Ord. 19-____-____-2019)

3-1-17: PROVIDING INFORMATION AND RECORDS:

Chapter 1

CITY PROCUREMENT

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3-1-2: DEFINITIONS:

3-1-3: GENERAL PURCHASING REQUIREMENTS:

3-1-4: PROCUREMENT AUTHORITY:

3-1-5: GENERAL FORMAL COMPETITIVE SOLICITATION THRESHOLDS:

3-1-6: FORMAL COMPETITIVE SOLICITATION THRESHOLDS FOR INDIVIDUAL CATEGORIES:

3-1-7: COMPETITIVE SOLICITATION METHODS AND PROCESSES:

3-1-8: INFORMAL COMPETITIVE SOLICITATION:

3-1-9: FORMAL COMPETITIVE SOLICITATION:

3-1-10: ADDITIONAL PROCUREMENT TOOLS:

3-1-11: EXCEPTIONS TO COMPETITIVE SOLICITATION REQUIREMENTS:

3-1-12: DEBARMENT AND SUSPENSION:

3-1-13: PURCHASING CARD ISSUANCE AND APPROVALS:

3-1-14: CONTRACT ADMINISTRATION:

3-1-15: CONSTRUCTION PROJECTS:

3-1-16: RIGHT TO INSPECT PLACE OF BUSINESS OF CONTRACTORS AND SUPPLIERS:

3-1-17: PROTESTS AND APPEALS:

3-1-18: ETHICAL STANDARDS FOR CURRENT AND FORMER CITY OFFICERS AND EMPLOYEES:

3-1-19: MANAGEMENT, DISPOSAL, AND DONATION OF PERSONAL AND REAL PROPERTY:

3-1-1: PURPOSE AND SCOPE:

The purpose of this chapter is (1) to maximize the purchasing value and efficiencies of public funds in procurement; (2) to provide safeguards for maintaining a procurement system of quality and integrity; (3) to foster transparency and effective broad-based competition while providing quality goods and services to the citizens and businesses of the city; and (4) to provide for the fair and equitable treatment of all persons who conduct public procurement and related business activities within the city.

Unless otherwise required by state or federal law, this chapter shall govern all procurement processes, contracts, and expenditures of the city on and after 12:00 noon, January 6, 2020. Nothing in this chapter shall be construed as adopting the state or federal procurement codes or any portions therein.

Nothing in this statement of purposes shall create rights, interests, or causes of action against the city, its officers, agents or employees. (Ord. 19- , -2019, Effective at 12 noon on January 6, 2020)
3-1-2: DEFINITIONS:

Definitions, as stated herein, shall apply exclusively to this chapter and is not intended to apply or conflict with like or similar definitions that may be stated in other city ordinances.

ADDENDUM OR AMENDMENT: A written modification or revision to any document used in the competitive solicitation process or contract document.

AGENCY CONTRACT: A contract between the city and another governmental agency to buy goods or services.

APPEAL: A document or set of documents that are filed in compliance with 3-1-17(B)(2).

APPELLANT: A person having standing who files an appeal to an administrative law judge for review and a determination whether the purchasing manager’s decision on a protest should be upheld.

APPROVED VENDOR LIST (AVL): A list of vendors that were individually evaluated by city staff and deemed qualified to perform certain services for the city in later competitive solicitations based on information submitted by the vendor in a response to the city’s request for a statement of qualifications.

BEST AND FINAL OFFER (BAFO): An offeror’s revised terms of its proposal after initial reviews, scoring, interviews, and discussions have concluded with all offerors who have progressed through the advancement criteria as stated in an RFP.

BID: A sealed document or set of sealed documents representing the bidder’s offer to sell goods or services at a specified price, terms, and specifications set forth in the invitation for bids.

BUILDING IMPROVEMENT: The construction or repair of a public building or structure.

COMPETITIVE SOLICITATION: Competitive solicitation may be either informal or formal as set forth below:

A. Informal Competitive Solicitation Process: An informal process in which potential bidders, offerors, and contractors are invited to submit quotes or surveys by telephone, email, online procurement service, direct vendor delivery or another written price comparison.

B. Formal Competitive Solicitation Process: A formal process in which potential bidders, offerors, and contractors are invited to submit bids and proposals through an online procurement service.

CONFLICT OF INTEREST: Any action that is taken by an elected official or employee of the city that may cause direct or financial benefit or detriment to themselves, their immediate family, or an entity that they own or hold an interest in, if that benefit or detriment is distinguishable from the effects of that action on the public or on the elected official or employee’s profession, occupation, or association generally.
CONSTRUCTION: The process of building, altering, repairing, improving, or demolishing any city structure or building, or other improvements to any city real property. It does not include routine repair, or maintenance of existing structures, buildings, or real property.

CONTRACT: A legally enforceable agreement between two or more competent parties for the procurement of goods or services.

CONTRACTOR: Any person that legally buys and/or sells goods or services to the city or desires to do so through the competitive solicitation processes.


DESIGNEE: Person who has been delegated purchasing authority to perform functions that would regularly be held by another person.

DISBURSEMENT: The payment of the following liabilities, goods, and services: 1) newspaper advertising, 2) insurance premiums, 3) legal fees, 4) credit card payments, 5) land and building purchases or rentals, 6) registration for meetings or training sessions, including pre-paid hotel costs, 7) subscriptions, memberships, professional registrations, and publications, 8) utility payments, 9) petty cash reimbursements, 10) employee reimbursements including eyewear, health insurance, and educational, 11) postal charges/fees, 12) parking fees, 13) worker compensation fees, 14) credit reporting fees, 15) bond releases, 16) witness fees, 17) phone bills, 18) radio service (UCAN), 19) refunds of city fees or charges, 20) title searches / rights-of-ways, 21) animal control adoption, spay, and neuter program, 22) seized assets (police), 23) found property (police), 24) K9 veterinary services, and 25) revenue generating contracts.

EMERGENCY CONDITION: An event or action that creates an immediate and serious need for goods and services that cannot adequately be addressed using customary procurement methods. Such a need may arise, as examples, by reason of a natural disaster, epidemic, riot, equipment failure or other reason.

EMERGENCY PROCUREMENT: The procurement of goods and services that cannot be reasonably purchased through normal procurement methods due to an existing or imminent emergency condition, public threat, or unforeseen circumstances without compromising city property or without delaying any work that may affect the life, health, safety, or welfare of the public.

FORMAL COMPETITIVE SOLICITATION THRESHOLD: The estimated dollar amount of a good or service that would require the use of formal methods of competitive solicitation as set forth in this title.

GOODS: Tangible items that are sold for use, including but not limited to, all materials necessary for construction.

GOVERNMENT AGENCY COOPERATIVE CONTRACT: An agreement between a vendor and another government agency that allows other government agencies to procure goods and services from the vendor upon the same price and terms as was in the initial agreement.
INFORMAL SURVEY: A procurement process where a department may informally survey one or more vendors regarding their services and pricing on specific matters to determine the most appropriate vendor in a given circumstance. Such matters might include vendor experience, unique qualifications, processes, business theories, technologies, best practice concepts and standards or other specialized criteria.

INVITATION FOR BIDS (IFB): A document, and all attachments thereto, that is used for seeking bids on purchases usually estimated to be greater in total value than twenty-five thousand dollars ($25,000) over the term of the proposed contract.

MINOR IRREGULARITY / INFORMALITY: A variation in an official bid, offer, or contract that does not: (i) affect the price of the bid, offer, or contract, (ii) give a bidder or offeror an advantage or benefit not shared by other bidders or offerors, or (iii) adversely impact the interest of the city. Examples include but are not limited to:

A. Failing to sign the bid, proposal, or other procurement documents requiring a signature, but only where they are accompanied by other materials clearly demonstrating an intent to be bound by the bid, proposal, or other procurement documents;

B. Failing to acknowledge receipt of an addendum, but only if the materials clearly demonstrate the bidder or offeror received the addendum and intended to be bound by the addendum, or the addendum has a negligible effect on the bid, proposal or offer or submission that would not result in a change in the originally submitted price; and

C. Minor mistakes if the intent of the bid, proposal or other offer or submission is clearly evident on the face of the document. Some examples of minor mistakes include typographical errors, errors in extending unit price, transposition errors, and arithmetical errors.

MULTIPLE STAGE PROCUREMENT: A procurement process used in an IFB or RFP to advance qualified bidders through a series of criteria and stages before a bidder is allowed to submit a cost element for a bid or proposal. Some examples of criteria and qualifications that may be used, include but are not limited to the following: Experience, education, licensing, work examples, concepts, demonstrations, quality of work and/or goods, licensing, certifications, and years in business.

ONLINE PROCUREMENT SERVICE: A website or group of websites designed to assist in posting IFBs, RFPs, RFOs, SOQs, and other procurement solicitations and receiving responses to such solicitations by vendors.

PERSON: An individual, corporation, company, business, organization, association, or governmental entity, and their respective employees and agents.

PROFESSIONAL SERVICES: The furnishing of labor, time, or effort by a professional that possesses an elevated degree of specialized knowledge and discretion that may be exemplified by formal education, certification, advanced training, or other qualification, as required by a trade industry, a licensing organization, or the inherent characteristics of the work or services desired. Professional services may include the labor, time, and effort within the following disciplines (this is not an exhaustive list of disciplines or examples):
PROTEST: A document or set of documents filed in compliance with the requirements of section 3-1-17(A).

PROTESTOR: A person who has standing and has filed a protest in connection with the city’s procurement of goods or services. A protestor shall not mean an appellant, as otherwise defined herein.

PUBLIC THREAT: A circumstance that appears likely to adversely impact the public’s health, welfare, convenience, or safety. Such may arise when circumstances appear to create, as examples, a risk of environmental contamination, traffic congestion or hazards, disruption of utility or other public services provided by the city, or other matters.

PURCHASING: The process of buying, procuring, renting, leasing, or otherwise acquiring any good or service. The term “procurement” shall be interchangeable with the term “purchasing”. It also includes all functions that pertain to the purchase of good or service, including:

A. Description of requirements

B. Selection and solicitation of bids, proposals, qualifications, or quotes
C. Preparation and award of contract; and

D. All phases of contract administration

PURCHASING CARD (P-CARD): City-issued credit card generally used for expenditures less than twenty-five thousand dollars ($25,000).

PURCHASING DIVISION: A division within the finance department that is responsible for obtaining goods and services needed in support of the city's departments.

PURCHASING MANAGER: An authorized agent of the city to review purchase requests, prepare bids, quotes, proposals, specifications, issue purchase orders and contracts, evaluate responses to solicitations, and award contracts.

PUBLIC AUCTION: An online or in-person forum that provides the general public an opportunity to bid on goods or services being sold to the highest bidder.

PUBLIC WORKS PROJECT: The construction, replacement, or repair of:

A. A park or recreational facility;

B. A pipeline, culvert, dam, canal, or other system for water, sewage, stormwater, or flood control;

C. An airport or any part thereof;

D. A street, transit facility, or transportation facility;

E. Class C roads, including maintenance and resurfacing; or

F. Any other city facility except a building improvement.

PURCHASE ORDER (PO): A document drafted and issued by the purchasing manager or designee to formalize a purchasing transaction with a supplier. The PO should contain specific information regarding quantity, description, and price of the goods or services being ordered.

REQUEST FOR INFORMATION (RFI): A document or set of documents that solicits information, comments, or suggestions from potential bidders or offerors before any competitive solicitation begins. An RFI may not result in an award of a purchase order or contract.

REQUEST FOR PROPOSALS (RFP): A document, and all attachments thereto, that is used for seeking proposals for goods and services usually exceeding twenty-five thousand dollars ($25,000) over the term of the proposed contract or purchase order.

REQUEST FOR QUOTES (RFQ): A verbal or written request for the cost of goods or services estimated to be in total value less than twenty-five thousand dollars ($25,000) over the term of the proposed contract or purchase order.
REQUEST FOR STATEMENT OF QUALIFICATION (SOQ): A document or set of documents requesting the qualifications of potential offerors for a specific project or goods or services that, if approved, would allow the offerors to submit proposals or bids on specific city projects requiring the qualifications set forth in the city’s request.

REQUISITION: An internal document by which a requisitioner requests the purchasing manager or designee to initiate a purchase.

REQUISITIONER: The person who creates a requisition which is sent to the purchasing manager or designee to initiate a purchase.

RESPONSIBLE: A person that has the capability, as determined in the sole discretion of the city, to perform all requirements of the competitive solicitation, the final contract, and/or purchase order.

RESPONSIVE: A person that has submitted a quote, bid, or proposal that conforms in all material respects to the competitive solicitation specifications, terms and conditions, and all other requirements of the competitive solicitation, as determined in the sole discretion of the city.

SERVICES: Labor, effort, or work that provides a benefit to the city, including but not limited to construction work necessary to complete public works projects or building improvements.

SIGNIFICANT PARCEL OF REAL PROPERTY DEFINED: For purposes of this chapter, a significant parcel of real property is:

A. a single parcel of real property or a combination of contiguous parcels of real property, having an estimated value in excess of one-hundred thousand dollars ($100,000) as determined by using the county assessed value;

B. a single parcel of real property or a combination of contiguous parcels of real property, having a size in excess of one acre as determined by using the county assessed acreage; or

C. an agreement involving an interest in property less than a fee, the value of which exceeds fifty thousand dollars ($50,000).

SPECIFICATION: Any description of the physical or functional characteristics or of the nature of the good or service being procured through the competitive solicitation process. It may include a description of any requirement for inspecting, testing or preparing an item being procured for installation and/or delivery.

STANDING: A protesting potential or official bidder, offeror, or contractor ("Bidder, Offeror, or Contractor") will only have standing if all following conditions are present:

A. The bidder, offeror, or contractor that has suffered an injury or harm or is about to suffer an imminent injury or harm ("Harm"), and if the cause of the harm is or would be:

1. an infringement of the protestor's own right and not the right of another person who is not a party to the procurement;

2. reasonably connected to the procurement units conduct; and
3. The sole reason the bidder, offeror, or contractor is not considered or is no longer considered for an award of a contract under the procurement that is the subject of the protest.

B. A decision on the protest in favor of the protestor is reasonably likely to redress the harm and would give the bidder, offeror, or contractor a reasonable likelihood of being awarded a contract or not terminating the contract. A subcontractor or potential subcontractor shall not have standing to protest or appeal a protest, or act as an agent of the bidder, offeror, or contractor in the bidder, offeror, or contractor's protest or appeal.

SUPPLIER: Person(s), business entity, or business entities who or which provide goods and services in response to any procurement solicitation. The term “supplier” shall be interchangeable with the terms “vendor,” “provider,” and “contractor.”

SURPLUS PROPERTY: City real and personal property set forth in section 3-1-19.

UNFORESEEN CONDITION: A circumstance that creates a need to procure goods or services within time frames that could not be reasonably anticipated or reasonably accommodated under customary procurement methods to preclude identifiable adverse impact to the city or to the public’s health, welfare, convenience, or safety. (Ord. 19- , --2019, Effective at 12 noon on January 6, 2020)

3-1-3: GENERAL PURCHASING REQUIREMENTS:

The following general requirements applies to all purchases for goods and services:

A. A requisition or purchase order for goods and services is required (in advance) for all purchases that are (i) not paid for with a P-Card, (ii) applied to an approved contract, or (iii) listed as a disbursement. Requirements related to requisitions are listed as follows:

1. Content of Requisition: The requisition submitted to the purchasing manager must contain the following, if applicable:
   a. The program and account numbers.
   b. The quantity, description, specifications, and scope of work.
   c. All quotes and supporting documentation.
   d. Department head or designee financial system workflow approval.
   e. Email addresses of known potential suppliers.

2. Supporting Documentation: The supporting documentation attached to the requisition shall be submitted and recorded as follows:
   a. If the purchase amount is less than seven thousand five hundred ($7,500), attach the supporting vendor quote documentation in the requisition.
b. specifications and requirements are sent to the purchasing manager or
designee to initiate a procurement process. After the procurement process has resulted in
an award, the requesting department will enter a requisition with the supporting
documentation provided by the purchasing manager for processing.

3. Approval: Requisitions are approved through the financial systems approval
workflow process.

B. Unless otherwise exempted, all purchases over two thousand dollars ($2,000) require
competitive solicitation as defined in this chapter.

C. Purchases that have been divided into two or more smaller purchases to avoid using a
standard procurement process are prohibited.

D. Purchases that have been made without a requisition or purchase order ("after-the-fact"
purchases), are considered non-compliant with the city's purchasing policies. Employees
failing to comply with this policy may be subject to disciplinary action, up to and
including termination.

E. For any purchase using federal funding, the contractors must be checked to ensure they
have not been excluded from providing goods and services for federal award programs by
checking the www.sam.gov/SAM website.

F. All elected officials, city officers, and employees who use a P-Card must submit to the
purchasing manager on a monthly basis all receipts, supporting documentation, and
account funding information pursuant to their respective purchasing card agreement.

G. When determining the proper level of procurement authority for a given purchase or
whether competitive solicitation is required pursuant to this chapter, the length of the
contract, including all potential renewal terms, shall be considered for purposes of
calculating the total estimated price of the procurement of goods or services. For
example, pursuant to the required thresholds below, if the purchasing manager estimates
that the purchase of a particular good or service is expected to have a value of twenty
thousand dollars ($20,000) annually for a contractual term of one (1) year with the option
to renew for an additional four (4) one-year terms, the value of the contract would be one
hundred thousand dollars ($100,000) and not twenty thousand dollars ($20,000).
Therefore, in this example, competitive solicitation would be required.

H. The mayor, purchasing manager, or their respective designees may allow others to assist
in the preparation of specifications for the city's use in making procurements, provided
there is no conflict of interest involved.

I. The city reserves the right to reject or cancel any or all invitation for bids, request for
proposals, request for quotations or other solicitation. The city, in its sole discretion, may
waive any informality, immaterial error, minor technicality, or other irregularity of any
procurement processes or procedures if doing so would be in the best interest of the city,
as determined by the mayor or purchasing manager. (Ord. 19-____-2019, Effective
at 12 noon on January 6, 2020)
3-1-4: PROCUREMENT AUTHORITY:

A. Purchases Under Twenty-Five Thousand Dollars: The purchasing manager or designee shall have the authority to purchase goods and services where the total estimated value is less than twenty-five thousand dollars ($25,000).

B. Purchases for Building Improvements: The public works department head or designee shall be authorized to purchase necessary goods and services required to complete building improvements where the dollar amount is less than fifty thousand dollars ($50,000).

C. Purchases for Public Works Projects: The public works department head or designee shall be authorized to purchase necessary goods and services required to complete a public works improvement project where the dollar amount is less than one hundred seventy-five thousand dollars ($175,000).

D. Purchases for Professional Services: Each department head or designee shall be authorized to purchase professional services pursuant to section 3-1-8B or section 3-1-9B.

E. Purchases for Furniture: Each department head or designee shall be authorized to purchase furniture (desks, chairs, tables, system furniture, benches, filing systems, bookcases, stools, etc.) that has a value of less than two thousand dollars ($2,000). The purchasing manager shall be authorized to purchase furniture at a value of two thousand dollars ($2,000) or more.

F. General Delegation of Authority: Notwithstanding the other provisions of this chapter, the mayor may delegate to the purchasing manager, department heads, or any other city employee, authority to purchase goods and services for the city as deemed appropriate and within his scope of procurement authority. These delegations shall be in writing and may be limited in scope, as the mayor directs.

G. Where the dollar value exceeds the limits described in this section, procurement of goods and services shall require approval by the mayor before being awarded. (Ord. 19-__, __-__-2019, Effective at 12 noon on January 6, 2020)

3-1-5: GENERAL FORMAL COMPETITIVE SOLICITATION THRESHOLD:

Except for the individual formal competitive thresholds set forth below in the following sections or as otherwise exempted in this chapter, the procurement of goods and services do not require formal competitive solicitation unless the estimated total amount of the purchase or contract exceeds twenty-five thousand dollars ($25,000). For each year after 2020, this general competitive solicitation threshold shall increase by three percent (3%) or the actual positive net percent change in the consumer price index, whichever is less. (Ord. 19-__, __-__-2019, Effective at 12 noon on January 6, 2020)
3-1-6: FORMAL COMPETITIVE SOLICITATION THRESHOLDS FOR INDIVIDUAL CATEGORIES:

The formal competitive solicitation thresholds set forth below for building improvements and public works projects shall, for each year after 2020, increase by three percent (3%) or the actual positive net percent change in the consumer price index, whichever is less.

A. Building Improvements: The procurement of building improvements does not require formal competitive solicitation unless the estimated total amount of the purchase or contract exceeds fifty thousand dollars ($50,000). The procurement of building improvements with an estimated total amount of the purchase or contract totaling fifty thousand dollars ($50,000) or less shall be performed by a request for quote process pursuant to 3-1-8A.

B. Public Works Projects: The procurement of public works projects does not require formal competitive solicitation unless the estimated total amount of the purchase or contract exceeds one hundred seventy-five thousand dollars ($175,000). The procurement of public works projects with an estimated total amount of the purchase or contract totaling one hundred seventy-five thousand dollars ($175,000) or less shall be performed by a request for quote process pursuant to section 3-1-8A. (Ord. 19-_____1-2019, Effective at 12 noon on January 6, 2020)

3-1-7: COMPETITIVE SOLICITATION METHODS AND PROCESSES:

Competitive solicitation methods may be either informal, pursuant to section 3-1-8, or formal, pursuant to section 3-1-9. Additional procurement processes may be used if in the best interests of the city, pursuant to section 3-1-10. Formal or informal competitive solicitation methods are not required if excepted, pursuant to section 3-1-11. (Ord. 19-_____1-2019, Effective at 12 noon on January 6, 2020)

3-1-8: INFORMAL COMPETITIVE SOLICITATION:

A. Request for Quote (RFQ) Process: This process may only be used when the expected total amount of the purchase is less than twenty-five thousand dollars ($25,000). A minimum of two quotes shall be obtained by telephone, email, online procurement service, direct vendor delivery or another price comparison. The public works department head is authorized to use the request for quote process for public works projects and building improvements when a purchase or contract is estimated to be less than the respective formal competitive thresholds set forth in section 3-1-6. All other department heads are authorized to use the request for quote process only if the estimated amount of the purchase or contract is equal to or less than seven thousand five hundred dollars ($7,500). The purchasing manager is authorized to use the request for quotes process, if necessary, for all purchases not otherwise required to be procured through a formal competitive process or an informal survey.
B. Informal Survey Process: A contract for professional services may be solicited by an informal survey process. Selection of professional services using an informal survey process shall be pre-approved by the mayor before informal survey process may be used. Survey information should contain information regarding the type of service needed, the methodology to be used during the selection process, the anticipated or projected monetary value of the envisioned product of work, and the expected term of the provided service.

After the department head selects the professional firm using data gathered from the informal survey, a written and signed award recommendation shall be presented to the mayor for final approval. After mayor approval, all supportive documentation and approvals shall be provided to the purchasing manager who will retain the information in the project purchasing file. A department head that uses an informal survey for professional services that exceeds or is likely to exceed ten thousand dollars ($10,000) shall give a written disclosure to the city council within fourteen (14) days from the mayor's final approval of the award. (Ord. 19---, - -2019, Effective at 12 noon on January 6, 2020)

3-1-9: FORMAL COMPETITIVE SOLICITATION:

A. Invitation for Bids: The purchasing division may solicit sealed bids which shall be awarded to the lowest responsible and responsive bidder.

1. Bid Preparation: The department head or designee seeking to procure a good or service shall prepare an IFB using standard city formats with complete, accurate, and understandable specifications and submit such to the purchasing manager. The purchasing manager will review the IFB and proposed contract for compliance with federal and state law (if federal or state funds are applicable) and this chapter and other applicable city ordinances. Once the purchasing manager has reviewed and approved the IFB for advertisement, he or she will advertise the IFB pursuant to this section.

2. Advertisement: All invitations for bids shall be advertised at least once in a generally and widely available medium including but not limited to newspapers, business journals, city websites, and online procurement service. The city shall post the notice as described above at least five (5) business days in advance of the bid due date, unless a department requests a shorter time that is approved by the mayor or designee. All requests to shorten the advertisement period to a period less than five (5) business days should be in writing, submitted to the mayor, and include (i) the requested reduced time of posting, (ii) verification that there is sufficient competition from multiple sources who can respond within the shortened advertisement time line, and (iii) the unique nature of the request. Notwithstanding this subsection, any procurement subject to noticing requirements of state and/or federal law shall comply with those requirements.

3. Bid Clarifications and Specification Substitution Requests: Bidders may submit questions, requests for clarification of specifications, or product and/or specification substitution prior to the question due date specified in the bid requirements. All requests shall be made through the online procurement service. All responses by the purchasing manager or designee, if any, to the bidder's questions, clarifications, and substitutions of specifications may be posted on the online procurement service in the "Question and Answer" section or by modifying the specifications through an official addendum.
4. Receipts of Sealed Bids: All sealed bids shall be received through the online procurement service by the time and date specified in the invitation for bids. If no sealed bids are received by the deadline to submit, the purchasing manager, upon the mayor’s approval, may seek bids using any method described herein without further competition.

5. Verification: The city may verify and investigate any part of the competitive solicitation process, including but not limited to requesting documents and questioning potential or official bidders. If the potential or official bidder fails to respond to questions or requests, the potential or official bidder may be found to be a non-responsible or non-responsive bidder and disqualified from continuing the solicitation process or being awarded the contract. The city’s failure to discover any matter shall not preclude any subsequent evaluation or action. The city shall determine in its sole discretion (i) what actions may be appropriate for verification or investigation, (ii) the responsiveness of questions or requests, (iii) disqualification or qualification, and (iv) successful bid and/or award of contract.

6. Bid Review: Bids shall be received and reviewed by the purchasing manager and verified by the department head or designee making the purchase or entering into the contract that bidders meet the requirements stated within the bidding document. The purchasing manager or designee may request additional information from vendor(s) at any time throughout the procurement process. The city reserves the right to evaluate and waive any minor informalities to determine the overall impact of the bid process and value to the city.

7. Awarding the Winning Bid: Subsequent to the deadline for the submission of bids, the purchasing manager shall post the bid tabulation sheet showing the total bids for each bidder. After the purchasing manager and department head or designee have determined the lowest bid which complies with all solicitation requirements, the purchasing manager may award the bid to the lowest responsible and responsive bidder. Within three days after the purchasing manager awards the bid, the purchasing manager will post notice of the award on the online procurement service.

B. Requests for Proposals: The purchasing division may solicit sealed proposals which shall be awarded to the highest scoring responsive and responsible offeror.

1. Process for Solicitation of Proposals: Unless otherwise stated below, the general principles and processes related to solicitation of sealed bids shall apply to the process of soliciting sealed proposals.

2. Proposal Review: Once the sealed proposals are received through the online procurement service, the purchasing manager and the department head or designee requesting the sealed proposals may review the proposals for compliance with all solicitation requirements. The purchasing manager, in coordination with the department head or designee, shall form an evaluation committee to evaluate and score the proposals based on criteria set forth in the RFP.

3. Evaluation Criteria: All proposals will be evaluated based on criteria set forth in the request for proposals. The evaluation criteria may, but is not required to, include the following evaluation criteria:
a. The extent of the specialized experience of the individual or firm in the type of work required;

b. The degree and depth of professional qualifications available through the applicant for performance of the services required;

c. Past performance of the applicant on similar projects, in general, and city projects in particular;

d. Location and accessibility of the offices of the professional submitting the proposal;

e. The proposed schedule for completing the scope of work;

f. The facilities and equipment at the disposal of the professional submitting the proposal;

g. The projected work hours and costs associated with providing the services outlined in the scope of work;

h. For construction projects, an offeror's company general safety plan and project specific safety plan;

i. The offeror's ability to work cooperatively with the city, including, without limitation, whether the bidder has previously failed to comply with city agreements or other requirements, nonpayment of sums due to the city, poor working relationships with or adversarial actions against the city, suspension, or other proceedings by the city against the bidder, or failure to assist the city in determining responsibility; and

j. The offeror's capacity to perform contractual requirements, including whether the bidder has available appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain them, including without limitation, legal capacity to enter an agreement, the ability to perform within required times, or the ability to perform any necessary future service and maintenance.

4. Evaluation Committee: The department head or designee shall appoint an evaluation committee that shall be comprised of no less than three (3) members.

5. Best and Final Offers: As provided in the RFP, discussions and/or RFP modifications may be conducted with the responsible offerors who submit proposals determined to have a reasonable chance of being selected. Offerors shall be accorded fair and equal treatment to discuss and revise proposals in writing and such written revisions may be permitted by the selection committee after submissions and prior to award to obtain best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors, except for the names of the offerors. Discussion may also occur with vendors who are on the approved vendor list.

The purchasing manager may request best and final offers from:
a. All responsive and responsible offerors when the evaluation committee wants to verify full understanding of, and conformance to, the solicitation requirements of the RFP;

b. All responsive and responsible offerors who score within twenty percent (20%) of the highest scoring offeror; or

c. All responsive and responsible offerors who have the highest identical scores.

6. Selection and Awarding of the Winning Proposal: The evaluation committee shall evaluate the proposals and may require the offerors to give an oral presentation to further understand each of the offerors proposals. The evaluation of the proposals may be performed in successive stages that eliminate a certain number of offerors from continuing through the evaluation process. Once each stage has concluded and all members of the evaluation committee have scored each proposal according to the processes set forth in the RFP, the individual scoring shall be submitted to the purchasing manager. The purchasing manager will confirm that the highest scoring offeror is compliant with all the solicitation requirements and submit a recommendation to the mayor that the highest scoring proposal be awarded the contract. Within three days after the mayor or designee awards the contract, the purchasing manager will post notice of the award on the online procurement service.

7. Public Access to Sealed Proposals: Sealed proposals shall remain confidential and withheld from public disclosure until an award is posted. After the award is posted, all proposals shall be available for public inspection upon a written Governmental Records Access and Management Act (GRAMA) request, except for information or data that the bidder designated as proprietary or confidential or that the city classifies as "privileged" under Utah law. All records retention schedules and access shall be consistent with GRAMA. (Ord. 19- , -2019, Effective at 12 noon on January 6, 2020)

3-1-10: ADDITIONAL PROCUREMENT PROCESSES:

A. Multiple Stage Procurements: IFB or RFP processes may be completed in multiple stages to determine the qualifications, experience, quality of work and/or goods that would be provided before a bid cost sheet is submitted as the final stage of the multiple stage process. A multi-stage process may result in a single or multiple award. Multi-stage processes may be used regardless of bid value.

B. Requests for a Statement of Qualifications: When the mayor determines, based on recommendations from the department heads and the purchasing manager, that a procurement for services requires a certain level of qualifications, skill, experience, understanding of specific needs, key personnel, availability, or other reasonable criteria, the purchasing manager may request a statement of qualifications from potential bidders or offerors.

C. Approved Vendor List: An approved vendor list may be created from a request for a statement of qualifications. Upon evaluation of the responses from vendors, those vendors meeting the qualification and advancement criteria shall be included on the AVL.
1. Timing for Inclusion on an AVL: The AVL may be an open-ended or closed-ended list as follows:

   a. **Closed-ended AVL:** A closed-ended AVL is a list of vendors approved for a finite period, specified in the SOQ, during which additional vendors may not be added to the AVL. Once the specified period expires, the city may request vendors to submit their statement of qualifications again and, if determined to be qualified, include the qualified vendors on the AVL.

   b. **Open-ended AVL:** An open-ended AVL is a list of vendors approved for a finite period to which additional vendors may be added through the remaining term of the list. The interval period(s) stated in the SOQ generally range from six (6) months to eighteen (18) months.

2. AVL Procurement Methods: The AVL may be used as one or more of the following methods, regardless of estimated total cost of the good or service:

   a. A rotation system, organized alphabetically, numerically, or randomly;

   b. Assignment of vendors to a specified geographic area;

   c. Assignment of vendors based on vendors’ particular expertise or field; or

   d. Another method approved by the purchasing manager.

D. Request for Information: The city may request information, comments, or suggestions from potential bidders or offerors before using any competitive solicitation methods. A request for information may be used to gather information including, but not limited to, availability of a procurement item, delivery schedules, industry standards and practices, product specifications, training, new technologies, capabilities of potential providers of a procurement item, and alternate solutions. A request for information may not be used to solicit a firm fixed cost or guaranteed pricing, negotiate fees, make a purchase, or enter into a contract. All information received by potential bidders, offerors, or industry specialists does not bind either party to any commitments to one another and is subject to GRAMA classification. (Ord. 19- , -2019, Effective at 12 noon on January 6, 2020)

3-1-11: EXCEPTIONS TO COMPETITIVE SOLICITATION REQUIREMENTS:

The procurement of goods, and services are exempt from competitive solicitation under the following circumstances:

A. **Direct Government Agency Purchases:** Procurement of goods, and services that are declared surplus of or made by another governmental agency are not subject to competitive solicitation requirements.

B. **Governmental Agency Cooperative Contract:** Procurement may be approved, without additional competition otherwise required in this chapter, when the purchasing manager or designee determines that another governmental agency or branch thereof has issued a procurement contract based on competitive solicitation and that the city is authorized to purchase under the terms of the same contract.
C. Sole Source Procurement: The purchasing manager or designee may approve procurement of goods and services without using a competitive solicitation process if the purchasing manager determines, in writing, that:

1. Only one known source is reasonably available to provide the goods or services being procured; or

2. Only specific parts, equipment, accessories, and/or specialized service, training, geographical area, region, boundary, or other unique characteristics of the goods or services meet the city’s needs and there are no comparable goods or services reasonably available.

D. Emergency Procurement:

1. Based upon approval of the mayor or designee, goods and services may be procured to address emergency conditions, public threats, or unforeseen conditions. In such circumstance priority over and exclusion of customary procurement processes shall be allowed to meet the needs of such conditions and threats.

2. Process. The mayor shall examine the circumstances and determine whether they constitute an emergency condition, a public threat, or an unforeseen condition. If so, the mayor may take any action to address such condition so long as such action is (i) reasonable under the circumstances, (ii) consistent with applicable law, and (iii) accomplished within existing budget constraints. The mayor shall deliver to the city council within fourteen (14) calendar days of the purchase or execution of a contract a written determination and explanation of the condition and justification for actions taken under this section. The purchasing manager shall file this written determination in the procurement file relating to purchase or execution of a contract. Only those goods and services to address the conditions identified by the mayor may be procured under this Section.

E. Waiver or Modification: The mayor may waive or modify competitive solicitation requirements when the purchase or execution of a contract is (i) advantageous to the city, (ii) performed in a manner that is fair and equitable, (iii) provides transparency as is practicable under a given circumstance, and (iv) consistent with applicable law. The mayor shall deliver to the city council within fourteen (14) calendar days of the purchase or execution of a contract a written determination and explanation of the condition and justification for actions taken under this section. The purchasing manager shall file this written determination in the procurement file relating to the purchase or execution of the contract.

F. Disbursements: Disbursements do not require competitive solicitation.

G. Grant, Gift, Bequest. In complying with the terms and conditions of any grant, gift, or bequest to the city, or to one of the city’s departments or subdivisions, committees, or a community organization which functions under city auspices if such action is approved by the mayor. (Ord. 19-____-____-2019, Effective at 12 noon on January 6, 2020)
3-1-12: DEBARMENT AND SUSPENSION:

A supplier that fails to meet the requirements of any city procurement process or at any time throughout the duration of a contract or engagement with the city is subject to the actions and penalties described herein. The city, in its sole discretion, may take any of the following actions against a supplier:

A. Order an audit, at the sole expense of the supplier to determine the extent of such non-compliance;

B. Terminate the contractor's contract for failure to comply with the terms of the bid, RFP or resulting contract;

C. Immediately award the affected contract to the next lowest responsive and responsible bidder; or

D. Bring legal action against the contractor, on behalf of the city and affected employees, for monetary damages.

E. The penalties that may be imposed if a bidder or contractor to which this section applies violates the requirements of this chapter include:

1. For a first violation, a twenty-four-month suspension of the bidder from bidding on city projects; and

2. For a second violation, an action for permanent debarment of the bidder from bidding on city projects. (Ord. 19-___-____-2019, Effective at 12 noon on January 6, 2020)

3-1-13: PURCHASING CARD ISSUANCE AND APPROVALS:

A. Issuance and Limitations of Credit Card (P-Card): P-Cards may be issued to persons under the following conditions:

1. City Mayor, Officers, and Department Heads: The mayor and administrative officers may be issued a P-card upon the mayor's direction. Department heads may be issued a P-Card upon the approval of the mayor or designee or the purchasing manager. The mayor, with the advice of the finance department head and procurement manager, may set the purchasing limit of the P-Card for him or herself and other administrative officers.

2. City Council Members, Council Office Director, and Council Staff: City council members, the council office director, and other council staff may be issued city P-Cards upon the majority vote of the council. The city council, with the advice of the finance department head and procurement manager, may set the purchasing limit of the P-Cards for themselves, the council office director, and other council staff by a majority vote of the council.
3. All Other City Employees: Unless otherwise set forth in this section, all other city employees may be issued a P-Card if such issuance is first approved by their department head and the purchasing manager. The finance department head and purchasing manager shall set the limits of the P-Cards of all other city employees.

B. Credit Card (P-Card) Purchases: Purchasing cards are generally used for single transactions below two thousand dollars ($2,000). Monthly single transaction and monthly card limits may be defined by card user with higher spending limits assigned on a per user basis. P-Cards may be used as a direct payment mechanism for (i) purchases under seven thousand five hundred ($7,500), (ii) approved purchases over seven thousand five hundred ($7,500), and/or (iii) when a vendor requires payment with a P-Card. Such purchases may include but are not limited to:

1. Online purchases
2. Purchases from suppliers that the city does not have an account with
3. Seminar/conference registrations
4. Membership fees
5. Suppliers that do not accept PO’s
6. Books
7. Footwear
8. Clothing
9. One-time purchases

C. Abuse of a P-Card: Abuse or misuse of a P-Card, including any failure to comply with the related P-card agreement, may result in an immediate cancellation of the P-Card, criminal prosecution, and/or termination of employment, if applicable. (Ord. 19-301, 2019, Effective at 12 noon on January 6, 2020)

3-1-14: CONTRACT ADMINISTRATION:

A. Except for purchase orders, the mayor or designee shall sign all contracts.

B. Exclusivity of Contracts: Exclusive and non-exclusive contracts may be awarded by the city at any time. Unless a contract specifically states it is exclusive, it shall be deemed to be nonexclusive. "Nonexclusive" means that the city may award multiple contracts to more than one contractor(s) for similar goods or services, as it deems appropriate.

C. Period of Time for Contracts:
1. Permitted Contract Duration: Unless otherwise prohibited or unauthorized as stated in this section, contract(s) for goods and services may be entered into for any period of time stated in the bidding documents and is deemed to be in the best interest of the city. Term renewals as stated in the contract are allowed without additional mayor approval provided that the council has approved the expense within the current fiscal year.

2. Prohibited Contract Duration: "Open-ended" (starting date only) contracts and "evergreen" (automatically renewed) contracts are prohibited, unless authorized by the purchasing manager in writing or otherwise authorized by federal or state law.

D. Contract Amendments: Contracts (including purchase orders) may be amended, modified or supplemented only by written amendment, executed by the parties to the contract.

E. Change Orders:

1. For Building Improvements and Public Works Projects: A department head is authorized to approve a change order on building improvements and public works projects in a single amount or total aggregate amount (when multiple change orders exist for the same project) not to exceed twenty percent (20%) ("20% Approval Limit") of the contract so long as (i) there is funding available in the budget, (ii) does not materially change the original scope of work, and (iii) the change order is in the best interests of the city according to the department head. Notice of such provision may be included in the IFB or RFP.

2. For Goods and Services Not Listed in 3-1-14(E)(1): A department head is authorized to approve a change order for goods and services in a single amount or total aggregate amount (when multiple change orders exist for the same good or service) not to exceed ten percent (10%) ("10% Approval Limit") of the contract so long as (i) there is funding available in the budget, (ii) does not materially change the original scope of work and (iii) the change order is in the best interests of the city according to the department head.

3. Mayor Approval Required: A department head must obtain the mayor’s written approval for any change order, which when added to the aggregate amount of all other prior change orders related to the same project, if any, exceeds the 20% Approval Limit or 10% Approval Limit, as applicable.

F. Bonds and Other Security: Bid, payment, and performance bonds or other securities may be requested for contracts as the purchasing manager or designee deems advisable to protect the city’s interests. Any such bonding or other security requirements shall be set forth in the solicitation. Bid, payment and performance bonds shall not be used as a substitute for a determination of a bidder or offeror’s responsibility. (Ord. 19-____-____ 2019, Effective at 12 noon on January 6, 2020)

3-1-15: CONSTRUCTION PROJECTS:

Municipal construction projects are governed by the appropriate state statutes and may be procured by any method not prohibited by state code. (Ord. 19-____-____-2019, Effective at 12 noon on January 6, 2020)
3-1-16: RIGHT TO INSPECT PLACE OF BUSINESS OF CONTRACTORS AND SUPPLIERS:

The mayor or designee may, at reasonable times, inspect the place of business of a contractor or supplier which is related to the performance of any contract awarded or to be awarded by the city. (Ord. 19-___, 2019, Effective at 12 noon on January 6, 2020)

3-1-17: PROTESTS AND APPEALS:

A. Protest:

1. Protest Permitted: A protest may be filed with the purchasing manager or designee only in accordance with the requirements set forth in this section.

2. Content of Protest: For a protest to be considered by the purchasing manager or designee, the protest must be in writing and contain the following:

   a. The protestor’s name, mailing address, and daytime telephone number, the signature of the protestor or protestor’s attorney, and the date the protest is signed;

   b. In sufficient detail to provide adequate review by the purchasing manager or designee (i) a statement of facts, (ii) an explanation of the relief sought, (iii) a recitation of the reasons for and legal authority in support of the protest, and (iv) a statement supporting the protestor’s claim of standing.

   c. A protest may not be considered unless it contains facts and evidence that, if true, would establish:

      (1) a violation of this chapter or other applicable law or rule;

      (2) the procurement unit’s failure to follow a provision of a solicitation;

      (3) an error made by an evaluation committee or conducting procurement unit;

      (4) a bias exercised by an evaluation committee or an individual committee member, excluding a bias that is a preference arising during the evaluation process because of how well a solicitation response meets criteria in the solicitation;

      (5) a failure to correctly apply or calculate a scoring criterion; or

      (6) that specifications in a solicitation are unduly restrictive or unduly anticompetitive.

   d. A protest may not be based on:
(1) the rejection of a solicitation response due to a protestor’s failure to attend or participate in a mandatory conference, meeting, or site visit held before the deadline for submitting a solicitation response;

(2) a vague or unsubstantiated allegation; or

(3) a person’s claim that, despite the city abiding by noticing requirements herein, the person did not receive individual notice or received the notice late.

3. Timing of Protest:

a. Bids: A protest arising from an invitation for bid shall be submitted prior to the closing date for receiving bids unless the protestor did not know and could not reasonably have known of the facts giving rise to the protest prior to such time, but in any event, all such protests shall be submitted within five (5) business days after the award of contract.

b. Proposals: A protest arising from a request for proposal shall be submitted prior to the closing date for receiving proposals unless the protestor did not know and could not reasonably have known of the facts giving rise to the protest prior to such time, but in any event, all such protests shall be submitted within five (5) business days after the notice of award is posted by the purchasing manager.

c. Quotes, Purchase Orders, Multi-Stage, Approved Vendor List Selection: A protest arising from a request for quotes, purchase order, multi-stage procurement, and approved vendor list selection shall be submitted within five (5) business days after the protestor knew or should have known of the facts giving rise to the protest, but in any event, all such protests shall be submitted in accordance with the following deadlines:

(1) for quotes, within five (5) business days from the due date;

(2) for purchase orders that do not result from a competitive solicitation process, within five (5) business days from the date of the purchase order;

(3) for multi-stage procurements, within five (5) business days from the date the protester was notified that they were not being selected to advance to the next stage or being selected as the winning offeror; and

(4) for approved vendor list selection, within five (5) business days after the notice of award is posted by the purchasing manager.

d. Calculation of Days: For purposes of this chapter, the following rules shall be followed in calculating business days:

(1) A person shall exclude the business day of the event that triggers the applicable timeline;

(2) A person shall count every day except intermediate Saturdays, Sundays, and city holidays;
(3) A person shall include the last business day of the period; and

(4) A business day shall begin at 8:00 a.m. and close at 5:00 p.m. pursuant to the time indicated in the city clerk’s office.

4. Procurement Process During Protest Period: In the event of a timely protest, the city may proceed with the procurement, or the purchasing manager or designee may suspend the procurement process, in his or her sole discretion, for so long as he or she determines is appropriate.

5. Purchasing Manager Assistance: The purchasing manager, or designee, may designate other individual(s) to assist in reviewing the protest, which assistance may include finding facts, analyzing the protest, and making recommendations to the purchasing manager, or designee.

6. Discovery of Documents: The purchasing manager or designee may request additional information from the protestor or from other persons to decide the protest. The protestor shall have three (3) business days to provide all information requested by the purchasing manager or designee reasonably needed to decide the protest. The purchasing manager may dismiss the protest if the protestor fails to provide the requested information within the three (3) business days.

7. Decision on Protest: The purchasing manager, or designee shall review and decide protests, and shall issue a written decision to the protestor within thirty (30) business days of receipt of the protest. If the purchasing manager fails to issue a written determination within thirty (30) business days, said failure shall be considered the equivalent of an order denying the protest.

B. Appeal of the Purchasing Manager’s Final Decision:

1. Appeal Permitted: The protestor may appeal the written decision of the purchasing manager by filing (i) an appeal with the city clerk/recorder and (ii) the bond required by this section with the finance department, within five (5) business days from the purchasing manager’s written decision on the protest, or if no written decision is provided by the purchasing manager, within thirty-five (35) business days from the filing of the protest.

2. Content of the Appeal: For an appeal to be considered by the administrative law judge, the appeal must be in writing and contain the following:

   a. The appellant’s name, mailing address, and daytime telephone number, the signature of the appellant or appellant’s attorney, and the date the appeal is signed;

   b. In sufficient detail to provide adequate review by the city, (i) a statement of facts, (ii) an explanation of the relief sought, (iii) a recitation of the reasons for and legal authority in support of the appeal, (iv) a statement supporting the appellant’s claim of standing, and (v) a statement that a final decision has been made by the purchasing manager or that the time to deliver a decision on the appellant’s protest by the purchasing manager has expired;
c. An attached copy of (i) all documents used as evidence or exhibits in the protest, (ii) any recording or other record of any proceeding, if applicable, and (iii) the purchasing manager or designee’s written decision of the protest, if any.

3. Bond Required: A protestor that files an appeal under this section will not have it considered unless he or she also files a security deposit in the amount described herein with the finance department before the expiration of the time to file an appeal. The entire security deposit shall be forfeited and be deposited in the general fund of the city if the administrative law judge makes a finding that (i) the appellant’s appeal fails and (ii) the protest or appeal was frivolous or that its primary purpose was to harass or cause a delay.

The amount of the security deposit shall be as follows:

a. $1,000, if the total contract value or purchase order is under $25,000;

b. $2,000, if the total contract value or purchase order is $25,000 or more but less than $50,000;

c. $4,000, if the total contract value or purchase order is $50,000 or more but less than $100,000;

d. $10,000, if the total contract value or purchase order is $100,000 or more but less than $250,000;

e. $20,000, if the total contract value or purchase order is $250,000 or more but less than $500,000;

f. $25,000, if the total contract value or purchase order is $500,000 or more but less than $1,000,000;

g. $50,000, if the total contract value or purchase order is $1,000,000 or more but less than $2,000,000;

h. $95,000, if the total contract value or purchase order is $2,000,000 or more but less than $4,000,000;

i. $180,000, if the total contract value or purchase order is $4,000,000 or more but less than $8,000,000;

j. $320,000, if the total contract value or purchase order is $8,000,000 or more but less than $16,000,000;

k. $600,000, if the total contract value or purchase order is $16,000,000 or more but less than $32,000,000; and

l. $1,100,000, if the total contract value or purchase order is $32,000,000 or more.
4. Scheduling of the Hearing: The administrative law judge shall review and hear the appeal. No later than five (5) business days after receiving a notice of appeal, the administrative law judge shall schedule a hearing on the appeal. Unless otherwise agreed to by the city and appellant, the hearing shall be held no sooner than five (5) business days and not later than thirty (30) business days from the date of the filing of the appeal.

5. Hearing: During the hearing before the administrative law judge, the appellant and the city’s representatives shall be allowed to testify, present evidence, and comment on the issues. The administrative law judge may allow other interested persons to testify, comment, or provide evidence on the issues. Notwithstanding any other provisions of the code, appellant may not present evidence or testimony that was not presented in its protest or present new or additional arguments or grounds in support of its position that were not made in support of its protest.

6. Order: No later than fifteen (15) business days after the hearing, the administrative law judge shall issue a signed order either granting or denying the appeal, in whole or in part. If the administrative law judge fails to issue a decision within thirty (30) business days after the hearing, said failure shall be considered the equivalent of an order denying the appeal.

7. Basis of Order: The administrative law judge shall consider and decide the appeal based solely on (i) the appeal, (ii) the protest record, and (iii) the admissible evidence at the hearing. The administrative law judge may dismiss an appeal if the appeal does not comply with the requirements of this chapter; and shall uphold the protest decision unless the protest decision is found to be arbitrary and capricious or clearly erroneous.

8. Content of Order: The order of the administrative law judge shall include:

   a. The decision on the appeal, and any reasons for the decision the administrative law judge may wish to provide;

   b. A statement that any party to the appeal may appeal the decision to the Utah Court of Appeals; and

   c. A determination as to whether the bond should be forfeited to the city pursuant to this chapter.

9. Appeal to the Utah Court of Appeals:

   a. If an appellant appeals the dismissal, denial, or adverse decision of an administrative law judge, the appellant must file the appeal to the Utah court of appeals.

   b. The Utah Court of Appeals:

      (1) shall consider the appeal as an appellate court;

      (2) may not hear the matter as a trial de novo; and

      (3) may not overturn a finding, dismissal, or decision unless the finding, dismissal, or decision is arbitrary and capricious or clearly erroneous. (Ord. 19------2019, Effective at 12 noon on January 6, 2020)
3-1-18: ETHICAL STANDARDS FOR CURRENT AND FORMER CITY OFFICERS AND EMPLOYEES:

By submitting a quote, bid or proposal, in response to any solicitation request, the bidder, offeror, or contractor represents that they have not: 1) provided an illegal gift or payoff to a city officer or employee or former city officer or employee, or his or her relative or business entity; 2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than as exempted in the city conflict of interest ordinance; or 3) knowingly influenced (and hereby promises that it will not knowingly influence) a city officer or employee or former city officer or employee to breach any of the ethical standards set forth in the ethics ordinance in title 1, chapter 11 of the West Jordan city code. (Ord. 19____-2019, Effective at 12 noon on January 6, 2020)

3-1-19: MANAGEMENT, DISPOSAL, AND DONATION OF PERSONAL AND REAL PROPERTY:

A. Management of Property:

1. Personal Property Management: Department heads shall exercise supervision of the receipt, storage and distribution of all inventories of city personal property within the control or assigned to their respective departments. All city property located in warehouses and similar storage areas shall be inventoried annually, and accountability for the property shall reside with the respective department heads.

2. Real Property Management: The real property administrator shall exercise supervision of the acquisition, purchase, sale, and disposal of all real property of the city. The real property administrator shall update the mayor annually upon all acquisitions, disposals, and leasing of city-owned real property.

B. Surplus of Personal Property: Department heads shall dispose, sell, or donate property as follows:

1. Internal Surplus Property: Except as otherwise specified below, the department head having control or possession of city property, including any vehicle, that is so used, obsolete, damaged, unsafe for use, depreciated, excess or is no longer necessary to current and projected needs as to be determined unfit or undesirable for use or retention by the city may recommend to the mayor that such property be surplused. Department head shall present a written list to the mayor or designee at a regularly scheduled meeting with all of the department heads. If no department heads are in need of the property on the list, the mayor may approve in writing the property as surplus, whether in whole or in part, and authorize the disposal, sell, or gift of the property at a public auction in accordance with applicable law.

2. Property No Longer Needed as Evidence: The police chief having control or possession of property, including firearms, no longer needed as evidence shall follow the procedures set forth in Utah Code Annotated 24-3-101 et seq., as amended. All dispositions of such property shall be for a public interest use, including the donation of property to public or private charities, and must first be approved by the city council in accordance with Utah state code.
3. Lost, Misplaced, Unclaimed, or Abandoned Property: The police chief having control or possession of property that is lost, abandoned, unclaimed or mislaid shall follow the procedures set forth in Utah Code Annotated 77-24a-1 et seq., as amended. All dispositions of such property shall be for public interest use, including the donation of property to public or private charities, and must first be approved by the city council in accordance with Utah state code.

4. Unique, Special, or Limited Use Property: Unless otherwise stated above, a department head having control or possession of property that is unique or special, dangerous to the public, or is limited in its public use shall present a written list to the mayor or designee with a recommendation to dispose, sell, or donate the property to another person or governmental agency to use or dispose of. Examples under this category include, but is not limited to, fire trucks, dangerous weapons, police vehicles, equipment only specific persons or agencies are trained and licensed to use.

5. Unsold Property: If the surplus item is subjected to sale to the highest bidder at public auction and remains unsold, the mayor may sell, donate to a charitable organization, or to any person for such price as the mayor deems appropriate or may dispose of as the mayor shall direct.

C. Surplus of Real Property: The mayor or designee may authorize the sell or donation of real property as follows:

1. Sale or Donation of Real Property that is Not a Significant Parcel: From time to time, the mayor or designee may compile a list of surplus city real property. If a parcel of surplus property is not a “significant parcel”, the mayor may sell it for fair market value using any means that is reasonable, fair, and advances the best interest of the city.

2. Sale or Donation of Real Property that is a Significant Parcel: From time to time, the mayor or designee may compile a list of significant parcels of real property and shall follow the procedures as set forth below:

   a. Public Hearing: The mayor or designee shall schedule and provide reasonable notice of a public hearing that public comment may be received regarding the sale of the significant parcel of real property. The mayor or designee shall conduct the public hearing.

   b. Public Hearing Notice: Reasonable notice of the public hearing must be published but not less than fourteen (14) days before the public hearing. “Reasonable Notice," as used herein, means (i) publication in a newspaper or newsletter of general circulation within the city, (ii) posting in public places within the city, (iii) posting on the city’s website, or (iv) other means of notification accessed by city residents. Notice shall contain the date, time, and location of the public hearing.

D. Fund Credited: Monetary proceeds from the sale or other disposition of items pursuant to this section shall be credited to the general fund account. (Ord. 19- - , - - -2019, Effective at 12 noon on January 6, 2020)