

TEMPLE TERRACE CODE
CHAPTER 5 – PURCHASING AND COMPETITIVE BIDDING

Section 5.500 DEFINITIONS.

The following words, terms and phrases are hereby defined as follows and shall be interpreted as such throughout this Chapter. Terms not herein defined shall have the meaning customarily assigned to them.

(a) **Commodity** shall mean any of the various supplies, materials, goods, merchandise, equipment, services, and other personal property purchased, leased, or otherwise contracted for by the City unless coming within the definition of public works contracts. However, commodities purchased for resale are excluded from the provisions of this Chapter.

(b) **Lowest responsible bidder** shall mean the lowest bidder whose offer best responds in quality, fitness, and capacity to the requirements of the proposed work or usage as specified. In determining the lowest responsible bidder, the following shall be considered in addition to price:

- (1) The quality of supplies offered;
- (2) The ability, capacity and skill of the bidder to perform the contract or provide the supplies or services promptly, or within the time specified, without delay or interference;
- (3) Whether the bidder can perform the contract or provide the supplies or services promptly, or within the time specified, without delay or interference;
- (4) The sufficiency of the bidder's financial resources and the effect thereof on his ability to perform the contract or provide the supplies or services;
- (5) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- (6) The quality of the bidder's performance on previous orders or contracts with the City;
- (7) Litigation by the bidder on previous orders or contracts with the City;
- (8) The previous and existing compliance by the bidder with local laws and ordinances relating to the purchase or contract; and
- (9) The ability of the bidder to provide future maintenance and service is essential.

(c) **Public works contracts** shall mean all contracts involving construction for the City. Any construction involving a project related to, but not included in, a project for which the City has contracted is not exempted from the competitive bidding procedures set forth in this Chapter, notwithstanding its relationship to a project which has been previously bid upon.

Section 5.505 SYSTEM ADOPTED.

In order to establish efficient procedures for the acquisition or use of supplies, equipment, and commodities; to secure for the City supplies, equipment, and commodities at the lowest possible cost commensurate with quality needed; to exercise positive financial control over purchases; to clearly define and implement the purchasing function, and to assure the quality of purchases, a purchasing system is hereby adopted as provided in this Chapter.

Section 5.510 PURCHASING AGENT.

The City Manager is the Purchasing Agent for the City with ultimate responsibility under this Chapter. He may, at his discretion, delegate some or all of his authority, except authority to make the final decision, to any City employee or employees. The City Manager or his delegated authority shall have the authority to:

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- (a) Purchase or lease or contract for the purchase of commodities required for or by the City in accordance with purchasing procedures prescribed by this Chapter, and in accordance with such administrative regulations as the City Manager may prescribe for internal management and operation of the Finance Department;
- (b) Negotiate and recommend execution of contracts for the purchase of commodities;
- (c) Act to procure for the City the needed quality in commodities at least expense;
- (d) Discourage uniform bidding and endeavor to obtain full and open competition on all purchases;
- (e) Prepare revisions and amendments to the purchasing regulations and recommend the same to the City Council;
- (f) Prepare rules governing the purchase of commodities for the City;
- (g) Keep informed of current developments in the field of purchasing, prices, market conditions, and new products;
- (h) Prescribe and maintain such forms as reasonably necessary to the operation of this Chapter and other rules and regulations;
- (i) Supervise the inspection of all supplies and equipment purchased to ensure conformance with specifications;
- (j) Recommend the transfer of surplus and unused supplies and equipment between departments as needed;
- (k) Conduct all sales of personal property that has become unnecessary or unfit for the City's use.

Section 5.515 SUBMITTAL OF REQUESTS TO PURCHASE COMMODITIES.

Departments shall submit requests to purchase commodities to the Purchasing Agent, or his representative, on purchase requisition forms or by other means as may be prescribed by the Finance Department. The Department Director's electronic authorization, or the electronic authorization of his designated representative, on that requisition shall signify that funds are available for the purchase; that the requisition has been coordinated and approved within that department or other department(s) as necessary; and specifications described fit the minimum needs of that department.

Section 5.520 PURCHASE ORDERS TO BE USED.

Purchases of commodities shall be made only by purchase order. Except as otherwise provided in this Chapter, no purchase order shall be issued without the prior approval of the City Manager or his designee.

Section 5.525 PURCHASE OVER TWENTY-FIVE THOUSAND DOLLARS.

Except as otherwise provided in this Chapter, the purchase of commodities of an estimated value of twenty-five thousand dollars (\$25,000.00) or more shall be by written contract with the lowest responsible bidder whose bid has been solicited, received, and approved pursuant to the following procedures:

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(a) **Notice inviting sealed bids.** Notices inviting sealed bids shall include a general description of the articles to be purchased, shall state where bid blanks and all specifications may be obtained, and shall state the time and place for opening of sealed bids. Bids shall be solicited by published notice, published at least once in a newspaper of general circulation within the City. The published notice for invitations to bid shall be given not less than five (5) calendar days prior to the bid opening date set forth in the notice. Along with published notice, sealed bids may be solicited from responsible prospective suppliers known to the City.

(b) **Bidders' security.** When deemed necessary by the City Manager, bidders' security may be prescribed in the public notices inviting bids. Bidders shall be entitled to return of bid security provided that a successful bidder shall forfeit his bid security upon his refusal or failure to execute the contract within ten (10) days after the notice of award of contract has been mailed, unless the City is solely responsible for the delay in executing the contract. The City Council may, on refusal or failure of the successful bidder to execute the contract, award the contract to the next lowest bidder. The amount of the lowest bidder's security shall be applied by the City to the contract price differential between the lowest bid and the second lowest bid and the surplus, if any, shall be returned to the lowest bidder.

(c) **Bid opening procedures.** Sealed written bids shall be returned to the City and identified as "bids" (to include the name of the commodity or service) on the envelope. Bids shall be opened publicly in the presence of one or more witnesses at the time and place stated in the public notices. The amount of each bid and such other relevant information that the City Manager or his designee deems appropriate, together with the name of each bidder, shall be recorded and made available to the public.

(d) **Correction or withdrawal of bids.** Correction or withdrawal of inadvertently erroneous bids before bid opening may be permitted where appropriate. Mistakes discovered before the bid opening may be modified or withdrawn, by written or telegraphic notice received in the office designated in the invitation to bid, prior to the time set for the bid opening. After the bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the City or fair competition shall be permitted. During the bid opening, vendors may be required to give clarifications regarding their bid submittal.

(e) **Negotiated adjustment.** In the event the low responsive and responsible bid for construction or capital equipment exceeds available budgeted funds, the Purchasing Agent is authorized, when time or economic considerations preclude resolicitation, to negotiate an adjustment of the bid price with the low responsive and responsible bidder in order to bring the bid within the amount of available budgeted funds. Any such negotiated adjustment shall be based only upon eliminating independent deductive items specified in the invitation to bid and shall be presented to the City Council for approval prior to the processing of a purchase order.

(f) **Rejection of bids.** At its discretion, the City Council may:

- (1) Reject all bids; or
- (2) Reject all bids and re-advertise for bids pursuant to the procedures prescribed above.

(g) **Award of contracts.** Except as otherwise provided in this Chapter, contracts shall be awarded by the City Council to the lowest responsible bidder.

(h) **Performance bonds.** A performance bond may be required before entering into a contract in an amount reasonably necessary to protect the best interests of the City. If a performance bond is required, the form and amount of the bond shall be described in the notice inviting bids.

Section 5.530 PURCHASE UNDER TWENTY-FIVE THOUSAND DOLLARS.

Except as otherwise provided in this Chapter, purchases of an estimated value in an amount less than twenty-five thousand dollars (\$25,000.00), and all leases of commodities terminable by the City, may be made in the open market, pursuant to the following procedure and without observing the procedure prescribed in Section 5.525.

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The City Manager shall adopt operational procedures for making purchases under twenty-five thousand dollars (\$25,000.00). Such operational procedures shall provide for obtaining adequate and reasonable competition for the supply or service being purchased. Further, such operational procedures shall require the preparation and maintenance of written records adequate to document the competition, properly account for the funds expended, and facilitate an audit of the purchases made.

Section 5.535 DETERMINATION OF IRRESPONSIBLE BIDDER.

A bidder may be found irresponsible and his bid may be rejected if it is determined that any or all of the following circumstances exist:

- (a) That a bid submitted by a bidder did not strictly conform to the required bid specifications; provided, however, the City shall have the authority to waive inconsequential deviations from the specifications where a change does not occur resulting in an increase in price to the City and where no other bidder will be prejudiced by such a waiver.
- (b) That a bidder has demonstrated, through documented past performance or through prior dealings with the City, that he is unable to satisfactorily meet the responsibilities required of a successful low bidder.
- (c) That a bidder's product has been demonstrated, through documented past performance or through prior use by the City, to be incapable of satisfactorily meeting the accepted demands to be placed upon the product.

Section 5.540 EXCEPTIONS TO BIDDING PROCEDURES.

The bidding requirements set forth in this Chapter may be dispensed with when one of the following conditions exists:

- (a) A Department Director certifies in writing to the Purchasing Agent that an emergency exists in regard to the purchase of any commodity so that the delay in giving opportunity for competitive bidding would be detrimental to the interest of the City. The responsible Department Director shall provide a detailed summary outlining the facts demonstrating the existence of an emergency. Upon determining that an emergency exists, the Purchasing Agent may authorize the emergency purchase of twenty-five thousand dollars (\$25,000.00) or more, subject to City Council approval at its earliest regular public meeting thereafter.
- (b) Commodities are available only from a single source after determination by the Purchasing Agent upon review of a written summary of the facts from the Department Director requesting the purchase.
- (c) It is to the City's advantage to purchase commodities in cooperation with another governmental entity or to purchase commodities from contracts previously awarded by other governmental entities.
- (d) The Purchasing Agent determines that because of the nature of the commodity, competitive bidding is impossible, impractical, or cannot be obtained.

Purchases of twenty-five thousand dollars (\$25,000.00) or more made pursuant to this Section shall be submitted to the City Council for approval.

**Section 5.545 CANCELLATION OR REJECTION OF BIDS OR REQUEST FOR PROPOSALS
OR OTHER SOLICITATIONS.**

The City reserves the unqualified, absolute right to cancel invitations for bids, requests for proposals, or other solicitations, and to reject any or all bids or proposals in whole or in part as may be specified in the solicitation.

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Section 5.550 PUBLIC WORKS CONTRACTS OVER TWENTY-FIVE THOUSAND DOLLARS.

Each public works project estimated to cost in excess of twenty-five thousand dollars (\$25,000.00) or more shall be constructed pursuant to a written contract with the lowest responsible bidder whose bid has been solicited, received and approved pursuant to the following procedures:

(a) **Notice inviting sealed bids.** Notices inviting sealed bids shall be published at least twice in a newspaper of general circulation within the City. The first publication shall be not less than ten (10) days before the date of opening bids. The second publication shall not be less than five (5) days from the date of the first publication. Along with published notices, sealed bids may be solicited from responsible prospective suppliers known to the City.

(b) **Bidders' security.** When deemed necessary, bidders' security may be required in an amount described in the notices inviting bids. Bidders shall be entitled to return of bid security, provided that a successful bidder shall forfeit his bid security upon his refusal or failure to execute the contract within ten (10) days after the notice of award of contract has been mailed, or if the City is solely responsible for the delay in executing the contract. The City Council may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest bidder. If the City Council awards the contract to the next lowest bidder, the amount of the lowest bidder's security shall be applied by the City to the contract price differential between the lowest bid and the second lowest bid and the surplus, if any, shall be returned to the lowest bidder.

(c) **Bid opening procedures.** Sealed bids shall be returned to the City and shall be identified as "bids" (to include the project name) on the envelope. Bids shall be opened publicly in the presence of one or more witnesses at the time and place stated in the notices. The amount of each bid and other relevant information that the City Manager or his designee deems appropriate, together with the name of each bidder shall be recorded and made available to the public.

(d) **Rejection of bids.** The City Council may:

- (1) Reject all bids; or
- (2) Reject all bids and re-advertise for bids pursuant to the procedures prescribed in this Chapter; or
- (3) Reject all bids and direct that the public works project be performed by the City upon determining that the project can be performed timely for an amount less than each of the bids submitted.

(e) **Correction or withdrawal of bids.** Correction or withdrawal of inadvertently erroneous bids before bid opening may be permitted where appropriate. Mistakes discovered before the bid opening may be modified or withdrawn by written or telegraphic notice received in the office designated in the invitation to bid prior to the time set for the bid opening. After the bid opening, no changes in bid process or other provisions of bids prejudicial to the interest of the City or fair competition shall be permitted. During the bid opening, vendors may be required to give clarifications regarding their bid.

(f) **Negotiated adjustment.** In the event the low, responsive, and responsible bid for construction or capital equipment exceeds available budgeted funds, the Purchasing Agent is authorized when time or economic considerations preclude re-solicitation, to negotiate an adjustment of the bid price with the low responsive and responsible bidder in order to bring the bid within the amount of available budgeted funds. Any such negotiated adjustment shall be based only upon eliminating independent deductive items specified in the invitation to bid and shall be presented to the City Council for approval prior to the processing of a purchase order.

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(g) ***Award of contracts.*** Except as otherwise provided in this Chapter, contracts shall be awarded by the City Council to the lowest responsible bidder.

(h) ***Performance bond.*** A performance bond may be required before entering into a contract in an amount reasonably necessary to protect the best interests of the City. If a performance bond is required, the form and amount of the bond shall be described in the notice inviting bids.

(i) ***Change orders.*** Any change in the contract price, scope of work, or time for completion of any project following the award of a contract shall be by a written change order approved by the City Council and executed with the same formalities as the contract. However, the City Manager may approve and execute change orders without City Council approval, subject to the following limitations:

- (1) Contract price increases shall not exceed ten percent (10%) over the original contract price, in any one change or cumulatively for the same contract. No contract price increase shall be approved unless there are sufficient funds available for such purpose.
- (2) Contract price decreases may be approved without limitation.
- (3) The time for completion may not be extended by more than thirty (30) days in any one change or cumulatively for the same project.
- (4) No change order shall change the scope of the work unless approved by the City Council.

(Ord. No. 740, 6-19-90, Ord. No. 1140, 5-17-05; Ord. No. 1248, 7-21-09)

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