

**ADDITIONS TO THIS AGENDA ARE POSSIBLE – CHECK BACK ON TUESDAY,  
FEBRUARY 1, 2022, BY 4PM TO GET THE MOST UP TO DATE AGENDA**

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## **AGENDA**

FOR THE REGULAR MEETING OF THE CITY COUNCIL FOR  
THE CITY OF THORNE BAY, ALASKA

TUESDAY, February 1, 2022

TIME: 6:30 p.m.

**THERE WILL BE A WORKSHOP BEGINNING AT 6:00 PM**

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**LOCATION:** TELECONFERENCE/VIDEO CONFERENCING LINE

**Phone Number:** 1-408-418-9388

**Meeting Link:**

<https://cityofthornebay.my.webex.com/cityofthornebay.my/j.php?MTID=m99f71eee7f975b71d7ee0f9f7c5e44a1>

**Meeting number:** 182 323 7632      **Password:** MghMxgJy424 (64469459 from phones and video systems)

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- 1) CALL TO ORDER:
- 2) PLEDGE TO FLAG:
- 3) ROLL CALL:
- 4) APPROVAL OF AGENDA:
- 5) MAYOR'S REPORT:
- 6) ADMINISTRATIVE REPORTS:
  - a) City Administrator:
  - b) City Clerk:
- 7) PUBLIC COMMENTS:
- 8) COUNCIL COMMENTS:
- 9) CONSENT AGENDA:
  - a) MINUTES
    - i. Minutes of the December 21, 2021, Regular City Council Meeting, discussion and action item:
- 10) NEW BUSINESS:
  - a) Resolution 22-02-01-01, supporting the Prince of Wales Advisory Council Resolution No. 22-01, discussion and action item:
  - b) Resolution 22-02-01-02, supporting the application to receive ADEC services for additional Brownfields Assessment, Cleanup Planning, and Cleanup of Hazardous Materials from the Old Fire Hall, discussion and action item:
  - c) Discussion and possible action item: discussion of historical sales tax rate increases and utilization of sales tax funds, discussion and possible action item:
- 11) ORDINANCE FOR PUBLIC HEARING:
  - a) Ordinance 22-02-01-01, amending Title 3 – Revenue and Finance, Chapter 3.12

– Purchasing, discussion and action item:

12) CONTINUATION OF PUBLIC COMMENT:

13) CONTINUATION OF COUNCIL COMMENT:

14) ADJOURNMENT:

POSTED: January 27, 2022

AMENDMENTS TO AGENDA (IF ANY) POSTED: \_\_\_\_\_

# JOIN BY WEBEX – ONLINE VIDEO/TELECONFERENCING

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## Regular City Council Meeting

Tuesday, February 1, 2022, there is a workshop of the City Council beginning at 6:30 pm, with a Workshop beginning at 6:00 pm

### Meeting Link:

<https://cityofthornebay.my.webex.com/cityofthornebay.my/j.php?MTID=m99f71eee7f975b71d7ee0f9f7c5e44a1>

**Meeting number:** 182 323 7632

**Password:** MghMxgJy424 (64469459 from phones and video systems)

### Join by video system

Dial **1823237632@webex.com**

You can also dial 173.243.2.68 and enter your meeting number.

### Join by phone

+1-408-418-9388 United States Toll

Access code: **182 323 7632**

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**Agenda:** Agendas are posted the Friday before each meeting by 6pm.

**Agenda packets** can be downloaded online at [www.thornebay-ak.gov](http://www.thornebay-ak.gov) and on our Facebook page at: <https://www.facebook.com/profile.php?id=100064908843463>

Packets may also be picked up around town at various locations which include: City Hall, Thorne Bay Market, The Port, Riptide Liquor & Davidson Landing Harbor.

**Agendas are posted** at the Thorne Bay Market, The Port, US Forest Service Main Office, Thorne Bay School, SISD District Office, City Hall, Riptide Liquor & Davidson Landing Harbor.

To request items on the agenda for the City Council to act upon, complete the Agenda Item Request for Action form available on the City's Website or by request to the City Clerk. Submit the form to the City Clerk by 4pm on the Wednesday preceding the regular meeting date. The form can also be downloaded using the following link:

<https://thornebay-ak.gov/wp-content/uploads/2021/11/AGENDA-ITEM-REQUEST-FOR-ACTION-MASTER-FORM.pdf>



## MINUTES

FOR THE REGULAR MEETING OF THE CITY COUNCIL FOR  
THE CITY OF THORNE BAY, ALASKA

TUESDAY, December 21, 2021

TIME: 6:30 p.m.

THERE WAS A WORKSHOP FOR DISCUSSION OF FUNDING OPTIONS FOR THE EMS/FIRE SERVICES,  
BEGINNING AT 6:00 PM

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### 1. CALL TO ORDER:

Mayor Burger called the meeting to order at 6:37 p.m.

### 2. PLEDGE TO FLAG:

The audience and council stood for the pledge to the flag.

### 3. ROLL CALL:

Burger, Oatman, Hartwell, & Jennings were present.  
Stram, Kerkof & Nyquest attended online

### 4. APPROVAL OF AGENDA:

Burger moved to approve the agenda. Hartwell seconded the motion. There was no further discussion.

MOTION: Move to approve the agenda as written

F/S: Burger/Hartwell

YEAS: Kerkof, Oatman, Hartwell, Stram, Burger, Nyquest & Jennings

NAYS: None

STATUS: Motion Passed.

### 5. MAYOR'S REPORT:

Mayor Burger reported on the following:

- Urged the public to be cautious on the roads. Current weather conditions have caused the roads to become icy and dangerous.
- COVID continues to spread, encouraged the public to continue practicing proper hygiene and social distancing.

## 6. ADMINISTRATIVE REPORTS:

### a) City Administrator:

John Huestis, City Administrator provided the following report:

- As of 12/13/21 the Administrator is back from medical leave and transitioning on-going workload from Acting Administrator/City Clerk. Administrator will be out again from 1-26 to 2-13 for follow up procedures but should be able to work remotely for most of this time. Generally, things are very busy due to absences.
- Reviewing State Department of Environmental Conservation Compliance Order by Consent for numerous issues of non-compliance with City Wastewater Permit.
- Developing updates to City's purchasing policies and procedures to provide better definition around certain types of contracts and management of grants, etc.
- Developing a request for qualifications to hire and Architect/Engineering Firm to develop plans specs and estimates for Davidson Landing Fire/EMS Hall Design.
- Developing update to City Organizational Chart and if approved by the corresponding updates to position descriptions will follow.
- Signed Forest Service Agreement to work with OVK on the Goose Creek - Kasaan Road (first 400' vertically and horizontally realigned, time extension to 9-30-2023)
- Working with Departments to assist with decision making for on-going operations and maintenance activities amidst unusual early winter inclement weather conditions.

### b) City Clerk:

Clerk Feibel provided the following report:

#### ➤ City Website Issues:

- We were notified yesterday morning by Jenni Redding that our website had been compromised. I contacted Matt Gore, the IT director for SISD, and requested his assistance with how to repair it. We reached out to GoDaddy and purchased the 3-year Advanced Website Security package from them for the cost of \$503.75.
- GoDaddy spent the evening going through our website to find where the malware got in, removed suspicious files and provided us with a report of items to fix. As part of the website security package, they will continue to scan the website every 12-hours to search for viruses and malware. Create complete backups our website, restore corrupted files, and provides the SSL Certificate.
- We were ensured that no credit card information was accessible through our Payeezy payment gateway on the website.
- Today the site was down while GoDaddy finished installing the SSL into the new firewall that is protecting the website.

#### ➤ Residential Relief Funding:

- Received 155 applications. We will inform the public asap when we have a final amount of the relief funding and when they will be distributed. These will be sent by December 31<sup>st</sup>. Thank you all for your patience.

#### ➤ Financial Report:

<u>Account</u>	<u>Available Balance</u>	<u>Subtotals by type</u>
COMMUNITY CENTER	\$7,503.01	\$7,503.01
HEALTH PREMIUM	\$5,071.08	\$5,076.08
OCCUPANCY GEN.	\$2,400.28	
OCC TAX EMS/FIR	\$9,501.10	
OCC TAX TOURISM	\$10,730.72	
OCC TAX PARKS	\$10,659.42	
OCC TAX HARBOR	\$23,491.36	\$56,782.88
HARBOR	\$99,930.55	\$99,930.55
SEWER UTL R&R	\$30,576.54	\$30,576.54
SOLID WASTE R&R	\$27,261.11	\$27,261.11
WATER UTL R&R	\$32,277.16	\$32,277.16
CHECKING	\$227,612.41	\$227,612.41
60% SALES TAX	\$110,060.38	
40% SALES TAX	\$150,387.74	\$260,448.12
<b>Account Totals:</b>	<b>\$747,462.86</b>	<b>\$747,492.86</b>

First Bank Checking	\$ 18,639.78	\$18,639.78
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Wells Fargo Investment Accts: Originally invested  
\$620,000.00 on March 2020

Mutual Funds	\$655,981.47	\$655,981.47
Money Market	\$295,997.01	\$951,978.48

QuickBooks	Income	Expense	
Budgeted	1,599,260.43	1,644,319.09	
Actuals	747,204.59	\$ 674,617.93	
PROFITS:	Budgeted Loss: -45,058.66	Actual	Net:
		\$72,586.66	

c) Department Reports:

➤ Water/Wastewater:

**Sam Sawyer, Water and Wastewater Supervisor**

- Water / Wastewater trainings over the past two weeks.
- Today they were dealing with a leak on mainline coming from lake – working on this now
- Shut sewer plant down because everything is freezing up
- Freezing warning -
- Follow these steps to help prevent frozen water pipes.

1. **Keep Water Flowing** . If any of your indoor faucets are located on exterior walls that aren't adequately insulated, set your faucets to a slow drip

whenever temperatures dip well below freezing. This is usually necessary only during especially bitter cold spells. Faucets and pipes located along exterior walls are especially susceptible to freezing. **For maximum effectiveness**, make sure both the hot and cold lines are opened slightly since both are vulnerable. Also, consider leaving cabinet doors open so your pipes will be warmed from the room air.

2. **Disconnect and drain garden hoses.** Disconnect and drain the garden hose connection. This will help prevent outside faucets and pipes from freezing, leaking or breaking.<sup>3</sup>
3. **Cover exposed pipes.** Cover water pipes (both indoors and out) with insulating foam covers or heating tape. Close outside vents, crawl spaces and doors so cold air doesn't seep inside.
4. **Locate The Shut-off Valves.** Place a tag on the main shut-off valve. Make sure everyone in the house knows where it is and how to operate it in an emergency.

➤ **Solid Waste:**

- Will be open half day on Friday, Christmas Eve, Dec 24<sup>th</sup>, and all-day Christmas day, Saturday this week
- Closed on Friday and Saturday next week (New Year's Eve and day)
- Parts for Wire tie repairs have been ordered and are on their way

➤ **Harbor,**

- Most of the harbormaster efforts have turned to snow maintenance since the weather hit. I am focusing on safety and protecting our harbor structures while removing as much build up as possible.
- There has been little activity in the harbor as far as transient moorage or new slips being issued. Most boats have been pulled for the season.
- Two derelict vessels will be going up for auction, hopefully next week. They include the Sienna in the main harbor and a wooden skiff at Davidson. The wooden skiff will be towed to north side and pulled out of the water where it will sit at the Sortyard until sale.
- I am working to issue a limited amount of parking permits for Davidson, then all other trailers and vehicles sitting over there will be ticketed and removed.
- I am waiting on word from the electrician about getting the walkway and parking lot lights returned to working order at Davidson.
- I have spoken with Sadhu about fixing the slide plate on walkway at Davidson, which is a slip hazard in wet conditions. We're going to pull the plate off, weld some treads across it and reattach all in a few hours next week.
- Everything else is business as usual.

- **EMS:** Received two new applications for responders over the past two weeks.
- **Fire/VPSO:** Good news! Volunteer assistance grant has been approved to be looked at. It is for \$5,000.00, to purchase items like portable pumps, etc.
  - Fire Department meeting on Southside last week. Myself and one other person showed up. With that extra hand we were able to get the fire truck set up. Meetings are on the third Wednesday of each month and alternate between North and Southside.
- **Streets:**
  - Have a new F550 at the Solid Waste Facility, a new sander is on the way and working on the plow to purchase and placed on the truck.
  - If we are going to have winters like this moving forward, we do need covered area for the sand.
- **Parks & City Events:**
  - AJ Jennings:**
    - Christmas Dinner a hit – Thank you to the Thorne Bay School: Johanna Schneider, Amy Jennings, boys basketball team for serving, school kids for decorations, Laura and Charles Jennings for Santa and Mrs. Santa.
    - Still waiting on APT to come and put up the new lights on the light poles.
- **Library**
  - We have internet at Davidson Landing! Working within a cooperative partnership with The City of Thorne Bay, Southeast Island School District, and the Thorne Bay Public Library, I am proud to announce that we were one of only 8 selected in the entire state of Alaska. Through the Emergency Connectivity Fund, we have internet through at least June 30th, 2022. There is talk that there may be another grant next year to cover going forward. There is no cost to the city. SISD's Technology Director, Matt Gore has been the techno-genius behind getting this up and running! You can find the open access point, named Davidson Landing, by parking near the red building down by the harbor. Please, please do not block the green building's big roll up doors at ANY time. This is brand new internet and will not affect the Thorne Bay Library in any way. Congratulations to the South Thorne Bay population, students and those needing internet!
  - Another grant! This time an ARPA Grant, worth \$2500 in new books, and \$3500 for brand new technology equipment for the new Library we hope to have open soon. Professional Zoom equipment, inside and outside antenna, new modem.... it's going to increase the internet to a more useable amount and speed and a better coverage area!
  - During our shut down time, I have been writing authors asking for donations,



and they are coming in!

- There is also the PLAG Grant written during our time closed. The Public Libraries Assistance Grant will keep our doors open and give us money for books and programming.
- Thank you for your patience, it's been a long road. Even though the doors are closed right now, we are still working for our community. I'd love to hear from the community on any book series they would like to have in our library and as soon as we can get opened up, we will be looking for volunteers. Don't forget about the DIGITAL LIBRARY, it works much like a free Kindle. Books and audio books can be downloaded at either site, its 100% free to patrons, paid for by Library funds, and the Friends of the Thorne Bay Library! Contact Laura Clark with questions.
- Friends of the Library received a \$50,000.00 ARPA grant that will pay for a new covered porch area on the new library.

**Matthew Mendonsa, VPSO candidate**

- Commented that his passion is to help others and currently volunteers on the Fire and EMS department.
- Explained that he was heavily recruited for this position and was hesitant at first, but is extremely happy to be considered for the VPSO position.

**7. PUBLIC COMMENTS:**

**VPSO McGinnis commented on the following:**

- Very excited to have Mr. Mendonsa on the VPSO department. He has been jumping through hoops for the past four months to get on board s a huge asset. His willingness to learn, kindness is what makes him a great candidate for the VPSO position.

**Brenda McDonald commented on the following:**

- Who is the Fire Chief and why is the library not open?  
Burger responded that the city received the new library building and are still waiting for AP&T to turn on the power there. As soon as it is online, it will be open.

**Harvey McDonald commented on the following:**

- January 13<sup>th</sup> is the 20<sup>th</sup> anniversary of the IFA operations. Celebration will be held on the ferry. You can ride free from the Island to Ketchikan and back.
  - **Clerk read from IFA bulletin:**
    - IFA to thank our supporters in honor of our 20th Anniversary
    - Hollis, Alaska – Thursday January 13, 2022, will be the 20th Anniversary of the maiden voyage of the Inter-Island Ferry Authority. The IFA wishes to take a week to celebrate and honor our founders, employees, champions and customers. Our celebration week will commence on Saturday, January 8, 2022, and end on Friday, January 14, 2022. During this week, Passenger travel will be

discounted 100%, Yes that means FREE. Vehicles will continue to be charged at current rates. Call to book your reservation in advance, and Online booking will not be available. Thank You for an amazing 20 years and we look forward to serving you into the future.

**Thom Cunningham commented on the following:**

- Reiterated the comment on icy road conditions and cautioned drivers that were out on the roads.
- Requested the agenda packets be temporarily placed on the bus shack at Davidson Landing to prevent the clerk from having to climb over berms of snow to put them out.
- Wished all a Merry Christmas and Happy New Year.

**8. COUNCIL COMMENTS:**

**Oatman commented on the following:**

- Thank you to Matt Mendonsa for stepping up and wanting to be a VPSO for Thorne Bay
- IF the city plow could plow some pullouts on southside, that would be appreciated. There are no places to turn around right now.

**Kerkof commented on the following:**

- Welcome John Huestis back. We are all happy to have him here and look forward to working with him moving forward.

**9. CONSENT AGENDA:**

- a) Minutes of the December 7th, 2021, Regular City Council Meeting, discussion and action item:

Burger moved to approve the consent agenda consisting of the minutes of the December 7<sup>th</sup>, 2021, regular city council meeting. Hartwell seconded the motion.

MOTION: Move to approve the consent agenda consisting of the minutes of the December 7<sup>th</sup>, 2021, regular city council meeting

F/S: Burger/Hartwell

YEAS: Oatman, Jennings, Burger, Hartwell, Kerkof & Nyquest

NAYS: None

ABSENT: Stram dropped call and was unable to vote on this item

STATUS: Motion Passed.

**10. NEW BUSINESS:**

- a) Resolution 21-12-21-01, accepting the mayor's recommendation that Tlingit & Haida Central Council hire Thorne Bay resident Matthew Mendonsa as the second VPSO in Thorne Bay, discussion and action item:

Burger moved to approve Resolution 21-12-21-01. Jennings seconded the motion. There was no further discussion.

MOTION: Move to approve Resolution 21-12-21-01  
F/S: Burger/Jennings  
YEAS: Oatman, Jennings, Burger, Hartwell, Kerkof & Nyquest  
NAYS: None  
ABENST: Stram dropped call and was unable to vote on this item  
STATUS: Motion Passed.

b) **Resolution 21-12-21-02**, adopting the alternative allocation method for the FY22 Shared Fisheries Business Tax Program, discussion and action item:

Burger moved to approve Resolution 21-12-21-02. Hartwell seconded the motion. Clerk explained this was something done every year by the State and in order to receive the funds, the communities listed must all agree to the method in which the funds were distributed. For Southern Southeast Region, the communities chose the Alternative Allocation Method.

MOTION: Move to approve Resolution 21-12-21-02  
F/S: Burger/Hartwell  
YEAS: Oatman, Jennings, Burger, Hartwell, Kerkof & Nyquest  
NAYS: None  
ABSENT: Stram dropped call and was unable to vote on this item  
STATUS: Motion Passed.

c) **Resolution 21-12-21-03**, amending Regular City Council meeting schedule for January and February 2022, discussion and action item:

Burger moved to approve Resolution 21-12-21-03. Hartwell seconded the motion. There was no further discussion.

MOTION: Move to approve Resolution 21-12-21-03  
F/S: Burger/Hartwell  
YEAS: Kerkof, Nyquest Oatman, Stram, Jennings, Burger & Hartwell  
NAYS: None  
STATUS: Motion Passed.

d) **Authorizing a donation to the Thorne Bay Basketball team for their time and assistance with the Community Christmas Dinner**, discussion and action item:

Burger moved to approve a donation of \$300.00 to the Highschool Boys Basketball Team. Jennings seconded the motion. There was further discussion.

MOTION: Move to approve a donation of \$300.00 to the Highschool Boys Basketball Team  
F/S: Burger/Jennings  
YEAS: Hartwell, Burger, Oatman, Stram, Jennings, Kerkof & Nyquest  
NAYS: None  
STATUS: Motion Passed.

**11. ORDINANCE FOR PUBLIC HEARING:**

- a) Ordinance 21-12-21-01, Title 2 – Administration and Personnel, Chapter 2.24-Officers and Employees, Sections 2.24.030-Employment, Subsection (i) Holidays; and 2.24.040-Travel and Per diem, updating the Holiday Calendar to include Juneteenth and Travel Mileage Reimbursement rate to be consistent with the GSA/IRS Mileage Reimbursement Rates, discussion and action item:

Burger moved to approve Ordinance 21-12-21-01. Hartwell seconded the motion. Burger amended his motion to strike amendment to 2.24.030 (i). There was no further discussion.

**Public Hearing Comments:** There were no public hearing comments.

MOTION: Move to approve Ordinance 21-12-21-01, striking the amendment to 2.24.030 (i), Holidays  
F/S: Burger/Hartwell  
YEAS: Stram, Jennings, Nyquest, Oatman, Burger, Kerkof & Hartwell  
NAYS: None  
STATUS: Motion Passed

**12. EXPENDITURES EXCEEDING \$2,000.00:**

- a) Authorizing the expenditure of \$2,609.51 to DELL for purchasing new Finance Department Computer, discussion and action item:

Burger moved to approve the expenditure of \$2,609.51 to DELL for the purchase of a new computer for the Finance Department. Hartwell seconded the motion. The Clerk explained the finance computer was almost 4 years old and was the computer that housed “the brain” of the finance system for the City’s accounting.

MOTION: Move to approve the expenditure of \$2,609.51 to DELL for the purchase of a new computer for the Finance Department  
F/S: Burger/Hartwell  
YEAS: Stram, Jennings, Nyquest, Oatman, Burger, Kerkof & Hartwell  
NAYS: None  
STATUS: Motion Passed

**13. CONTINUATION OF PUBLIC COMMENT:**

There were no public comments.

**14. CONTINUATION OF COUNCIL COMMENT:**

Kerkof commented on the following:

- Merry Christmas to all and to all a good night.

**15. ADJOURNMENT:**

Burger adjourned the meeting at 7:50 p.m.

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Lee Burger, Mayor

ATTEST:

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Lisa Roseland, Acting City Clerk  
For Teri Feibel, CMC



CITY OF THORNE BAY  
RESOLUTION 22-02-01-01

**A RESOLUTION OF THE CITY COUNCIL, FOR THE CITY OF THORNE BAY, ALASKA, SUPPORTING THE PRINCE OF WALES ADVISORY COUNCIL RESOLUTION NO. 22-01**

**WHEREAS**, the City Council is the governing body of Thorne Bay, Alaska; and

**WHEREAS**, the City of Thorne Bay is a member of the Prince of Wales Advisory Council; and

**WHEREAS**, the representatives from the Alaska Department of Transportation and Public Facilities have discussed proposed road projects for Prince of Wales Island and have suggested that communities on the island develop a consensus of road projects priorities for inclusion in the State of Alaska's STOP, Public Forest Service Roads Program, and the Bureau of Indian Affairs Roads Program; and,

**WHEREAS**, the Prince of Wales Community Advisory Council has discussed road needs on Prince of Wales Island and recommends that the following projects and priorities be adopted by the Island communities and submitted to the Alaska Department of Transportation and Public Facilities for inclusion in the State's planning and prioritization process; and,

**NOW, THEREFORE, BE IT RESOLVED** that the City Council for the City of Thorne Bay, Alaska, supports the Prince of Wales Advisory Council Resolution No. 22-01 attached below.

**PASSED AND APPROVED** by a duly constituted quorum of the City Council, for the City of Thorne Bay, Alaska, this 1<sup>st</sup> day of February 2022.

ATTEST:

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Lee Burger, Mayor

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Lisa Roseland, Appointed, Acting City Clerk

**PRINCE OF WALES COMMUNITY ADVISORY COUNCIL  
RESOLUTION No. 22-01**

**A JOINT RESOLUTION BY AND BETWEEN THE COMMUNITIES OF THE PRINCE OF WALES  
COMMUNITY ADVISORY COUNCIL (POWCAC) SETTING TRANSPORTATION PRIORITIES FOR  
PRINCE OF WALES ISLAND FOR 2022**

**WHEREAS**, the Prince of Wales Community Advisory Council acts in an advisory capacity for participating communities on Prince of Wales Island; and,

**WHEREAS**, the representatives from the Alaska Department of Transportation and Public Facilities have discussed proposed road projects for Prince of Wales Island and have suggested that communities on the island develop a consensus of road projects priorities for inclusion in the State of Alaska’s STIP, Public Forest Service Roads Program, and the Bureau of Indian Affairs Roads Program; and,

**WHEREAS**, the Prince of Wales Community Advisory Council has discussed road needs on Prince of Wales Island and recommends that the following projects and priorities be adopted by the Island communities and submitted to the Alaska Department of Transportation and Public Facilities for inclusion in the State’s planning and prioritization process; and,

**NOW, THEREFORE, BE IT RESOLVED** that the communities of the Prince of Wales Community Advisory Council hereby adopt the following regional transportation projects and priorities for roads on Prince of Wales Island:

**FOREMOST TRANSPORTATION PRIORITY**

<u>Priority</u>	<u>Project Name</u>	<u>Project Description</u>
1.	Operational Support to IFA	Continue annual appropriation through the following means: 1) in the State of Alaska General Fund operating budget, and 2) inclusion of IFA support in the State Transportation Improvement Plan

**SURFACE TRANSPORTATION PRIORITIES**

<u>Priority</u>	<u>Project Name</u>	<u>Project Description</u>
1.	Kasaan Road	Phase I-Goose Creek to Tolstoi Bay; Phase II-Tolstoi Bay to Kasaan: Upgrade to a two-lane road at 35 mph design speed. Surface with D1 and asphalt. The road is critical to Kasaan and carries school bus traffic, daily commuting from S. Thorne Bay to the balance of Prince of Wales Island, and industrial truck traffic, making upgrade of the right of way priority.
2.	Resurfacing Hydaburg Road	Redesign, straighten, and resurface the Hydaburg road to provide safe driving conditions.
3.	Whale Pass Road	Upgrade and pave the Neck Lake road from the existing pavement into Whale Pass to the harbor.

- |    |                             |  |
|----|-----------------------------|--|
| 4. | Twin Island Road            | Upgrade and pave the Twin Island Road to create a suitable road base for El Capitan cave and northisland traffic.                            |
| 5. | Port Saint Nicholas Road    | Upgrade and improve the remainder of the Port Saint Nicholas Road system located outside of Craig.   |
| 6. | Sandy Beach Road            | Upgrade and reconstruct between Thorne Bay and Coffman Cove. Evaluate merits of construction of the low elevation Eagle Creek road segment.. |
| 7. | Ratz Harbor-Eagle Creek Rd  | Construct a low elevation road between RatzHarbor and Eagle Creek  |
| 8. | Big Salt Lake/Boundary Road | Resurface from Control Lake Junction to Frank Peratrovich Airport Junction   |

### **AIR TRANSPORTATION PRIORITIES**

- | <u>Priority</u> | <u>Project Name</u>                          | <u>Project Description</u>   |
|-----------------|--|--|
| 1.              | Frank Peratrovich Airport                    | Construct/install taxiway and lease lot improvements detailed in the airport master plan.  |
| 2.              | Frank Peratrovich Airport Winter Maintenance | Attain designation change from being listed as an unattended to attended airport facility.   |
| 3.              | Public Parking                               | Provide public parking at Peratrovich Airport.   |
| 4.              | Update IFR Runway Edge Lights                | Update lights. These are white lights, except on instrument runways where yellow replace white on the last 2,000 feet or half the runway length, whichever is less, to form a caution zone for landings. |
| 5.              | Approach Lighting System                     | Replace approach lighting system with sequenced, Flashing, lead in lights. This creates a higher level of safety and provides operators with higher reliability of a successful landing.                 |

### **ROADS TO RESOURCES**

- | <u>Priority</u> | <u>Project Name</u>             | <u>Project Description</u>  |
|-----------------|---------------------------------|---|
| 1.              | POW Minerals and HydropowerRoad | Construct road access to POW mine and hydro-electric project sites, including Reynolds Creek, Niblack Mine, and Bokan Mountain sites. |

### **ALTERNATIVE TRANSPORTATION PRIORITIES**

- | <u>Priority</u> | <u>Project Name</u>      | <u>Project Description</u>  |
|-----------------|--------------------------|---|
| 1.              | Community Transit System | Establish an Island-wide bus system to connect communities and transportation hubs. |



- |    |   |  |
|----|---|--|
| 2. | Roads and Trails vegetation control     | Mechanical not chemical means for controlling noxious and/or invasive plants.                                |
| 3. | Prince of Wales North End Ferry Service | General support of future efforts to establish a ferry from the North End to neighboring island communities. |

**NON-MOTORIZED FACILITY PRIORITIES**

- |    |                              |  |
|----|------------------------------|--|
| 1. | Craig-Klawock Path           | Construct a multi-use path for 4.7 miles along the highway between Craig and Klawock. Consider joint venture on project with State of Alaska as electrical transmission line owner, Alaska Power and Telephone, and communities. |
| 2. | Multiple Use Paths           | Construct multi-use paths along the mainline road system Prince of Wales Island.   |
| 3. | POW Discovery/Visitor Center | Planning, design, and construction of a POW Discovery/visitor’s center.  |

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded to the Bureau of Indian Affairs, US Forest Service and FHWA Western Federal Lands Division in Vancouver, Washington, Alaska Department of Transportation and Public Facilities, Governor Mike Dunleavy, Senator Bert Stedman, Rep. Dan Ortiz, Rep. Jonathan Kreiss-Tomkins, and other members of the Alaska Legislature that represent Southeast Alaska communities.

**PASSED AND APPROVED** this 25th day of January, 2022 by the Prince of Wales Community Advisory Council.

POWCAC Chair

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Member Approvals:



**CITY OF THORNE BAY  
RESOLUTION 22-02-01-02**

**A RESOLUTION OF THE CITY COUNCIL, FOR THE CITY OF THORNE BAY, ALASKA, SUPPORTING THE APPLICATION TO RECEIVE ADEC SERVICES FOR ADDITIONAL BROWNFIELDS ASSESMENT, CLEANUP PLANNING, AND CLEANUP OF HAZARDOUS MATERIALS FROM THE OLD FIRE HALL**

**WHEREAS**, the City Council is the governing body of the City of Thorne Bay, Alaska; and

**WHEREAS**, the City of Thorne Bay Old Fire Hall has been listed as a Brownfields site due to contamination with cement asbestos siding on the exterior of the building and in the soil as well as petroleum contamination in the ground along the walls of the building and assumed, to also have migrated under the building; and

**WHEREAS**, the City of Thorne Bay had a Property Assessment and Cleanup Plan (PACP) prepared in 2010 through the Alaska Department of Environmental Conservation's (DEC) Reuse and Redevelopment initiative; and

**WHEREAS**, the 2010 PACP was updated in 2021 by Addendum to the 2010 PACP which included the discover of petroleum contaminated soils and an updated cost for site cleanup estimated at \$250,812; and

**WHEREAS**, Pearl Nelson Memorial Park is adjacent to the Old Fire Hall and the City has planned for Park expansion and updates, which include the community constructed covered picnic shelter with future plans to add an outdoor fireplace; and

**WHEREAS**, with a full asbestos abatement, structure demolition and hazardous material cleanup at the long unused adjacent property, the community could move forward with plans for the Pearl Nelson Memorial Park expansion and put this property back into service as a beneficial public use; and

**WHEREAS**, the City cannot afford the costly site cleanup on its own and is seeking every opportunity to find available funding partners/programs to assist with this cleanup; and

**WHEREAS**, the DEC Brownfield Assessment & Cleanup (DBAC) program has been assisting Alaskan communities get contaminated land back into reuse since 2003 by providing communities environmental services which means that applicants selected for funding can expect DEC to handle the hiring of an environmental contractor and completing the required paperwork the U.S. EPA; and

**WHEREAS**, the DBAC program is currently accepting applications for cleanup assistance where eligible applicants and owners can apply to receive environmental services and the City finds this to be a good opportunity to seek further help from DEC to begin the cleanup planning, demolition and other site cleanup work needed for beneficial property reuse.

**NOW, THEREFORE, BE IT RESOLVED** the City Council for the City of Thorne Bay, Alaska, supports the 2022 DBAC application for DEC/Contractor services to complete any additional assessments as needed, cleanup planning, and cleanup of the hazardous materials from the Old Fire Hall and the City property where it is located and directs staff to complete and submit the application ahead of the February 11, 2022 deadline and further authorizes the Mayor to sign any and all awards, agreements, contracts or other such future documents related to this application as may be required from time to time by the DBAC program.

**PASSED AND APPROVED** by a duly constituted quorum of the City Council for the City of Thorne Bay, Alaska, this 1<sup>st</sup> Day of February, 2022.

ATTEST:

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Lee Burger, Mayor

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Lisa Roseland, Appointed, Acting City Clerk



CITY OF THORNE BAY  
ORDINANCE 22-02-01-01

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA,  
AMENDING TITLE 3 – REVENUE AND FINANCE, CHAPTER 3.12 – PURCHASING,  
TITLED AND NUMBERED AS PROVIDED HEREIN

BE IT ENACTED BY THE CITY COUNCIL FOR THE CITY OF THORNE BAY ALASKA

- Section 1. **Classification.** This ordinance is of a general and permanent nature, the chapter and section hereby amended shall be added to the Thorne Bay Municipal Code.
- Section 2. **Severability.** If any provisions of this ordinance or any application thereof to any person or circumstances is held invalid, the circumstances shall not be affected thereby.
- Section 3. **Amendment.** The Title and Chapter of TBMC, Title 3 – Revenue & Finance, Chapter 3.12 – Purchasing, in the Thorne Bay City Code is hereby amended by amending sections 3.12.010 through 3.12.240, Amending Chapter to be titled as 3.12-Procurement, and Section amendments to be numbered as, 3.12.010 through 3.12.230, said Title and Sections shall hereby be amended and added to the Thorne Bay Municipal Code as it reads on pages 4-26, of this ordinance.
- Section 4. **Effective Date.** This ordinance shall become effective upon adoption.

PASSED AND APPROVED BY A DULY CONSTITUTED QUORUM ON : February 1, 2022  
WITH A VOTE OF \_\_\_ YEAS AND \_\_\_ NAYS.

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Lee Burger, Mayor

ATTEST:

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Lisa Roseland, Acting City Clerk

[Sponsor: Mayor Burger ]  
[Introduction Hearing: January 4, 2022]  
[Public Hearing: February 1, 2022]

ADDITIONS ARE IN BLUE AND CAPITALIZED

~~Deletions are red and stricken~~

AMENDING TBMC  
TITLE 3 – REVENUE AND FINANCE  
CHAPTER 3.12 - PURCHASING

SUMMARY OF AMENDMENTS:

- Renaming Chapter 3.12 from “Purchasing” to “Procurement”
- Updating the purchasing policy to provide a clear guide to the procurement of materials, supplies, equipment and contracts for services.
- Changes the limit for when the City must seek Council approval for expenditures from \$2,000.00, to be more in line with today’s cost of living.

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SECTIONS:

~~3.12.010 PURCHASING AGENT-CREATED PURPOSE.~~

- ~~A. There will be a purchasing agent for the city to make all purchases of supplies, materials, equipment, and contractual services for the offices, departments and agencies of the city.~~
- ~~B. The mayor or his/her designee will be the city purchasing agent.~~

THE PURPOSE OF THIS CHAPTER IS TO:

- A. ESTABLISH CONSISTENT PROCUREMENT PRINCIPLES FOR ALL DEPARTMENTS OF THE CITY;
- B. MAXIMIZE TO THE FULLEST EXTENT PRACTICABLE THE PURCHASING VALUE OF CITY FUNDS;
- C. CLEARLY DEFINE AUTHORITY FOR THE PURCHASING FUNCTION WITHIN THE CITY ORGANIZATION; AND
- D. ENCOURAGE LOCAL PROCUREMENT, STRENGTHEN AND STABILIZE THE LOCAL ECONOMY, DECREASE LOCAL UNEMPLOYMENT, STRENGTHEN THE TAX AND REVENUE BASE OF THE CITY, AND ASSIST SMALL AND DISADVANTAGED BUSINESSES IN LEARNING HOW TO DO BUSINESS WITH THE CITY.

~~3.12.020 PURCHASING AGENT AUTHORITY DEFINITIONS.~~

- ~~A. The purchasing agent will have the authority and it shall be his/ her responsibility to purchase or contract for supplies, materials, equipment, and contractual services needed by any using office, department or agency of the city and to sell surplus or obsolete personal property of such using office, department or agency in accordance with the ordinances of the city and such rules and regulations as shall be prescribed by the mayor and approved by the city council.~~
- ~~B. The purchasing agent will have the authority to join with other units of government in cooperative purchasing ventures when the best interests of the city would be served thereby, and same is in accordance with the city and state laws.~~
- ~~C. The purchasing agent shall have bond to the municipality in a sum which the council directs. (Ord. 98-07 §§ 3(part), 4(part), 1998: Ord. 85-01-17-02 § 2, 1985)~~

AS USED IN THIS CHAPTER:

“BID” MEANS ANY RESPONSE TO A PUBLIC SOLICITATION FOR THE PURPOSE OF ACQUIRING GOODS OR SERVICES THAT PROVIDES AN OPPORTUNITY FOR QUALIFIED VENDORS TO COMPETE, EITHER MONETARILY OR BASED ON OTHER PREDETERMINED CRITERIA.

“CONSTRUCTION” MEANS THE ON-SITE ERECTION, ALTERATION, EXTENSION, REPAIR, IMPROVEMENT OR DEMOLITION OF ANY PUBLIC STRUCTURE, BUILDING, FACILITY, ROAD OR HIGHWAY, OR OTHER IMPROVEMENTS OF ANY KIND TO ANY PUBLIC REAL PROPERTY. THIS INCLUDES PAINTING AND REDECORATING OF STRUCTURES, BUILDINGS OR REAL PROPERTY, BUT DOES NOT INCLUDE ROUTINE OPERATION, MINOR REPAIR OR MAINTENANCE. CONSTRUCTION IS A CONTRACTUAL SERVICE.

“CONTRACT” MEANS ALL TYPES OF CITY AGREEMENTS, REGARDLESS OF WHAT THEY MAY BE CALLED, FOR THE PROCUREMENT OR DISPOSAL OF SUPPLIES, OR CONTRACTUAL SERVICES.

“CONTRACT AMENDMENT” MEANS ANY CHANGE OR MODIFICATION IN THE TERMS OF A CONTRACT ACCOMPLISHED BY AGREEMENT OF THE PARTIES, INCLUDING CHANGE ORDERS.

“CONTRACTOR” MEANS THE PERSON OR FIRM WHO HAS ENTERED INTO A BINDING CONTRACT OR AGREEMENT WITH THE CITY TO PROVIDE SUPPLIES, SERVICES, PROFESSIONAL SERVICES, CONSTRUCTION OR DISPOSAL OF SURPLUS SUPPLIES.

“CONTRACTUAL SERVICES” MEANS SERVICES PERFORMED FOR THE CITY BY PERSONS NOT IN THE EMPLOYMENT OF THE CITY AND MAY INCLUDE THE USE OF EQUIPMENT OR THE FURNISHING OF COMMODITIES IN CONNECTION WITH SUCH SERVICES UNDER EXPRESS OR IMPLIED CONTRACT. CONTRACTUAL SERVICES SHALL INCLUDE TRAVEL; FREIGHT; EXPRESS; PARCEL POST; POSTAGE; TELEPHONE; TELEGRAPH; UTILITIES; RENTS; PRINTING AND BINDING; REPAIRS; ALTERATIONS AND MAINTENANCE OF BUILDINGS, EQUIPMENT, STREETS, BRIDGES AND OTHER PHYSICAL FACILITIES OF THE CITY; AND OTHER SERVICES PERFORMED FOR THE CITY BY PERSONS NOT IN THE EMPLOYMENT OF THE CITY. CONTRACTUAL SERVICES INCLUDE PROFESSIONAL SERVICES AND CONSTRUCTION.

“CRISIS,” “EMERGENCY,” OR “DISASTER” MEANS AN UNANTICIPATED EVENT OR SET OF CIRCUMSTANCES THAT REQUIRES IMMEDIATE ACTION TO AVOID THREATS TO LIFE OR PROPERTY OR TO AVOID AN IMMEDIATE, SIGNIFICANT LIABILITY TO THE CITY, OR TO OTHERWISE RESPOND TO SUCH THREATS OR DAMAGE RESULTING THEREFROM AS DECLARED IN ACCORDANCE WITH THE CITY CHARTER AND CODE.

“FINANCIAL INTEREST” MEANS A DIRECT OR INDIRECT PECUNIARY OR MATERIAL BENEFIT ACCRUING TO A CITY OFFICIAL OR EMPLOYEE AS A RESULT OF A CONTRACT OR TRANSACTION BY OR WITH THE CITY EXCEPT FOR SUCH CONTRACTS OR TRANSACTIONS WHICH BY THEIR TERMS AND BY SUBSTANCE OF THEIR PROVISIONS CONFER THE OPPORTUNITY AND RIGHT TO REALIZE THE ACCRUAL OF SIMILAR BENEFITS TO ALL OTHER PERSONS AND/OR PROPERTY SIMILARLY SITUATED. A FINANCIAL INTEREST DOES NOT INCLUDE CITY PAID REMUNERATION FOR OFFICIAL DUTIES OR CITY EMPLOYMENT. A PERSON HAS A FINANCIAL INTEREST IN A DECISION IF A SUBSTANTIAL POSSIBILITY EXISTS THAT A FINANCIAL INTEREST OF THAT PERSON MIGHT VARY WITH THE OUTCOME OF THE DECISION.



A FINANCIAL INTEREST OF AN EMPLOYEE OR OFFICIAL INCLUDES:

1. ANY FINANCIAL INTEREST OF A MEMBER OF THAT PERSON'S IMMEDIATE FAMILY, WHICH IS DEFINED AS A PERSON'S PARENTS, SPOUSES, SIBLINGS, AND CHILDREN;
2. ANY FINANCIAL INTEREST IN AN ENTITY IN WHICH THAT PERSON OR A MEMBER OF HIS IMMEDIATE FAMILY HAS AN OWNERSHIP INTEREST, OR IS A DIRECTOR, OFFICER OR EMPLOYEE;
3. ANY FINANCIAL INTEREST OF A PERSON OR ENTITY WITH WHOM THE EMPLOYEE OR OFFICIAL OR A MEMBER OF HIS IMMEDIATE FAMILY OR AN ENTITY DESCRIBED IN SUBSECTION (2) OF THIS DEFINITION HAS OR IS LIKELY TO ACQUIRE A CONTRACTUAL RELATIONSHIP RELATING TO THE TRANSACTION IN QUESTION.

"IMMEDIATE FAMILY" MEANS A PERSON'S PARENTS, SPOUSE, SIBLINGS, AND CHILDREN.

"INVITATION TO BID" MEANS ALL DOCUMENTS, WHETHER ATTACHED OR INCORPORATED BY REFERENCE, UTILIZED FOR SOLICITING BIDS.

"LOCAL BIDDER" MEANS A BIDDER THAT IS NOT DELINQUENT IN THE PAYMENT OF ANY TAXES, FEES, ASSESSMENTS, OR OTHER CHARGES OWING THE CITY AND SATISFIES ONE OF THE REQUIREMENTS SET FORTH IN SUBSECTIONS (1) THROUGH (3) OF THIS DEFINITION FOR A PERIOD OF EIGHTEEN CONSECUTIVE MONTHS IMMEDIATELY PRIOR TO THE OPENING OF A COMPETITIVE CITY BID FOR WHICH THE BIDDER WISHES TO UTILIZE THE LOCAL BIDDER PREFERENCE:

1. IF THE BIDDER IS A CORPORATION OR LIMITED LIABILITY COMPANY, THE BIDDER'S PRIMARY BUSINESS ADDRESS HAS A CITY OF THORNE BAY POSTAL ZIP CODE, AS REFLECTED ON THE BIDDER'S STATE OF ALASKA BUSINESS LICENSE OR THE RECORDS OF THE STATE OF ALASKA DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, DIVISION OF CORPORATIONS;
2. IF THE BIDDER IS AN INDIVIDUAL, THE BIDDER'S PRIMARY BUSINESS OR RESIDENTIAL ADDRESS HAS A CITY OF THORNE BAY POSTAL ZIP CODE, AS REFLECTED ON THE BIDDER'S STATE OF ALASKA BUSINESS LICENSE;
3. IF THE BIDDER IS A GENERAL PARTNERSHIP, A LIMITED PARTNERSHIP, OR A JOINT VENTURE, AT LEAST ONE OF THE GENERAL PARTNERS HAS A POSTAL ZIP CODE COMPLIANT WITH SUBSECTION (1) OR (2) OF THIS DEFINITION.

"PERSON" MEANS AN INDIVIDUAL, GROUP OF INDIVIDUALS, BUSINESS, ENTITY, NONBUSINESS ASSOCIATION, OTHER GOVERNMENTAL ENTITY, OR ADVISORY BOARD CREATED BY THE CITY.

"PROCUREMENT" MEANS BUYING, PURCHASING, RENTING, LEASING OR OTHERWISE ACQUIRING SUPPLIES, SERVICES, PROFESSIONAL SERVICES OR CONSTRUCTION, INCLUDING DESCRIPTION OF REQUIREMENTS, SELECTION AND

SOLICITATION OF SOURCES, PREPARATION AND AWARD OF CONTRACT, AND ALL PHASES OF CONTRACT ADMINISTRATION.

“PROCUREMENT AGENT” MEANS THE MAYOR, CITY ADMINISTRATOR, CITY CLERK, FINANCE OFFICER OR DESIGNEE WITH PROCUREMENT AUTHORITY.

“PROFESSIONAL SERVICES” MEANS ALL ADVISORY, CONSULTING, TECHNICAL, RESEARCH OR OTHER SERVICES, SUCH AS ARCHITECTURAL, ENGINEERING, LAND SURVEYING, LEGAL AND FINANCIAL, WHICH INVOLVE THE EXERCISE OF DISCRETION AND INDEPENDENT JUDGMENT TOGETHER WITH AN ADVANCED OR SPECIALIZED KNOWLEDGE, EXPERTISE OR TRAINING GAINED BY FORMAL STUDIES OR EXPERIENCE.

“PURCHASE ORDER” MEANS A DOCUMENT AUTHORIZING A SELLER TO DELIVER SUPPLIES, MATERIALS, OR EQUIPMENT WITH PAYMENT TO BE MADE AT A LATER DATE. A PURCHASE ORDER SETS FORTH THE DESCRIPTIONS, QUANTITIES, PRICES, DISCOUNTS, PAYMENT TERMS, DATE OF PERFORMANCE OR SHIPMENT, OTHER ASSOCIATED TERMS AND CONDITIONS, AND IDENTIFIES A SPECIFIC SELLER.

“REQUEST FOR PROPOSALS” MEANS ALL DOCUMENTS, WHETHER ATTACHED OR INCORPORATED BY REFERENCE, UTILIZED FOR SOLICITING PROPOSALS.

“REQUEST FOR QUALIFICATIONS” MEANS ALL DOCUMENTS, WHETHER ATTACHED OR INCORPORATED BY REFERENCE, UTILIZED FOR SOLICITING QUALIFICATIONS.

“RESPONSIBLE BIDDER” OR “RESPONSIBLE OFFEROR” MEANS A PERSON WHO HAS THE CAPABILITY IN ALL RESPECTS TO PERFORM FULLY THE CONTRACT REQUIREMENTS, AND THE INTEGRITY AND RELIABILITY, WHICH WILL ASSURE GOOD FAITH PERFORMANCE.

“RESPONSIVE BIDDER” MEANS A PERSON WHO HAS SUBMITTED A BID THAT CONFORMS IN ALL MATERIAL RESPECTS TO THE INVITATION FOR BIDS.

“STANDARD SPECIFICATION” MEANS A DESCRIPTION OF GENERALLY APPLICABLE REQUIREMENTS FOR A SPECIFIC TYPE OF PROCUREMENT INCLUDING BUT NOT LIMITED TO REQUIREMENTS FOR PERFORMANCE, LICENSING, INSPECTING, TESTING AND DELIVERY.

“SUPPLIES” MEANS ANY TANGIBLE PERSONAL PROPERTY OR CONSUMABLES.

### 3.12.030 ~~PURCHASING AGENT POWERS AND DUTIES~~ ETHICS.

~~The purchasing agent will:~~

- ~~A. Minimum Expenditure. Act to procure for the city, the highest quality in supplies and contractual services at the least expense to the city;~~
- ~~B. Rules and Regulations. Recommend to the city council the establishment, and amendment when necessary, of all rules and regulations pertaining to purchasing;~~
- ~~C. Purchasing Analysis. Keep informed of current developments in the field of purchasing, prices, market conditions and new products, and secure for the city the benefits of research done in the field of purchasing by other governmental jurisdictions, national recognition, and by private businesses and organizations;~~
- ~~D. Forms. Prescribe and maintain such forms as he/she may find reasonably necessary;~~
- ~~E. Tax Exemptions. Act so as to procure for the city all state and federal tax exemptions to which it is entitled. (Ord. 85-01-17-02 § 3, 1985)~~

- A. IT SHALL BE A CONFLICT OF INTEREST FOR ANY EMPLOYEE TO PARTICIPATE DIRECTLY OR INDIRECTLY IN A PROCUREMENT WHEN THE EMPLOYEE KNOWS THAT:
  - 1. THE EMPLOYEE OR ANY MEMBER OF THE EMPLOYEE'S IMMEDIATE FAMILY HAS A FINANCIAL INTEREST PERTAINING TO THE PROCUREMENT;
  - 2. A BUSINESS OR ORGANIZATION IN WHICH THE EMPLOYEE, OR ANY MEMBER OF THE EMPLOYEE'S IMMEDIATE FAMILY, HAS A FINANCIAL INTEREST PERTAINING TO THE PROCUREMENT; OR
  - 3. ANY OTHER PERSON, BUSINESS, OR ORGANIZATION WITH WHOM THE EMPLOYEE OR ANY MEMBER OF THE EMPLOYEE'S IMMEDIATE FAMILY IS NEGOTIATING OR HAS AN ARRANGEMENT CONCERNING PROSPECTIVE EMPLOYMENT IS INVOLVED IN THE PROCUREMENT.
- B. ALL EMPLOYEES SHALL FILE AND MAINTAIN A STATEMENT OF POTENTIAL CONFLICTS OF INTEREST WITH THE CITY CLERK. THE STATEMENT OF POTENTIAL CONFLICTS OF INTERESTS SHALL IDENTIFY ALL PERSONS THAT WOULD PRESENT A CONFLICT OF INTEREST IF THE EMPLOYEE WERE TO PROCURE SUPPLIES OR CONTRACTUAL SERVICES FROM THEM AND DESCRIBE THE NATURE OF THE CONFLICT. THE CITY ADMINISTRATOR MAY PRECLUDE OR OTHERWISE LIMIT AN EMPLOYEE'S AUTHORITY TO PROCURE FROM PERSONS THAT PRESENT A POTENTIAL CONFLICT OF INTEREST.
- C. UPON DISCOVERY OF AN ACTUAL CONFLICT OF INTEREST, AN EMPLOYEE SHALL PROMPTLY FILE A WRITTEN STATEMENT DESCRIBING THE CONFLICT OF INTEREST WITH THE CITY ADMINISTRATOR. THE CITY ADMINISTRATOR MAY REQUIRE THE EMPLOYEE TO WITHDRAW FROM FURTHER PARTICIPATION OR OTHERWISE LIMIT THE EMPLOYEE'S PARTICIPATION IN THE PROCUREMENT INVOLVED.
- D. EVERY OFFICER AND EMPLOYEE OF THE CITY IS EXPRESSLY PROHIBITED FROM ACCEPTING DIRECTLY OR INDIRECTLY FROM ANY PERSON TO WHICH ANY SUCH CONTRACT IS OR MIGHT BE AWARDED ANY REBATE, GIFT, MONEY OR ANYTHING OF PECUNIARY VALUE, EXCEPT WHERE GIVEN FOR THE USE AND BENEFIT OF THE CITY OR WHERE ACCEPTED WITH THE EXPRESS CONSENT OF THE CITY COUNCIL.

- E. NO PERSON SHALL OFFER, GIVE OR AGREE TO GIVE ANY EMPLOYEE OR FORMER EMPLOYEE, NOR SHALL ANY EMPLOYEE OR FORMER EMPLOYEE SOLICIT, DEMAND, ACCEPT OR AGREE TO ACCEPT FROM ANOTHER PERSON A GRATUITY, KICKBACK OR OFFER OF EMPLOYMENT IN CONNECTION WITH ANY DECISION, APPROVAL, DISAPPROVAL, RECOMMENDATION, PREPARATION OR ANY PART OF A PROCUREMENT.
- F. NO EMPLOYEE SHALL BE RETAINED NOR RETAIN ANOTHER PERSON TO SOLICIT OR SECURE A CITY CONTRACT UPON AN AGREEMENT OF UNDERSTANDING FOR A COMMISSION, PERCENTAGE, BROKERAGE OR OTHER CONTINGENT FEE.
- G. NO PAYMENT, GRATUITY OR OFFER OF EMPLOYMENT SHALL BE MADE BY OR ON BEHALF OF A SUBCONTRACTOR UNDER A CONTRACT TO A PRIME CONTRACTOR OR HIGHER TIER SUBCONTRACTOR OR ANY PERSON ASSOCIATED WITH A CONTRACT AS AN INDUCEMENT FOR AWARD OF A SUBCONTRACT OR ORDER.

**3.12.040 ~~INSPECTION AND TESTING~~ MANNER OF MAKING PROCUREMENTS GENERALLY.**

- ~~A. The purchasing agent will inspect, as far as possible, and supervise the inspection of all deliveries of supplies or contractual services to determine their conformance with the specifications set forth in the order or contract.~~
- ~~B. Inspection by Using Agency. The purchasing agent will have the authority to authorize using agencies having the staff and facilities for adequate inspection to inspect all deliveries made to such agencies under rules and regulations which the agent will prescribe.~~
- ~~C. Tests. The purchasing agent will have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, the purchasing agent will have the authority to make use of laboratory facilities of any agency of the city government or other laboratory that may be available. (Ord. 85-01-17-02 § 4, 1985)~~

- A. THE PROCUREMENT OF ALL SUPPLIES, MATERIALS, EQUIPMENT AND CONTRACTUAL SERVICES FOR THE OFFICES, DEPARTMENTS AND AGENCIES OF THE CITY GOVERNMENT SHALL BE MADE BY THE PURCHASING AGENT AS DEFINED IN SECTION 3.12.020, AND IN ACCORDANCE WITH PURCHASE AUTHORIZATIONS PROVIDED UNDER THIS CHAPTER.
- B. ALL PROCUREMENTS FOR CONTRACTUAL SERVICES ESTIMATED BY THE PROCUREMENT AGENT TO BE OVER TEN THOUSAND DOLLARS IN VALUE SHALL BE MEMORIALIZED IN A FORMAL WRITTEN CONTRACT TO BE EXECUTED BY THE PARTIES BOUND TO ITS TERMS AND SETTING OUT THE SPECIFIC TERMS OF PERFORMANCE. PROCUREMENTS FOR CONTRACTUAL SERVICES ESTIMATED BY THE PROCUREMENT AGENT TO BE UNDER TEN THOUSAND DOLLARS IN VALUE MAY BE COMPLETED BY PURCHASE ORDER. ALL PROCUREMENTS FOR SUPPLIES, MATERIALS, AND EQUIPMENT MAY BE COMPLETED BY PURCHASE ORDER. ALL CONTRACTS SHALL INCLUDE STANDARD TERMS AND CONDITIONS APPROVED BY THE MAYOR.

- C. SUBJECT TO THE LIMITATIONS OF THIS SECTION, ANY TYPE OF CONTRACT WHICH WILL PROMOTE THE BEST INTERESTS OF THE CITY MAY BE USED. A COST REIMBURSEMENT CONTRACT MAY BE USED ONLY WHEN A DETERMINATION IS MADE IN WRITING THAT SUCH CONTRACT IS LIKELY TO BE LESS COSTLY TO THE CITY THAN ANY OTHER TYPE OR THAT IT IS IMPRACTICABLE TO OBTAIN THE SUPPLIES OR CONTRACTUAL SERVICES REQUIRED EXCEPT UNDER SUCH A CONTRACT.
- D. ALL PROVISIONS OF THIS CHAPTER ARE SUBJECT TO, AND SUBORDINATE TO, PROCUREMENT REQUIREMENTS OF THE STATE OR FEDERAL GOVERNMENT WHERE REQUIRED BY LAW INCLUDING BUT NOT LIMITED TO CONTRACTS WHERE STATE OR FEDERAL GRANT REVENUES ARE USED.
- E. WHERE APPLICABLE, ALL CITY CONTRACTS MUST COMPLY WITH THE PUBLIC CONTRACT REQUIREMENTS PROVIDED BY STATE STATUTE AND REGULATION INCLUDING BUT NOT LIMITED TO:
  - 1. WAGE AND HOUR REQUIREMENTS UNDER AS 36.05;
  - 2. LOCAL HIRE AND EMPLOYEE PREFERENCE REQUIREMENTS UNDER AS 36.10;
  - 3. CONTRACTOR BONDING REQUIREMENTS UNDER AS 36.25;
  - 4. PUBLIC CONSTRUCTION CONTRACT PAYMENT REQUIREMENTS UNDER AS 36.90; AND
  - 5. MANDATORY CONTRACTUAL PROVISION REQUIREMENTS UNDER AS 36.90.
- F. THE CITY CLERK SHALL ESTABLISH AND MAINTAIN LISTS OF PERSONS WHO DESIRE TO PROVIDE SUPPLIES, SERVICES, PROFESSIONAL SERVICES OR CONSTRUCTION SERVICES TO THE CITY.
  - 1. A PERSON WHO DESIRES TO BE ON A BIDDER'S LIST SHALL SUBMIT TO THE CITY CLERK EVIDENCE OF A VALID STATE BUSINESS LICENSE AND A DESCRIPTION OF THE SUPPLIES OR SERVICES THE PERSON DESIRES TO PROVIDE. A CONSTRUCTION CONTRACTOR SHALL ALSO SUBMIT A VALID CERTIFICATE OF REGISTRATION ISSUED UNDER AS 08.18. THE CITY CLERK MAY REQUIRE SUBMISSION OF ADDITIONAL INFORMATION.
  - 2. THE LIST MAY BE USED BY THE CITY PROCUREMENT AGENT RESPONSIBLE FOR THE PROCUREMENT WHEN ISSUING INVITATIONS TO BID OR REQUESTS FOR PROPOSALS.
- G. THE CITY SHALL MAKE REASONABLE EFFORTS TO SOLICIT BIDS AND PROPOSALS FROM LOCAL SUPPLIERS AND CONTRACTORS.

**3.12.050 ~~MAYOR AUTHORITY~~ LIMITATIONS ON DURATION OF CITY CONTRACTS.**

~~The mayor or his/her designee may transfer supplies, materials, and equipment to or between offices, agencies or departments. (Ord. 98-07 §§ 3(part), 4(part), 1998: Ord. 85-01-17-02 § 5, 1985)~~

- A. ALL CONTRACTS MUST, BY THE TERMS THEREOF, BE FULLY EXECUTED WITHIN A PERIOD OF FIVE YEARS UNLESS A MAJORITY OF THE CITY COUNCIL WHO VOTE THEREON HAVE APPROVED THE CONTRACT PRIOR TO EXECUTION.

- B. THIS REQUIREMENT DOES NOT APPLY TO CONTRACTS CONCERNING INTERESTS IN REAL PROPERTY, FRANCHISES, CONTRACTS FOR SERVICES WITH A PUBLIC UTILITY OR WITH OTHER GOVERNMENTAL UNITS, OR TO CONTRACTS FOR DEBT SECURED BY THE BONDS OR NOTES OF THE CITY.

**3.12.060 ~~PUBLIC IMPROVEMENT CONTRACTS~~ APPROVAL OF CITY COUNCIL REQUIRED - PROCUREMENTS.**

~~Except as provided in this chapter, contracts for public improvements for any amount estimated to exceed ten thousand dollars shall be by competitive sealed bid and be awarded to the lowest responsible bidder. (Ord. 98-07 §§ 3(part), 4(part), 1998; Ord. 85-01-17-02 § 6, 1985)~~

EVERY PROCUREMENT OF BUDGETED SUPPLIES, MATERIALS, EQUIPMENT OR CONTRACTUAL SERVICES FOR MORE THAN TWENTY-FIVE THOUSAND DOLLARS SHALL REQUIRE THE APPROVAL OF THE CITY COUNCIL. PROCUREMENTS OVER FIVE THOUSAND DOLLARS FOR SUPPLIES, MATERIALS, EQUIPMENT, OR CONTRACTUAL SERVICES THAT (A) ARE NOT SPECIFICALLY IN BUDGET FOR THE YEAR OF PROCUREMENT OR (B) EXCEED THE BUDGETED AMOUNT REQUIRE COUNCIL APPROVAL. FOR EACH BUDGETED PROCUREMENT BETWEEN FIVE THOUSAND DOLLARS AND TWENTY-FIVE THOUSAND DOLLARS THAT DOES NOT REQUIRE COUNCIL APPROVAL, THE CITY COUNCIL SHALL BE NOTIFIED BY WRITTEN REPORT DETAILING SUCH PROCUREMENT AT THE NEXT REGULAR CITY COUNCIL MEETING FOLLOWING SUCH PROCUREMENT. SUCH NOTIFICATION SHALL INCLUDE:

- A. THE DOLLAR AMOUNT OF THE PROCUREMENT;
- B. THE NAME OF THE SUPPLIER OR CONTRACTOR;
- C. A STATEMENT REGARDING WHY THE CHOSEN SUPPLIER OR CONTRACTOR WAS MOST ADVANTAGEOUS TO THE CITY.

**3.12.070 ~~PRIOR COUNCIL APPROVAL REQUIRED WHEN~~ EMERGENCY PROCUREMENTS.**

~~Every contract for, or purchase of, supplies, materials, equipment or contractual services for more than two thousand dollars (excluding day to day city operational expenses such as utilities, insurances, payroll, etc.) will require the prior approval of the city council; and under no circumstances may such contracts or purchase be made without first obtaining the approval of the council.~~

- ~~A. Any proposed project exceeding Ten thousand dollars (\$10,000.00) being presented to the City Council must answer the following questions:~~
- ~~1. What is the proposed project, objectives, cost and location?~~
  - ~~2. What is the reason for the project being proposed (e.g., health, safety, public and resident access, financial, housing or Real Estate development, harbor development or other needs)?~~
  - ~~3. What would it mean not to meet the need for the project action?~~

- ~~4. What other actions would meet the same need, and/or are there other firms that could supply the needed service for a lower cost?~~
- ~~5. What would be the consequence of the project in terms of adverse effects?~~
- ~~6. If there are possible adverse effects, what can be done to lessen these effects? This question must answer if the costs of mitigation are built into the project.~~
- ~~7. If there are ways to alleviate adverse effects, who will be responsible for this mitigation?~~

~~These questions shall be answered in writing in two pages, or less by the employee, or person, or entity, proposing any action that requires city funds, or administration of City funds, or funds granted to the City by the State, Federal Governments. The public may comment on these answers during any council consideration of projects. The City Council may forego these questions for projects deemed needed in emergencies (i.g., utility failures washed out roads, or disasters, or other events the Council deems an emergency).~~

THE PROVISIONS OF THIS CHAPTER MAY BE WAIVED DURING TIMES OF CRISIS, EMERGENCY OR DISASTER FOR NO LONGER THAN SEVEN DAYS WHEN OPERATING UNDER A DECLARATION OF EMERGENCY ISSUED BY THE MAYOR. ALL PROVISIONS OF THIS CHAPTER WAIVED WHILE OPERATING UNDER A DECLARATION OF EMERGENCY ISSUED BY THE MAYOR SHALL BE REPORTED TO THE CITY COUNCIL VIA ELECTRONIC MAIL WITHIN TWENTY-FOUR HOURS FOLLOWING ANY SUCH WAIVER. THE CITY COUNCIL MAY WAIVE THE PROVISIONS OF THIS CHAPTER FOR A DEFINITE PERIOD LONGER THAN SEVEN DAYS BY RESOLUTION. THE CITY ADMINISTRATOR OR AUTHORIZED SUCCESSOR SHALL HAVE THE RESPONSIBILITY TO PROTECT THE INTEREST OF THE CITY CONSISTENT WITH PRUDENT AND APPROPRIATE EMERGENCY RESPONSES.

### 3.12.080 **ESTIMATES** APPROVAL OF CITY COUNCIL REQUIRED – MODIFICATIONS AND CHANGE ORDERS.

- ~~A. All offices, departments or agencies of the city that use supplies will, either by or with authorization of the department head under which the using office, department or agency operates, file with the purchasing agent estimates of their requirements for supplies, materials, equipment and contractual services in such a manner, at such times, and for such future periods as the purchasing agent will prescribe.~~
  - ~~B. Unforeseen Requirements. A using office, department or agency will not be prevented from filing, in the same manner, with the purchasing agent at any time an estimate for any supplies, materials, equipment and contractual services, the need for which was not foreseen when the detailed estimates were filed.~~
  - ~~C. Revisory Power in Agent. The purchasing agent will examine each estimate and shall have the authority to revise the estimate as to quantity, quality or estimated cost.~~
- A. A PROPOSED MODIFICATION OR CHANGE ORDER TO AN EXISTING CITY CONTRACT SHALL REQUIRE THE APPROVAL OF THE CITY COUNCIL WHEN THE PROPOSED MODIFICATION OR CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY TEN THOUSAND DOLLARS OR MORE. NO WORK MAY PROCEED UNDER A MODIFICATION

OR CHANGE ORDER REQUIRING CITY COUNCIL APPROVAL PRIOR TO APPROVAL BY THE CITY COUNCIL.

- B. THE COUNCIL SHALL BE NOTIFIED BY WRITTEN REPORT AT ITS NEXT REGULAR MEETING OF ANY MODIFICATION OR CHANGE ORDER IN EXCESS OF FIVE THOUSAND DOLLARS. SUCH NOTIFICATION SHALL INCLUDE:
1. THE DOLLAR AMOUNT OF THE ORIGINAL CONTRACT;
  2. THE NUMBER OF PREVIOUS MODIFICATIONS OR CHANGE ORDERS;
  3. THE DOLLAR AMOUNT OF EACH PREVIOUS MODIFICATION OR CHANGE ORDER AND THE TOTAL AGGREGATED DOLLAR AMOUNT OF THE PREVIOUS MODIFICATIONS AND CHANGE ORDERS;
  4. THE TOTAL DOLLAR AMOUNT OF THE CONTRACT AS MODIFIED OR CHANGED; AND
  5. A STATEMENT EXPLAINING THE JUSTIFICATION OR NEED FOR THE MODIFICATION OR CHANGE ORDER.
- C. MODIFICATIONS AND CHANGE ORDERS SHALL NOT BE ARBITRARILY DIVIDED INTO SMALLER AMOUNTS TO AVOID COUNCIL APPROVAL THEREOF.
- D. NOTWITHSTANDING ANY OF THE FOREGOING PROVISIONS OF THIS SECTION, THE CITY MAY MAKE MODIFICATIONS OR CHANGE ORDERS IN ANY CITY CONTRACT WITHOUT COUNCIL APPROVAL WHERE IN THE JUDGMENT OF THE CITY ADMINISTRATOR A CRISIS, EMERGENCY OR DISASTER AS DEFINED IN SECTION 3.12.020 EXISTS WHICH REQUIRES IMMEDIATE ACTION TO REMEDY AND WHERE THERE IS INSUFFICIENT TIME OR IT IS IMPRACTICAL TO OBTAIN COUNCIL APPROVAL. NOTICE OF SUCH CRISIS, EMERGENCY OR DISASTER MODIFICATIONS OR CHANGE ORDERS CONTAINING THE INFORMATION SET FORTH IN SUBSECTION B OF THIS SECTION SHALL BE PRESENTED TO THE COUNCIL NO LATER THAN ITS NEXT REGULAR MEETING.

**3.12.090 ~~CONTRACTS OVER TEN THOUSAND DOLLARS~~ SPECIFICATIONS AND CONTRACTS.**

~~Unless otherwise prohibited or exempted by the ordinances of the city, all contracts and purchases for any amount estimated to exceed ten thousand dollars shall be by competitive sealed bid. (Ord. 85-01-17-02 § 9, 1985)~~

- A. THE CITY ADMINISTRATOR SHALL ADOPT POLICIES AND PROCEDURES GOVERNING THE PREPARATION, REVISION AND CONTENT OF STANDARD SPECIFICATIONS, STANDARD PLANS AND CONTRACTS FOR SUPPLIES, SERVICES, PROFESSIONAL SERVICES AND CONSTRUCTION REQUIRED BY A DEPARTMENT. THE CITY ADMINISTRATOR SHALL MONITOR THE USE OF THESE STANDARD CONTRACTING DOCUMENTS AND PROCEDURES.
- B. THE CITY ADMINISTRATOR MAY OBTAIN EXPERT ADVICE AND ASSISTANCE FROM DEPARTMENT PERSONNEL IN THE DEVELOPMENT OF STANDARD SPECIFICATIONS AND CONTRACTS. ALL CONTRACT SPECIFICATIONS, FORMS AND PROCEDURES MUST PROMOTE OVERALL ECONOMY FOR THE PURPOSES INTENDED AND ENCOURAGE COMPETITION IN SATISFYING THE CITY'S NEEDS, AND MAY NOT BE UNDULY RESTRICTIVE.



### 3.12.100 ~~BIDS-NOTICE~~ COMPETITIVE PROCUREMENT PROCEDURE.

~~A. Newspaper. Notice inviting competitive sealed bids will be published once in a newspaper of general circulation published in the city and by posting in at least three separate places in the city, at least fourteen days preceding the last day set for the receipt of bids. The notice required therein will include a general description of the work, or materials or service, will state where bid forms and specifications may be secured, the closing time for submission of bids and place of submission and the time and place of opening of bids. Bid deposits if they are required will be prescribed in the public notices inviting the bids.~~

~~B. Bidder List. The city will also invite sealed bids from all responsible prospective contractors who have requested that their names be added to a bidder list, which the city shall maintain, by sending them a copy of such notice or such other notice as will acquaint them with the proposed contract. In any case, invitations sent to the contractors on the bidders list will be limited to work that is similar in character and ordinarily performed by the contractors to which the invitations are sent. Failure of any person on the bidders list to receive such invitation to bid shall not invalidate the bidding procedures. (Ord. 85-01-17-02 § 10, 1985)~~

- A. BEFORE THE PROCUREMENT OF, OR CONTRACT FOR, SUPPLIES, MATERIALS, EQUIPMENT OR CONTRACTUAL SERVICES IN AN AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS OR LESS IS MADE, EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, THE CITY SHALL SUBMIT TO AT LEAST THREE PERSONS DEALING IN AND ABLE TO SUPPLY THE SAME AN INVITATION TO BID OR REQUEST FOR PROPOSAL AND SPECIFICATIONS TO GIVE THEM OPPORTUNITY TO SUBMIT A PROPOSAL OR BID. IN THE EVENT THAT THREE PERSONS CANNOT REASONABLY BE FOUND, FEWER MAY BE USED WHEN IT IS DEEMED TO BE IN THE BEST INTEREST OF THE CITY.
- B. FOR PROCUREMENT OF, OR CONTRACT FOR, SUPPLIES, MATERIALS, EQUIPMENT OR CONTRACTUAL SERVICES IN AN AMOUNT GREATER THAN TWENTY-FIVE THOUSAND DOLLARS, AN INVITATION TO BID OR REQUEST FOR PROPOSAL WILL BE POSTED ON THE CITY WEBSITE, AND THE CITY SHALL EMPLOY SUCH OTHER FORMS OF NOTICE OF SUCH INVITATION TO BID OR REQUEST FOR PROPOSAL AS MAY BE DETERMINED IN THE CITY'S DISCRETION TO ADEQUATELY REACH PROSPECTIVE BIDDERS OR OFFERORS. THE CITY SHALL PROVIDE ADEQUATE NOTICE OF THE INVITATION TO BID OR REQUEST FOR PROPOSAL FOR AT LEAST FOURTEEN DAYS UNLESS OTHERWISE REQUIRED BY STATE OR FEDERAL LAW. AMONG THE FORMS OF NOTICE EMPLOYED BY THE CITY, THE CITY MAY IN ITS DISCRETION:
  - 1. PUBLISH SUCH INVITATION, REQUEST, OR NOTICE THEREOF IN SUCH NEWSPAPERS OR OTHER PUBLICATIONS CIRCULATED TO REACH PROSPECTIVE BIDDERS;
  - 2. POST NOTICES IN PUBLIC PLACES THOUGHT LIKELY TO REACH PROSPECTIVE BIDDERS.

- C. INVITATIONS TO BID AND/OR REQUESTS FOR PROPOSALS SHALL BE MADE BOTH INSIDE AND OUTSIDE OF THE CITY WHEN NECESSARY TO CREATE COMPETITIVE CONDITIONS, OR WHEN A SAVINGS CAN BE MADE FOR THE CITY.

**3.12.110 ~~CONTRACT DOCUMENTS CHANGES AND ADDENDA~~ COMPETITIVE BIDDING.**

~~No official or officer, and the bid documents will so state, shall make any oral interpretations which may affect the substance of the contract documents. Addenda will be issued when questions arise which might affect the bids. The purchasing agent will be certain that all bidders receive the addenda which should be delivered by certified mail with a return receipt requested, by telegram, or by hand delivery. When delivered by hand, receipt of the addenda should be obtained. When an addendum is issued less than four working days before the time for receipt of bids the addendum will contain a new bid date which will be at least four working days after the normal receipt of the addendum by the prospective bidder. Receipt of addenda will be acknowledged as part of the bid submitted. (Ord. 85-01-17-02 § 11, 1985)~~

- A. PROCUREMENTS SHALL BE MADE BY COMPETITIVE SEALED BIDDING EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER. WHEN COMPETITIVE SEALED BIDDING IS USED, THE PROCUREMENT AGENT SHALL ISSUE AN INVITATION TO BID. THE INVITATION TO BID MUST INCLUDE A TIME, PLACE AND DATE BY WHICH THE BID MUST BE RECEIVED, A DESCRIPTION OF ALL ESSENTIAL CONTRACTUAL TERMS AND CONDITIONS, AND A DESCRIPTION OF ALL REQUIREMENTS AND SELECTION CRITERIA.
- B. WHEN RESPONDING TO THE INVITATION TO BID, THE BIDDER SHALL SUPPLY EVIDENCE OF THE BIDDER'S VALID STATE BUSINESS LICENSE. A BIDDER FOR A CONSTRUCTION CONTRACT SHALL ALSO SUBMIT EVIDENCE OF THE BIDDER'S REGISTRATION UNDER AS 08.18.
- C. LATE BIDS—WITHDRAWALS—CANCELLATION.
1. BIDS RECEIVED AFTER THE BID DATE AND TIME INDICATED ON THE INVITATION TO BID MAY NOT BE CONSIDERED UNLESS THE DELAY WAS DUE TO AN ERROR OF THE CITY, EXCEPT WHERE DELAYS IN MAIL SERVICE CAUSE A LATE BID IN WHICH CASE BIDS POSTMARKED AT LEAST 72 HOURS PRIOR TO THE BID OPENING DATE WILL STILL BE CONSIDERED TIMELY.
  2. CORRECTION OR WITHDRAWAL OF INADVERTENTLY ERRONEOUS BIDS BEFORE OR AFTER BID OPENING, OR CANCELLATION OF AWARDS OR CONTRACTS BASED ON BID MISTAKES, MAY BE PERMITTED IN ACCORDANCE WITH POLICIES ADOPTED BY THE CITY. AFTER BID OPENING, CHANGES IN BID PRICES OR OTHER PROVISIONS OF BIDS PREJUDICIAL TO THE INTEREST OF THE CITY OR FAIR COMPETITION MAY NOT BE PERMITTED. A DECISION TO PERMIT THE CORRECTION OR WITHDRAWAL OF A BID, OR TO CANCEL AN AWARD OR CONTRACT BASED ON A BID MISTAKE, SHALL BE SUPPORTED BY A WRITTEN DETERMINATION MADE BY THE CITY ADMINISTRATOR. IF A BIDDER IS PERMITTED TO WITHDRAW A BID BEFORE AWARD, AN ACTION MAY NOT BE MAINTAINED AGAINST THE BIDDER OR THE BID SECURITY.

D. COMPETITIVE BID OPENING.

1. THE PROCUREMENT AGENT RESPONSIBLE FOR THE PROCUREMENT SHALL OPEN BIDS AT THE TIME AND PLACE DESIGNATED IN THE INVITATION TO BID. ALL BID OPENINGS ARE OPEN TO THE PUBLIC. THE AMOUNT OF EACH BID AND OTHER ESSENTIAL INFORMATION REQUIRED BY THIS CHAPTER, TOGETHER WITH THE NAME OF EACH BIDDER, SHALL BE RECORDED.
2. THE INFORMATION RECORDED UNDER SUBSECTION (D)(1) OF THIS SECTION IS OPEN TO PUBLIC INSPECTION AS SOON AS PRACTICABLE FOLLOWING BID OPENING. TO THE EXTENT THE BIDDER DESIGNATES AND THE CITY ADMINISTRATOR CONCURS, TRADE SECRETS AND OTHER PROPRIETARY DATA CONTAINED IN A BID DOCUMENT MAY BE DEEMED CONFIDENTIAL.

E. THE CITY MAY REPEATEDLY REJECT ALL BIDS, AND AGAIN MAY SUBMIT TO THE SAME OR OTHER PERSONS INVITATION TO BID OR AGAIN PUBLISH NOTICE OF THE PROPOSED PURCHASE.

F. EVALUATION AND AWARD. BIDS SHALL BE EVALUATED BASED ON THE REQUIREMENTS SET FORTH IN THE INVITATION TO BID, WHICH MAY INCLUDE CRITERIA TO DETERMINE ACCEPTABILITY SUCH AS INSPECTION, TESTING, QUALITY, WORKMANSHIP, DELIVERY, AND SUITABILITY FOR A PARTICULAR PURPOSE. THOSE CRITERIA THAT WILL AFFECT THE BID PRICE AND BE CONSIDERED IN EVALUATION FOR AWARD SHALL BE OBJECTIVELY MEASURABLE, SUCH AS DISCOUNTS, TRANSPORTATION COSTS, AND TOTAL OR LIFE CYCLE COSTS. THE CONTRACT SHALL BE AWARDED WITH REASONABLE PROMPTNESS BY WRITTEN NOTICE TO THE LOWEST RESPONSIBLE AND RESPONSIVE BIDDER WHOSE BID MEETS THE CRITERIA SET FORTH IN THE INVITATION TO BID. IN DETERMINING WHETHER A BIDDER IS RESPONSIBLE THE CITY MAY CONSIDER:

1. THE QUALIFICATIONS, ABILITY, CAPACITY AND SKILL OF THE BIDDER TO PERFORM THE CONTRACT;
2. THE AVAILABILITY OF THE BIDDER TO PERFORM THE CONTRACT WITHIN THE TIME SPECIFIED, WITHOUT DELAY OR INTERFERENCE;
3. THE CHARACTER, INTEGRITY, REPUTATION, JUDGMENT, EXPERIENCE AND EFFICIENCY OF THE BIDDER;
4. THE QUALITY OF PERFORMANCE BY THE BIDDER OF PREVIOUS CONTRACTS;
5. THE PREVIOUS AND EXISTING COMPLIANCE BY THE BIDDER WITH LAWS AND ORDINANCES RELATING TO THE CONTRACT;
6. THE SUFFICIENCY OF THE FINANCIAL RESOURCES AND ABILITY OF THE BIDDER TO PERFORM THE CONTRACT.

WHEN THE AWARD IS MADE TO OTHER THAN THE LOWEST BIDDER, A FULL AND COMPLETE WRITTEN STATEMENT OF THE REASONS THEREFOR SHALL BE MAILED OR DELIVERED TO THE UNSUCCESSFUL LOW BIDDER AND FILED WITH THE OTHER DOCUMENTS RELATING TO THE PROCUREMENT.

G. MULTI-STEP BIDDING. WHEN IT IS CONSIDERED IMPRACTICAL TO INITIALLY PREPARE A PURCHASE DESCRIPTION TO SUPPORT AN AWARD BASED ON PRICE, AN INVITATION FOR BIDS MAY BE ISSUED REQUESTING THE SUBMISSION OF UNPRICED OFFERS TO BE

FOLLOWED BY AN INVITATION FOR BIDS LIMITED TO THOSE BIDDERS WHOSE OFFERS HAVE BEEN QUALIFIED UNDER THE CRITERIA SET FORTH IN THE FIRST SOLICITATION.

- H. EXCEPT WHERE PROHIBITED BY STATE OR FEDERAL GRANT REQUIREMENTS, A LOCAL BIDDER, AS DEFINED IN SECTION 3.12.020, MAY BE GIVEN CONSIDERATION AS LOW BIDDER WHERE THE OFFER IS THE LESSER OF TEN PERCENT OR FIFTY THOUSAND DOLLARS IN EXCESS OF THE LOWEST OFFER RECEIVED FROM A BIDDER NOT QUALIFIED AS A LOCAL BIDDER. THE CITY MAY SPLIT THE AWARD BETWEEN TWO OR MORE SUPPLIERS IN ANY MANNER THE CITY DEEMS TO BE IN ITS BEST INTEREST.
- I. PROCUREMENT OF, OR CONTRACT FOR, SUPPLIES, MATERIALS, EQUIPMENT, CONTRACTUAL SERVICES, OR CAPITAL PROJECTS THAT COULD BE SUBJECT TO POTENTIAL FUTURE GRANT REIMBURSEMENTS MAY BE RESTRICTED TO THE PROCUREMENT REQUIREMENTS OF SUCH GRANTS AS UNDERSTOOD AT THE TIME OF PROCUREMENT.

### **3.12.120 ~~PRE-BID CONFERENCE~~ COMPETITIVE PROPOSALS.**

~~All department heads or the purchasing agent may provide for a Pre bid conference at least seven days prior to the time for submission of bids or upon the request of any bidder. All points of clarifications and questions answered at the conference which may affect the bid will be issued in the form of addenda. (Ord. 85-01-17-02 § 12, 1985)~~

- A. A CONTRACT NOT AWARDED BY COMPETITIVE SEALED BIDDING SHALL BE AWARDED BY COMPETITIVE SEALED PROPOSALS, UNLESS OTHERWISE PROVIDED FOR IN THIS CHAPTER.
- B. THE CITY MAY DETERMINE IN WRITING THAT IT IS EITHER IMPRACTICABLE OR DISADVANTAGEOUS FOR THE CITY TO PROCURE SPECIFIED TYPES OF SUPPLIES OR CONTRACTUAL SERVICES BY COMPETITIVE SEALED BIDDING THAT WOULD OTHERWISE BE PROCURED BY THAT METHOD. WHEN THE CITY DETERMINES IN WRITING THAT THE USE OF COMPETITIVE SEALED BIDDING IS EITHER IMPRACTICABLE OR DISADVANTAGEOUS TO THE CITY, A CONTRACT MAY BE ENTERED INTO BY COMPETITIVE SEALED PROPOSALS IN ACCORDANCE WITH THIS SECTION. THE CITY SHALL SPECIFY WITH PARTICULARITY THE BASIS FOR THE DETERMINATION.
- C. A REQUEST FOR PROPOSALS MUST CONTAIN THE ESSENTIAL INFORMATION NECESSARY FOR AN OFFEROR TO SUBMIT A PROPOSAL INCLUDING A TIME, PLACE AND DATE BY WHICH THE PROPOSAL MUST BE RECEIVED OR CONTAIN REFERENCES TO ANY INFORMATION THAT CANNOT REASONABLY BE INCLUDED WITH THE REQUEST. THE REQUEST MUST PROVIDE A DESCRIPTION OF THE FACTORS THAT WILL BE CONSIDERED WHEN EVALUATING THE PROPOSALS RECEIVED, INCLUDING THE RELATIVE IMPORTANCE OF PRICE AND OTHER EVALUATION FACTORS.
- D. NOTICE OF REQUEST FOR PROPOSALS SHALL BE GIVEN IN ACCORDANCE WITH PROCEDURES SET OUT UNDER SECTION 3.12.100(B). THE CITY MAY USE ADDITIONAL MEANS CONSIDERED APPROPRIATE TO NOTIFY PROSPECTIVE OFFERORS OF THE INTENT TO ENTER INTO A CONTRACT THROUGH COMPETITIVE SEALED PROPOSALS.

- E. THE PROCUREMENT AGENT SHALL OPEN PROPOSALS SO AS TO AVOID DISCLOSURE OF CONTENTS TO COMPETING OFFERORS DURING THE PROCESS OF NEGOTIATION. A REGISTER OF PROPOSALS CONTAINING THE NAME AND ADDRESS OF EACH OFFEROR SHALL BE PREPARED IN ACCORDANCE WITH POLICIES ADOPTED BY THE PROCUREMENT AGENT. THE REGISTER AND THE PROPOSALS, EXCEPT AS OTHERWISE NOTED IN THIS SECTION, ARE OPEN FOR PUBLIC INSPECTION AFTER THE AWARD IS ISSUED. TO THE EXTENT THAT THE OFFEROR DESIGNATES AND THE CITY ADMINISTRATOR CONCURS, TRADE SECRETS AND OTHER PROPRIETARY DATA CONTAINED IN THE PROPOSAL DOCUMENTS SHALL BE CONFIDENTIAL.
- F. DISCUSSION WITH RESPONSIBLE OFFERORS AND REVISIONS TO PROPOSALS. AS PROVIDED IN THE REQUEST FOR PROPOSALS, AND UNDER POLICIES ADOPTED BY THE CITY, DISCUSSIONS MAY BE CONDUCTED WITH RESPONSIBLE OFFERORS WHO SUBMIT PROPOSALS DETERMINED TO BE REASONABLY SUSCEPTIBLE OF BEING SELECTED FOR AWARD FOR THE PURPOSE OF CLARIFICATION TO ASSURE FULL UNDERSTANDING OF AND RESPONSIVENESS TO THE SOLICITATION REQUIREMENTS. OFFERORS REASONABLY SUSCEPTIBLE OF BEING SELECTED FOR AWARD SHALL BE ACCORDED FAIR AND EQUAL TREATMENT WITH RESPECT TO ANY OPPORTUNITY FOR DISCUSSION AND REVISION OF PROPOSALS, AND REVISIONS MAY BE PERMITTED AFTER SUBMISSIONS AND BEFORE THE AWARD OF THE CONTRACT FOR THE PURPOSE OF OBTAINING BEST AND FINAL OFFERS. IN CONDUCTING DISCUSSIONS, THE CITY SHALL NOT DISCLOSE INFORMATION DERIVED FROM PROPOSALS SUBMITTED BY COMPETING OFFERORS.
- H. A CONTRACT MAY BE AWARDED UNDER COMPETITIVE SEALED PROPOSALS TO THE RESPONSIBLE OFFEROR WHOSE PROPOSAL IS DETERMINED IN WRITING TO BE THE MOST ADVANTAGEOUS TO THE CITY TAKING INTO CONSIDERATION PRICE AND THE EVALUATION FACTORS SET OUT IN THE REQUEST FOR PROPOSALS. THE CONTRACT FILE MUST CONTAIN THE BASIS UPON WHICH THE AWARD IS MADE.

### ~~3.12.130 BIDS OPENING PROCEDURE~~ OPEN MARKET PURCHASES/PROCUREMENTS.

- ~~A. Submitting. Sealed bids will be submitted personally or by mail to the officer designated in the notice inviting bids and will be identified as bids on the outside of the envelope.~~
- ~~B. Opening. Bids will be opened in public at the times and place so stated in the public notices which will be immediately after the closing time for submission of the bids. Any bidder may review all bids immediately after opening and prior to tabulation or summary.~~
- ~~C. Tabulation. A tabulation of all bids received will be forwarded to the council by the purchasing agent with appropriate recommendations for acceptance or rejection of bids. A copy of the tabulation will be furnished to each bidder.~~

#### THE FOLLOWING MAY BE PURCHASED WITHOUT COMPETITIVE BIDDING:

- A. SUPPLIES, MATERIALS, EQUIPMENT OR CONTRACTUAL SERVICES WHEN COMBINED COST DOES NOT EXCEED TEN THOUSAND DOLLARS IN A SINGLE TRANSACTION;
- B. SUPPLIES, MATERIALS, EQUIPMENT OR CONTRACTUAL SERVICES WHICH CAN ONLY BE FURNISHED BY A SINGLE DEALER, OR WHICH HAS A UNIFORM PRICE WHEREVER BOUGHT;

- C. SUPPLIES, MATERIALS, EQUIPMENT OR CONTRACTUAL SERVICES PROCURED FROM ANOTHER UNIT OF GOVERNMENT AT A PRICE DEEMED BELOW THAT OBTAINABLE FROM PRIVATE DEALERS, INCLUDING WAR SURPLUS;
- D. CONTRACTUAL SERVICES PROCURED FROM A PUBLIC UTILITY CORPORATION AT A PRICE OR RATE DETERMINED BY STATE OR OTHER GOVERNMENT AUTHORITY;
- E. CONTRACTUAL SERVICES OF A PROFESSIONAL NATURE, SUCH AS MEDICAL SERVICES, OR INSURANCE POLICIES WHOSE NATURE DEMANDS IMMEDIATE ACTION;
- F. SUPPLIES, MATERIALS OR EQUIPMENT WHICH CANNOT BE PROCURED LOCALLY AND WHICH CAN BE PROCURED FROM A SOURCE SELECTED BY ANOTHER UNIT OF GOVERNMENT PURSUANT TO COMPETITIVE BIDDING PROCEDURES TO PROVIDE THE SAME OR SIMILAR SUPPLIES, MATERIALS OR EQUIPMENT IF:
  - 1. THE AWARD WAS MADE BY THE GOVERNMENTAL UNIT; AND
  - 2. THE ITEM(S) CAN BE PROCURED AT THE SAME PRICE PLUS ADDITIONAL FREIGHT OR DELIVERY CHARGES IF APPLICABLE;
- G. THE CITY ENCOURAGES LOCAL PROCUREMENT WHENEVER PRACTICABLE. PROCUREMENTS MADE UNDER THIS SECTION SHALL ONLY BE MADE AFTER A REASONABLE ATTEMPT TO EVALUATE PROCUREMENT OPTIONS FROM A LOCAL SOURCE;
- H. PROFESSIONAL SERVICES SUCH AS, BUT NOT LIMITED TO, SERVICES RENDERED BY ARCHITECTS, ATTORNEYS, ENGINEERS, APPRAISERS, SURVEYORS, ACCOUNTANTS AND OTHER SPECIALIZED CONSULTANTS PROVIDED, THAT THE PROCEDURES SET OUT IN SECTION 3.12.140 ARE FOLLOWED.
- I. WHEN PUBLIC WORK IS PERFORMED BY THE CITY WITH ITS OWN EMPLOYEES.
- J. TO CONTRACTS PRIMARILY INVOLVING THE PURCHASING OF SUPPLIES, MATERIALS, EQUIPMENT, OR CONTRACTUAL SERVICES USING STATE OR FEDERAL GRANTS WHEN THE GRANT FUNDS ARE BEING SPENT BY A STATE OR FEDERAL AGENCY PURSUANT TO THAT STATE OR FEDERAL AGENCY'S PROCUREMENT RULES AND REGULATIONS.
- K. WHEN EITHER COMPETITIVE PROCEDURE HAS BEEN FOLLOWED, BUT NO BIDS OR QUOTATIONS ARE RECEIVED. IN SUCH A CASE, THE PURCHASING AGENT MAY PROCEED TO HAVE THE SERVICES PERFORMED OR THE SUPPLIES PURCHASED WITHOUT FURTHER COMPETITIVE BIDDING OR QUOTATION.
- L. WHEN THE CITY COUNCIL DETERMINES THAT THE PUBLIC INTEREST WOULD BE BEST SERVED BY THE PURCHASE OF USED EQUIPMENT AND, BY RESOLUTION, AUTHORIZES THE PURCHASING AGENT TO LOCATE AND PURCHASE A PARTICULAR TYPE AND QUANTITY OF USED EQUIPMENT.
- M. WHERE CALLING FOR BIDS ON A COMPETITIVE BASIS IS UNAVAILING AND IMPOSSIBLE, INCLUDING BUT NOT LIMITED TO SITUATIONS WHERE RATES ARE SET BY STATUTE OR ORDINANCE OR WHERE LIKE ITEMS ARE TRADED IN, OR WHERE USED ITEMS ARE BEING PURCHASED.

**3.12.140 ~~BIDS-REJECTION~~ PROFESSIONAL SERVICES.**

- ~~A. Upon receipt of the bids, the city council or its delegate will have the authority to:~~
- ~~1. Reject defective or nonresponsive bids;~~

- ~~2. Reject all bids;~~
  - ~~3. Negotiate with the three lowest responsible bidders, if bid prices are in excess of the money available;~~
  - ~~4. Re-advertise the project for bidding, after making substantial changes in the project plans to bring the cost within the limit of money available.~~
- ~~B. Negotiation. If the lowest and best bid exceeds the budgeted amount and the city council does not make additional funds available, the proposed contract for purchase or sale or for services or for construction projects will be reduced in scope sufficiently to bring the estimate of cost within the funds available. (Ord. 85-01-17-02 § 14, 1985)~~

A. DUE TO THE NATURE OF PROFESSIONAL SERVICES, IT IS IN THE BEST INTEREST OF THE CITY TO USE A QUALITATIVE SELECTION PROCESS, WITH OR WITHOUT CONSIDERATION FOR PRICE, IN THE CITY'S DISCRETION, WHEN IN NEED OF THESE SERVICES.

1. FOR PROFESSIONAL SERVICES ESTIMATED BY THE CITY TO BE ONE HUNDRED THOUSAND DOLLARS OR LESS, DIRECT SOLICITATION OF CONTRACTORS OR CONSULTANTS MAY BE MADE FROM A ROSTER MAINTAINED BY THE CITY, OR TO SUCH OTHER VENDORS WHO MAY BE KNOWN TO THE CITY AS POSSESSING THE REQUIRED EXPERTISE. THESE SOLICITATIONS WILL SEEK TO EVALUATE THE QUALIFICATIONS, EXPERIENCE, AND AVAILABILITY OF PARTICULAR VENDORS. WHEN MORE THAN ONE VENDOR IS CONSIDERED, THE PROCUREMENT AGENT WILL APPOINT A SELECTION PANEL TO EVALUATE THE POTENTIAL VENDORS AND OFFER A RECOMMENDATION FOR SELECTION.
  2. FOR PROFESSIONAL SERVICES ESTIMATED BY THE CITY TO BE MORE THAN ONE HUNDRED THOUSAND DOLLARS, A FORMAL REQUEST FOR QUALIFICATIONS WILL BE SOLICITED. PUBLIC NOTICE OF REQUESTS FOR QUALIFICATIONS WILL BE GIVEN IN ACCORDANCE WITH THE SAME PROCEDURES SET FORTH IN SECTION 3.12.100(B). THE PROCUREMENT AGENT WILL DEVELOP AND PUBLISH QUALITATIVE SELECTION CRITERIA FOR EVALUATING ALL RESPONSES TO REQUESTS FOR QUALIFICATIONS RECEIVED. IN MULTI-PHASE PROJECTS THE CITY MAY CONTRACT WITH A PROFESSIONAL SERVICES PROVIDER THAT HAS PROVIDED PROFESSIONAL SERVICES IN AN EARLIER PHASE OF THE SAME PROJECT, WITHOUT THE SOLICITATION OF FORMAL REQUEST FOR QUALIFICATIONS, IN ORDER TO MAINTAIN PROJECT CONTINUITY OR TO OTHERWISE PROMOTE THE BEST INTEREST OF THE CITY.
- B. THE PROVISIONS OF SECTIONS 3.12.060 AND 3.12.080 APPLY TO ALL PROFESSIONAL SERVICES CONTRACTS.
- C. THE DURATION OF PROFESSIONAL SERVICES CONTRACTS MAY NOT EXCEED TWO YEARS, EXCEPT FOR COMPLETION OF WORK IN PROGRESS UNDER ARCHITECTURAL OR ENGINEERING CONTRACTS.

### ~~3.12.150 BIDS-WAIVER OF IRREGULARITIES~~ HYBRID PROCUREMENTS.

~~The city council will have the authority to waive any and all irregularities on any or all bids.~~

WHEN CONTRACTING FOR PROCUREMENT OF SUPPLIES, MATERIALS, EQUIPMENT OR CONTRACTUAL SERVICES, AS CONTEMPLATED UNDER SECTION 3.12.110, AND PROFESSIONAL SERVICES, AS CONTEMPLATED UNDER SECTION 3.12.140, WITHIN THE SAME CONTRACT, THE CITY SHALL UTILIZE THE PROCEDURES SET FORTH IN SECTION 3.12.120.

**3.12.160 AWARD OF CONTRACT CONSTRUCTION MANAGER/GENERAL CONTRACTOR CONTRACTS.**

- ~~A. Lowest Responsible Bidder. Contracts will be awarded to the lowest responsible bidder. In determining the lowest responsible bidder, in addition to price, there will be considered:~~
- ~~1. The ability, capacity and skill of the bidder to perform the contract;~~
  - ~~2. Whether the bidder can perform the contract within the time specified, without delay or interference;~~
  - ~~3. The quality of performance of previous contracts;~~
  - ~~4. The previous and existing compliance by the bidder with laws and ordinances relating to the contract;~~
  - ~~5. Sufficiency of the financial resources and ability of the bidder to perform the contract;~~
  - ~~6. If some bids are approximately equal, preference may be given to local bidders, if the cost differential is less than ten percent between the parties. For the purpose of this chapter, "local bidder" shall be defined as a bidder who:~~
    - ~~i. Has a current state business license;~~
    - ~~ii. Submits a bid under the name that appears on the current state business license;~~
    - ~~iii. Maintains a business within the boundary of the city ninety days immediately preceding the date of the bid;~~
    - ~~iv. Is not delinquent in the payment of taxes, charges, assessments owing to the city on the account of the business making the bid.~~
  - ~~7. The city council may require such document or verification by the person claiming to be a local bidder as deemed necessary to establish the requirements as in this section.~~
- ~~B. Award to Other than Low Bidder. When the award is given to other than the lowest bidder, A full and complete written statement of the reasons therefor will be delivered to the unsuccessful low bidder or bidders and filed with the other papers relating to the transaction. The minutes of the city council meeting relating to the matter may be used as the required written statement.~~
- ~~C. Award to Delinquent Contractor. The city shall not make an award under this section to a contractor who is delinquent in the payment of taxes, charges, assessments or fees owed to the city by the contractor's business, unless the contractor immediately brings all overdue accounts current or authorizes the city to deduct the delinquent amount, plus any late fees or interest from the amount.~~
- ~~(Ord. 02-03-21-01 § 3, 2002; Ord. 98-07 §§ 3(part), 4(part), 1998; Ord. 89-05 § 4(part), 1989; Ord. 85-01-17-02 § 16, 1985)~~

THE CITY MAY AWARD A TWO-PHASE CONSTRUCTION MANAGER/GENERAL CONTRACTOR CONTRACT FOR PRECONSTRUCTION SERVICES AND CONSTRUCTION SERVICES ON A



SINGLE PROJECT.

- A. IN THE PRECONSTRUCTION SERVICES PHASE OF A CONTRACT UNDER THIS SECTION, THE CONTRACTOR SHALL PROVIDE THE CITY WITH ADVICE FOR SCHEDULING, WORK SEQUENCING, COST ENGINEERING, CONSTRUCTABILITY, COST ESTIMATING, AND RISK IDENTIFICATION.
- B. PRIOR TO THE START OF THE CONSTRUCTION SERVICES PHASE, THE CITY AND THE CONTRACTOR MAY AGREE TO A PRICE AND OTHER FACTORS FOR THE CONSTRUCTION OF THE PROJECT OR A PORTION OF THE PROJECT.
- C. IF AN AGREEMENT IS REACHED UNDER SUBSECTION B OF THIS SECTION, THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CONSTRUCTION OF THE PROJECT OR PORTION OF THE PROJECT AT THE NEGOTIATED PRICE AND IN COMPLIANCE WITH THE OTHER FACTORS SPECIFIED IN THE AGREEMENT.
- D. A CONTRACT SHALL BE AWARDED UNDER THIS SECTION USING THE COMPETITIVE SELECTION PROCESS SET OUT IN SECTION 3.12.120 AND BASED ON QUALIFICATIONS, EXPERIENCE, BEST VALUE, OR ANY OTHER COMBINATION OF FACTORS DEEMED RELEVANT TO THE PROCUREMENT.

**3.12.170 ~~SEALED BIDDING SUBMISSION EXCEPTIONS~~ CONTRACTOR BONDING REQUIREMENTS.**

~~The restrictions and provisions of this chapter do not apply:~~

- ~~A. To contracts involving the obtaining of professional or specialized services such as, but not limited to, services rendered by architects, attorneys, engineers, appraisers, surveyors, accountants and other specialized consultants;~~
- ~~B. Where calling for bids on a competitive basis is unavailing and impossible, including but not limited to situations where rates are set by statute or ordinance or where like items are traded in, or where used items are being purchased;~~
- ~~C. Where the city's requirements can be met solely by an article or process obtainable only from a single source;~~
- ~~D. To placement of insurance coverage;~~
- ~~E. When public work is performed by the city with its own employees;~~
- ~~F. When it is advantageous to the city to enter into a contract with a bidder for the same supplies or services such bidder is providing another Alaskan local government, the state of Alaska, or the United States where such supplies and services are being provided the other governmental unit on the basis of formal bids submitted, and where the city contract is on substantially the same terms and those bid; or the contract is with or through such other governmental unit so that the benefit of the responsible bid accrues to the city;~~
- ~~G. To contracts primarily involving the purchasing of supplies, materials, equipment, or contractual services using state or federal grants when the grant funds are being spent by a state or federal agency pursuant to that state or federal agency's procurement rules and regulations;~~

- ~~H. When either competitive procedure has been followed, but no bids or quotations are received. In such a case, the purchasing agent may proceed to have the services performed or the supplies purchased without further competitive bidding or quotation;~~
- ~~I. When supplies, materials, equipment or contractual services are purchased from another unit of government at a price deemed below that obtainable from private dealers, including war surplus;~~
- ~~J. When contractual services are purchased from a public utility corporation at a price or rate determined by state or other government authority; and~~
- ~~K. When the city council determines that the public interest would be best served by the purchase of used equipment and, by resolution, authorizes the purchasing agent to locate and purchase a particular type and quantity of used equipment. (Ord. 98-07 §§ 3(part), 4(part), 1998; Ord. 85-01-17-02 § 17, 1985)~~

A. BEFORE A CONTRACT EXCEEDING ONE HUNDRED THOUSAND DOLLARS FOR THE CONSTRUCTION, ALTERATION, OR REPAIR OF A PUBLIC BUILDING OR PUBLIC WORK IS AWARDED TO A GENERAL OR SPECIALTY CONTRACTOR, THE CONTRACTOR SHALL FURNISH TO THE CITY THE FOLLOWING BONDS, WHICH BECOME BINDING UPON THE AWARD OF THE CONTRACT TO THAT CONTRACTOR:

1. A PERFORMANCE BOND WITH A CORPORATE SURETY QUALIFIED TO DO BUSINESS IN THE STATE, OR AT LEAST TWO INDIVIDUAL SURETIES WHO SHALL EACH JUSTIFY IN A SUM EQUAL TO THE AMOUNT OF THE BOND; THE AMOUNT OF THE PERFORMANCE BOND SHALL BE EQUIVALENT TO THE AMOUNT OF THE PAYMENT BOND.
2. A LABOR AND MATERIALS PAYMENT BOND WITH A CORPORATE SURETY QUALIFIED TO DO BUSINESS IN THE STATE, OR AT LEAST TWO INDIVIDUAL SURETIES WHO SHALL EACH JUSTIFY IN A SUM EQUAL TO THE AMOUNT OF THE BOND, FOR THE PROTECTION OF ALL PERSONS WHO SUPPLY LABOR AND MATERIAL IN THE PROSECUTION OF THE WORK PROVIDED FOR IN THE CONTRACT. WHEN THE TOTAL AMOUNT PAYABLE BY THE TERMS OF THE CONTRACT IS NOT MORE THAN ONE MILLION DOLLARS, THE LABOR AND MATERIALS PAYMENT BOND SHALL BE IN A SUM OF ONE-HALF THE TOTAL AMOUNT PAYABLE BY THE TERMS OF THE CONTRACT; WHEN THE TOTAL AMOUNT PAYABLE BY THE TERMS OF THE CONTRACT IS MORE THAN ONE MILLION DOLLARS AND NOT MORE THAN FIVE MILLION DOLLARS, THE PAYMENT BOND SHALL BE IN A SUM OF FORTY PERCENT OF THE TOTAL AMOUNT PAYABLE BY THE TERMS OF THE CONTRACT; WHEN THE TOTAL AMOUNT PAYABLE BY THE TERMS OF THE CONTRACT IS MORE THAN FIVE MILLION DOLLARS, THE PAYMENT BOND SHALL BE IN THE SUM OF TWO MILLION FIVE HUNDRED THOUSAND DOLLARS.

B. THE CITY HEREBY EXERCISES ITS OPTION UNDER AS 36.25.025 TO EXEMPT CONTRACTORS FROM COMPLIANCE WITH THE PROVISIONS OF SUBSECTION A OF THIS SECTION AND AS 36.25.010(A) IF THE ESTIMATED COST OF THE PROJECT DOES NOT EXCEED FOUR HUNDRED THOUSAND DOLLARS AND:

1. THE CONTRACTOR IS, AND FOR TWO YEARS IMMEDIATELY PRECEDING THE AWARD OF THE CONTRACT HAS BEEN, A LICENSED CONTRACTOR HAVING ITS PRINCIPAL OFFICE IN THE STATE;
2. THE CONTRACTOR CERTIFIES THAT IT HAS NOT DEFAULTED ON A CONTRACT AWARDED TO THE CONTRACTOR DURING THE PERIOD OF THREE YEARS PRECEDING THE AWARD OF A CONTRACT FOR WHICH A BID IS SUBMITTED;
3. THE CONTRACTOR SUBMITS A FINANCIAL STATEMENT, PREPARED WITHIN A PERIOD OF NINE MONTHS PRECEDING THE SUBMISSION OF A BID FOR THE CONTRACT AND CERTIFIED BY A PUBLIC ACCOUNTANT OR A CERTIFIED PUBLIC ACCOUNTANT LICENSED UNDER AS 08.04, DEMONSTRATING THAT THE CONTRACTOR HAS A NET WORTH OF NOT LESS THAN TWENTY PERCENT OF THE AMOUNT OF THE CONTRACT FOR WHICH THE BID IS SUBMITTED;
4. THE TOTAL AMOUNT OF ALL CONTRACTS THAT THE CONTRACTOR ANTICIPATES PERFORMING DURING THE TERM OF PERFORMANCE OF THE CONTRACT FOR WHICH A BID IS SUBMITTED DOES NOT EXCEED THE NET WORTH OF THE CONTRACTOR REPORTED IN THE CERTIFIED FINANCIAL STATEMENT PREPARED AND SUBMITTED UNDER SUBSECTION (B)(3) OF THIS SECTION BY MORE THAN SEVEN TIMES.

#### ~~3.12.180 CONTRACTS OF THREE HUNDRED DOLLARS OR LESS RECORDS.~~

~~Purchases of supplies, materials, equipment and contractual services where the actual cost, excluding freight, is three hundred dollars or less may be made on the open market without competitive bidding or quotations. (Ord. 98-07 §§ 3(part), 4(part), 1998: Ord. 85-01-17-02 § 18, 1985)~~

ALL PROCUREMENT RECORDS SHALL BE RETAINED AND DISPOSED OF IN ACCORDANCE WITH CITY RECORDS RETENTION GUIDELINES AND SCHEDULES APPROVED BY THE CITY COUNCIL AND CITY CLERK.

#### ~~3.12.190 CONTRACTS BETWEEN THREE HUNDRED AND TEN THOUSAND DOLLARS REVIEW AND APPROVAL BY THE MAYOR AND/OR CITY ATTORNEY.~~

- ~~A. All purchases of supplies, materials, equipment and contractual services of a total estimated value of more than three hundred dollars and less than ten thousand dollars may be made in the open market without newspaper advertisement but otherwise observing the procedure prescribed by this chapter for formal purchasing and sale procedures.~~
- ~~B. Minimum Number of Bids. All open market purchases or sales will whenever possible, be based on at least three competitive bids and will be awarded to the lowest responsible bidder in accordance with the standards set forth in Sections 3.12.090 and 3.12.170.~~
- ~~C. Invitation to Bid. The purchasing agent may solicit either oral or written bids for open market purchases or sales.~~

~~D. Public Record. The purchasing agent will keep a record of all open market bids submitted in competition thereon; and such records will also be open to public inspection. (Ord. 98-07 §§ 3(part), 4(part), 1998; Ord. 85-01-17-02 § 19, 1985)~~

**CONTRACTS AND STANDARD SPECIFICATIONS, TERMS, AND CONDITIONS MAY BE REVIEWED AND APPROVED AS TO FORM BY THE MAYOR OR CITY ATTORNEY AT THE DISCRETION OF THE MAYOR.**

### **3.12.200 INSURANCE POLICIES.**

- A. The city will purchase policies of insurance following the open market procedures provided in this chapter.
- B. Open market procedures will not be required for a policy that:
  - 1. Has an annual premium or charge less than three hundred dollars;
  - 2. Provides liability coverage for a single event;
  - 3. Is for property title insurance;
  - 4. Has its premium or charge fixed by state statute;
  - 5. Is health, life, or disability insurance procured by the city for the benefit of city employees, their spouses or dependents made available to the city as a political subdivision of the state; or;
  - 6. Is provided through a joint insurance arrangement as set forth in AS 21.76.
- C. Open market procedures are not required for a change in policies in effect, or to acquire policies supplemental to an existing policy if the policies in effect cannot be changed; provided the change or supplemental policies are approved by the council. (Ord. 98-07 §§ 3(part), 4(part), 1998; Ord. 85-01-17-02 § 20, 1985)

### **3.12.210 SUBDIVISION PROHIBITED.**

No project or contract specifications will be subdivided to avoid the requirements of this chapter. This provision will not apply in the event that a funding source is located by the city which will pay a portion of an overall project; in that event, the portion that is being paid from a separate source may be deducted from an overall project or contract. (Ord. 85-01-17-02 § 21, 1985)

### ~~3.12.220 EMERGENCY CONTRACTS.~~

~~Whenever, because of an emergency, it is deemed necessary and in the public interest by the mayor to enter into any contract for the purchase of supplies, materials, equipment, or contractual services without following the competitive bidding procedures required by this chapter, or without obtaining council approval as required in Section 3.12.070, the mayor will authorize such emergency contract if the estimated sum involved is less than ten thousand dollars. If the estimated contract sum involved is greater than ten thousand dollars the mayor will refer any proposed emergency contract to the council for its approval and authorization to waive the competitive bid procedures. (Ord. 98-07 §§ 3(part), 4(part), 1998; Ord. 85-01-17-02 § 22, 1985)~~

### **3.12.2320 ENCUMBRANCE OF FUNDS.**

Except in cases of emergency declared by the mayor or the council, as provided in this chapter, no contract or any change order to an existing contract will be authorized unless there is a sufficient unencumbered balance in the budget appropriation of the using agency or sufficient bond funds available, in excess of actual expenditures or commitments, to cover such contract or change order. (Ord. 85-01-17-02 § 23, 1985)

### **3.12.2430 BILLING-PAYMENT CERTIFICATION.**

- A. The city administrator, or his/her designee, shall certify all bills for payment.
- B. The city administrator, or his/her designee, will ensure that such payments are fiscally regular, legal, and within budgetary constraints. (Ord. 98-07 §§ 3(part), 4(part), 1998: Ord. 85-01-17-02 § 24, 1985)