

# **Agenda Item #5**

Consideration of Resolution 2021-64,  
amending the Grantsville City  
Procurement Policy.

**GRANTSVILLE CITY  
RESOLUTION NUMBER 2021-64**

**A RESOLUTION AMENDING THE PROCUREMENT POLICY FOR GRANTSVILLE  
CITY, UTAH**

**WHEREAS**, Utah Code Ann. § 10-6-122 mandates that “all purchases or encumbrances thereof by a city shall be made or incurred according to the purchasing procedures established by each city by ordinance or resolution and only on an order or approval of the person duly authorized to as a purchasing agent for the city;” and

**WHEREAS**, the City has previously established policies and procedures for procurement of goods and services for the City, and aggregated such into the City’s Procurement Policy; and

**WHEREAS**, the City has determined that it is necessary to amend the Procurement Policy; and

**WHEREAS**, the Grantsville City Council hereby determines that amending the current Procurement is in the best interest of the City and will promote the general health, safety and welfare of the citizens of the City.

**NOW THEREFORE BE IT RESOLVED BY THE GRANTSVILLE CITY  
COUNCIL**

**SECTION 1. Amendment of Procurement Policy** – The City Council hereby amends the current Procurement Policy consistent with the amended Procurement Policy attached hereto as “**Exhibit A.**”

**SECTION 2. Effective Date** – This Resolution shall become effective immediately upon passage.

ADOPTED AND PASSED BY THE CITY COUNCIL OF GRANTSVILLE CITY,  
THIS 6<sup>th</sup> DAY OF OCTOBER, 2021.

BY ORDER OF THE  
GRANTSVILLE CITY COUNCIL

\_\_\_\_\_  
By Mayor Brent K. Marshall

ATTEST

\_\_\_\_\_  
Braydee Baugh, City Recorder

GRANTSVILLE CITY  
PROCUREMENT POLICY  
Effective October 21, 2020 (as amended)

POLICY STATEMENT

The purpose this policy is to ensure fair and equitable treatment of all engaged in the procurement process by assuring that all City purchases are conducted in an open and competitive manner. Additionally, this policy is intended to promote efficient broad-based competition to ensure the City will receive the best possible service or product at the best value.

COMPLIANCE

It is the intent of the City to abide by the Uniform Fiscal Procedure Act set forth in Utah Code while adopting purchasing policies consistent with the needs of the City. Moreover, this policy will not prevent the City from complying with the terms and conditions of any grant, gift, loan or bequest that is otherwise consistent with the law. When procurement involves the expenditure of federal assistance funds, the City shall comply with applicable federal law and regulations.

**ARTICLE I  
GENERAL PROVISIONS**

**A) DEFINITIONS**

- 1) "Bid" means an offer, submitted by a bidder, to furnish supplies, materials, equipment, other property or contractual services in conformity with the specifications, delivery terms and conditions, and other requirements included in the invitation for bids or otherwise required by the City.
- 2) "Bidding" means the procedure used to solicit quotations on price and delivery from various prospective suppliers or contractors for materials, equipment, other property or professional services.
- 3) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or other private legal entity.
- 4) "Change order" means a written order signed by the Purchasing Agent or Mayor, directing the contractor to suspend work or make changes, which the appropriate clauses of the contract authorize the Purchasing Agent to order without the consent of the contractor or any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.
- 5) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

6) "Contract" means any City agreement for the procurement or disposal of supplies, services, or construction.

7) "Invitation for bids" means all documents, whether attached or incorporated by reference, used for soliciting bids.

8) "Person" means any business, individual, union, committee, club, other organization, or group of individuals.

9) "Procurement" means buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring any supplies, services, or construction.

10) "Professional Services" means labor, effort, or work that requires an elevated degree of specialized knowledge and discretion such as labor, effort, or work in the field of:

- a) Accounting;
- b) Architecture;
- c) Construction design and management;
- d) Engineering;
- e) Financial services;
- f) Information technology;
- g) Artistic endeavors;
- h) Law;
- i) Medicine;
- j) Psychiatry; or
- k) Underwriting.

11) "Purchasing agent" means the person duly authorized by the governing body of the City to enter into and administer contracts and make written determinations with respect thereto.

12) "Purchase description" means the words used in a solicitation to describe the supplies, services, or construction to be purchased, and includes specifications attached to or made a part of the solicitation.

13) "Related Party" means any party, whether an individual, corporation, partnership, association, limited liability company, or any other form of business association or other entity whatsoever related to any vendor by blood, marriage, ownership, or contract within the first degree of consanguinity.

14) "Request for proposals" means all documents, whether attached or incorporated by reference, used for soliciting proposals.

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#### **B) Budget Limitation**

1) No expenditure or encumbrance shall be made for any supplies, services or construction materials or project for the city in excess of the funded amount in the city budget as adopted or subsequently amended by the city council.

2) The Mayor may authorize a change order to a construction project contract.

a) Exceptions

1. Any change order that exceeds thirty percent (30%) of the total project budget shall require pre-approval from the City Council; or

2. Any change order that the Mayor concludes will result in a material change to the scope of the project shall require pre-approval from the City Council.

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## ARTICLE II PROCUREMENT AUTHORITY

### A) PURCHASING AGENT

- 1) The City Council is authorized to approve all procurement within the City and delegates this authority as follows:
  - a) The City's Director of Finance is hereby designated as the City's Purchasing Agent.
  - b) If the Director of Finance position is vacant, the Mayor is hereby designated as the City Purchasing Agent.
- 2) The Purchasing Agent shall administer the purchasing system of the City as provided by this Policy and all other federal and state laws. The Purchasing Agent shall have the following powers and duties:
  - a) Administer and maintain the purchasing system of Grantsville City according to the rules and regulations established or authorized by this Policy and other laws;
  - b) Purchase any supply, service, or material for the City in accordance with the procedures set forth herein;
  - c) Solicit bids and proposals for goods and services for the City;
  - d) Negotiate and execute contracts on behalf of the City for the purchase of supplies, materials, equipment, or contractual services after consultation with department directors, the Mayor and other city agents.
  - e) Seek to obtain full and open competition to the full extent possible when engaging in procurement for the City;
  - f) Supervise the inspection of all city purchased equipment to assure conformance with specifications;
  - g) Maintain an inventory system for City assets and capital equipment;
  - h) Provide to the City Recorder a copy of all executed contracts and agreements;
  - i) Recommend to the Mayor and City Council additional rules and regulations or changes from time to time that the Purchasing Agent considers desirable, and to interpret, with legal advice, the provisions of this chapter and applicable statutes; and
  - j) Prescribe and maintain such forms as are reasonably necessary to the operation of this Policy and other laws, rules or regulations.
- 3) The Purchasing Agent is granted all residual authority that shall be necessary and proper for carrying into execution the powers vested by this Procurement Policy.

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**ARTICLE III  
EXPENDITURES AND COMPETITIVE PURCHASING**

**A) PROCUREMENT CLASSIFICATIONS**

1) The Purchasing Agent shall have authority to determine an expenditure's procurement classification.

2) Procurement related expenditures for supplies and services are classified as follows:

- a) Minor Expenditures -- \$2,500 or less.
- b) Small Expenditures -- \$2,500 to \$5,000.
- c) Large Expenditures -- \$5,001 to \$35,000.
- d) Capital Expenditures -- greater than \$35,000.

~~d~~e) *Professional Services – up to \$50,000 (see Section G).*

3) All expenditures, regardless of price, shall be made in compliance with competitive purchasing procedures.

4) Expenditures shall not be artificially divided so as to constitute a smaller purchase.

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**B) EXEMPT EXPENDITURES**

1) Exempt expenditures may be made without following the competitive purchasing requirements contained in this Procurement Policy.

2) The following may be considered an exempt expenditure:

- a) Gift or Bequest: In complying with the terms and conditions of any gift or bequest to the City, if such action is approved by the City Council and is otherwise consistent with law.
- b) Library Purchases: The purchase of library books, records, tapes, films, publications, periodicals and subscriptions.
- c) Auction, Closeout, and Bankruptcy Sales: If the Mayor determines that supplies, materials or equipment can be purchased by a public auction, closeout sale, bankruptcy sale, or inventory reduction sale, and makes a finding that a purchase at any such auction or sale will be made at a cost below the market cost in the community, the Mayor may authorize the expenditure.
- d) State Contract Purchasing: The City may procure without competitive bids any supplies or services which are the subject of contracts with the State of Utah. The state contract number and information for the purchase shall be included in the requisition or contract and sent to the Purchasing Agent for approval. Department directors are responsible to ensure that the purchase complies with all requirements of the state contract.
- e) Sole Source Procurement: The Purchasing Agent, with pre-approval by the Mayor, may approve a sole source procurement, without competition, when the purchasing agent determines that there is only one source for the required item or service to be purchased; or the award is a condition of a donation or grant that will fund the full cost of the purchase.
- f) Purchases and contracts required during an emergency or in response to an eminent threat to the public's health, welfare, or safety. An emergency procurement shall be

made using as much competition as practical under the circumstances, and shall be limited to only those procurements necessary to properly respond to or resolve the emergency.

- g) Inter-governmental Purchases: The City may procure, without competitive bids, supplies and services which are the sold or provided by any other governmental agency in or out of the State of Utah. In such cases, the department director shall submit a copy of the bid documents and contract from the local agency to the Mayor and Purchasing Agent, along with any written documentation supporting why normal competitive bidding requirement should be bypassed. The Mayor may authorize the purchase without requiring competitive bidding.

1. If the purchase is a Capital Expenditure, the City Council must authorize the purchase without requiring competitive bidding.

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#### C) **MINOR EXPENDITURES**

1) Except as otherwise stated herein, minor expenditures may be approved by the Department Director or his designee, with or without competitive sealed bids or quotes.

2) Minor expenditures may include purchases made with a credit card, on a charge account.

3) The Department Director shall prepare a requisition invoice for the item(s) that were purchased and attach thereto proof of the purchase (i.e. receipt(s)). The requisition invoice shall be remitted to the Purchasing Agent within 30 days of payment for the minor expenditure. Failure to remit the requisition invoice as required herein may result in revocation of a Department's authority to purchase items directly.

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#### D) **SMALL EXPENDITURES**

1) Prior to a small expenditure, the Department Director shall notify the Purchasing Agent in writing of the intended purchase. Only after approval from the Purchasing Agent and the Mayor, shall the Department Director or his designee have authority to engage in a small expenditure purchase.

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#### E) **LARGE EXPENDITURES**

1) In order to select a vendor or service provider for a large expenditure, the Purchasing Agent (or Department Director with approval from the Purchasing Agent) shall solicit at least three written or verbal price quotes. All quotes received shall be documented on a form prepared by the Office of the Purchasing Agent.

2) The Mayor, in consultation with the Purchasing Agent, may award a contract for a large expenditure, previously budgeted by the City Council, without approval of the City Council. The Mayor shall seek approval from the City Council prior to a large expenditure not budgeted or prior approved by the City Council.

3) The Mayor shall not be required to award the contract to the lowest price quote, but may take into consideration other factors as they deem necessary.

a) Exceptions:

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1. A contract for a large expenditure that extends longer than one year or involves real property shall require approval of the City Council.

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#### **F) CAPITAL EXPENDITURES**

1) In order to select a vendor or service provider for a capital expenditure, the Purchasing Agent shall obtain bids or proposals using a competitive sealed bid or proposal.

2) Recurring purchases that exceed \$35,000 in a twelve (12) month fiscal period shall be considered a capital expenditure.

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#### **G) PROFESSIONAL SERVICES**

1) The Purchasing Agent may authorize procurement of professional services up to \$50,000, if the Purchasing Agent utilizes a two-step process to obtain bids from qualified vendors. First, the Purchasing Agent shall publish a request for qualifications (RFQ) to obtain a list of pre-qualified vendors for specialized services. Second, for each professional services procurement, the Purchasing Agent shall obtain competitive bids or proposals from the pre-qualified vendors. The Purchasing Agent may obtain bids or proposals via any method, subject to the procurement classification.

2) Nothing herein shall be construed as a requirement that a RFQ or two-step process be utilized if the Purchasing Agent deems an alternate method to obtain a competitive bid or proposal more appropriate.

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#### **G)H) COMPETITIVE SEALED BIDDING AND PROPOSALS**

1) The Purchasing Agent may utilize any of the following methods to obtain a competitive sealed bid or proposal: request for bids (RFB) or invitation for bids (IFB), request for proposals (RFP), or ~~request for qualifications (RFQ)~~.

2) Evaluation of Bids and Proposals:

- a) An evaluation committee comprised of at least three (3) city employees or agents shall evaluate competitive sealed bids and proposals within a reasonable time.
- b) The evaluation committee shall evaluate each responsive bid or proposal that conforms in all material aspects to the bid or proposal specifications to determine which bid or proposal provides the best value to the City.
- c) A competitive sealed bid or proposal may be evaluated on items such as experience, qualifications, approach to the project, references, management plans, schedule of delivery, cost, and other criteria as determined by the City.
- d) At any time during the evaluation process, the evaluation committee may request additional information from a bidder or proposer, including oral interviews or presentations.
- e) Criteria not described in the competitive sealed bid or proposal may not be used to evaluate a proposal.

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- f) The Purchasing Agent shall have the authority to declare information contained in any bid or proposal as “Confidential,” prohibiting such information from being disclosed to competing vendors or members of the public.
- 3) Tie Bids
  - a) If two or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of re-soliciting bids, the City Council shall resolve a tie bid by a majority vote of a quorum of the City Council.
- 4) Single Bids
  - a) In the event that only one bid or proposal is received, the purchasing agent shall determine whether it is in the best interests of the City to re-solicit for additional bids or proceed with a procurement award using the single bid received.
- 5) No Bids or Proposals
  - a) In the event no bids or proposals are received, the Purchasing Agent shall determine whether the delay of re-soliciting bids or proposals will be detrimental to the public interest or unlikely to lead to a different result. If such is the case, the Purchasing Agent may purchase the supplies or services without obtaining quotes or proposals, but with as much competition as practicable under the circumstances.
- 6) Bid Preparation
  - a) Any person, business, or other entity that assists the City in preparation of a bid or proposal is prohibited from bidding for or seeking award from the bid or proposal.
- 7) Request for Bid (RFB) or Invitation for Bid (IFB)
  - a) RFB or IFB may be utilized when price is the primary factor for awarding a contract. Each RFB or IFB shall be commenced by the Purchasing Agent or designee, and must include specifications and all contractual terms and conditions applicable to the purchase.
    1. Specifications – seek to promote the overall economy and best use of the purposes intended, encourage competition, and shall not be unduly restrictive.
    2. Evaluation of bids – limited to cost, determination of compliance with the specifications and conditions specified in the bid documents, and the responsibility of the potential vendor.
      - a. Award of the contract shall be made to the potential vendor offering the lowest cost who is responsive to the requirements of the bid documents, without material exception, and who is responsible and capable of providing the commodity(s) or services to be purchased.

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8) Request for Proposal (RFP)

- a) RFP may be used whenever detailed specifications cannot be determined, whenever several possible methods may satisfy the City's requirements, or whenever the nature of the requirements is such that subjective evaluation criteria other than cost may be necessary, or when the Purchasing Agent and Department Director determine it is in the best interest of the City.
  - 1. Specifications – this method can be utilized when definite specifications may be difficult to determine in advance, when a scope of work is required which makes comparison of competing proposals relative to each other appropriate, or when it is in the interest of the City to have a vendor design a public improvement. Specifications shall seek to promote the overall economy and best use for the purposes intended, encourage competition, and shall not be unduly restrictive.
  - 2. Subjective criteria may be used in the evaluation of competing proposals.
  - 3. Within the RFP, it shall state the relative importance of cost and other evaluation factors, including the quantitative basis for evaluation.
  - 4. Negotiation and discussions with competing vendors is permitted with responsible vendors who submit proposals determined to have a reasonable chance of being selected.
- b) Award
  - 1. RFP awards shall be made to the potential vendor who is responsive to the requirements of the bid documents and any other criteria identified by the City.
  - 2. All RFP awards shall be made by the City Council, with recommendation and comments from the evaluation committee.
- c) Separation of Cost Requirement
  - 1. Any RFP where the contract or purchase is reasonably expected to cost \$50,000 or more is required to evaluate cost separately.
  - 2. Cost is to be evaluated by an independent person, separate from the evaluation committee or after the committee has evaluated all other criteria.
  - 3. The City will evaluate cost by using a cost formula determined by the Purchasing Agent and Department Director. The weight assigned to cost must be clearly specified in the RFP.
  - 4. Each member of the evaluation committee and the Purchasing Agent shall take all reasonable steps to restrict any information relating to cost, or the scoring of a proposal until after the evaluation committee submits its final recommendation scores and all other criteria to the Purchasing Agent.

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- 9) Pre-Qualification/Request for Qualification (RFQ)
- a) RFQ may be used when deemed appropriate by the City to pre-qualify vendors for specialized supplies, services, and construction.
  - b) An RFQ shall include all relevant factors as determined by City related to the specialized supplies, services and construction. These factors may include:
    - 1. Timeframe for the pre-qualification, specific expiration date of the pre-qualification, and any options for renewal;
    - 2. Specific requirements or qualifications that a potential vendor must possess to be considered qualified;
    - 3. Selection process;
    - 4. Any limitation to the number of potential vendors the City may pre-qualify; and
    - 5. Information regarding the second step of the selection process.
  - c) Selection
    - 1. The RFQ must describe the selection process for awarding the bid or proposal to pre-qualified vendors for the specialized supplies, services and construction.
    - 2. Selection and award may be made by the evaluation committee, if pre-approval is granted by the City Council.
    - 3. The selection process will be based on a vendor's responsiveness to the qualifications set forth in the RFQ.
    - 4. A recommendation memo from the evaluation committee and all supporting documentation must be sent to the Purchasing Agent and placed in the purchasing file.
    - 5. Before making a final list of prequalified vendors, the evaluation committee may request additional information to clarify responses.

5.

#### **II) PROTESTS OF AWARD**

- 1) Any actual or prospective bidder, offeror or contractor who is aggrieved with the solicitation or award of a procurement contract must file a formal protest with the Purchasing Agent.
- 2) Protest of Specifications
  - a) A protest regarding the specifications of a solicitation must be submitted in writing to the Purchasing Agent prior to the opening of the bid or proposal and must list the pertinent facts giving rise to the protest.
- 3) Protest of Contract or Purchase Award
  - a) A protest regarding the award of a procurement contract or purchase must be submitted in writing to the Purchasing Agent within five (5) business days of the award of the procurement contract or purchase award and must list the pertinent facts giving rise to the protest.
  - b) Untimely protests will not be considered.

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- 4) Stay of Proceedings
  - a) In the event of a timely protest, the City shall not proceed further with the solicitation or with the award of the contract or purchase order until the protest is sustained or rejected by the Purchasing Agent, in consultation with the City Attorney, unless an immediate award of the contract is required to protect substantial interests of the City.
- 5) Protest Review
  - a) The Purchasing Agent shall determine if the protest is timely filed. If the Purchasing Agent determines that the protest is timely filed, the Purchasing Agent shall determine if the protest alleges facts, that if true, provide an adequate basis for the protest.
  - b) The Purchasing Agent has sole authority to uphold or deny a protest.
- 6) Appeal
  - a) An appeal of the Purchasing Agent's decision to uphold or deny a protest must be made to the City Council by submitting, in writing, to the City Recorder within five (5) business days of the Purchasing Agent's decision request for appeal hearing.
  - b) The request for appeal hearing must include all pertinent facts giving rise to the appeal as well as all arguments supporting appellants position.
  - c) The City Recorder, upon receiving a timely request for appeal hearing, shall notify the City Council within three (3) business days of the request.
  - d) The City Council shall schedule a hearing to consider the appeal as soon as is practicable, but no less than five (5) days and no more than fifteen (15) days after receiving notice from the City Recorder.
  - e) The City shall be represented by the Purchasing Agent and the City Attorney.
  - f) The City Council may admit any evidence it deems necessary to adjudicate the appeal.
  - g) The City Council's decision is final and is not subject to a re-hearing before the City Council or any other body of the City.

**ARTICLE IV  
DISPOSAL OF SURPLUS PROPERTY**

**A) SURPLUS PERSONAL PROPERTY**

- 1) Whenever a department in the City has identified personal property of the City that is no longer needed or used by the department, the department director having control of the property shall notify the Mayor or his designee.
- 2) The Mayor or his designee shall notify all other City department directors of the availability of such property. The City may transfer personal property of the City between departments at any time.

- a) If more than one department director submits a claim to the Mayor for the personal property, the Mayor shall have sole authority to determine the best use of such property.
- 3) If City personal property becomes surplus, unused, obsolete, unsuitable for public use, or otherwise no longer needed, the property shall be disposed of in accordance with this section.
  - a) City personal property ~~that~~ included in the Fixed Asset Register (with an original value greater than \$5,000 dollars), shall not be disposed of, or sold through public auction or public listing, until such property is declared surplus by the City Council pursuant to its administrative authority. Once this property is declared surplus by the City Council, it may be sold to the highest bidder by the Purchasing Agent at an approved public auction or public listing (i.e. KSL Classifieds or EBay).
  - b) All other City personal property may be disposed of, or sold through public auction or public listing, without approval of the City Council.
- 4) The Mayor or his designee, in consultation with the Purchasing Agent, shall be responsible for conducting public auctions for City personal property. The Mayor or his designee shall have the right to reject any bids or offers for City personal property when he deems it to be in the best interest of the City.
- 5) If a surplus item remains unsold after reasonable attempts to sell it through public auction, the Mayor or his designee may dispose of the item in any way, including gifting or destroying the item.
- 6) City personal property or items, not subject to Article IV(A)(3)(a), that are fully consumed in their use for official city business shall be disposed of in any reasonable manner approved by the Purchasing Agent.