

RESOLUTION NO. 2017-15

A RESOLUTION of the City of Lakewood City Council providing for the amendment of the City of Lakewood Purchasing Policy.

WHEREAS, in connection with the incorporation of the city of Lakewood and the commencement of municipal functions, the City Council authorized and approved the establishment of policies to guide the city's expenditure of public funds and the making of purchases for various municipal purposes; and

WHEREAS, in March 2017 the City Council adopted the Resolution 2017-17 City of Lakewood Purchasing Policy repealing Resolution 1999-39; and

WHEREAS, since the adoption of Resolution 2017-07, a major change in the proposed policy is necessary to include the addition of an exemption for electronic data processing and telecommunications systems as authorized under RCW 39.04.270.


NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON HEREBY RESOLVES, as Follows:

Section 1. Add item D in Section 19 Other Exemptions to include an exemption for the purchase of electronic data processing and telecommunications.

Section 2. That this Resolution shall be in full force and effect upon passage and signatures hereon.

PASSED by the City Council this 17<sup>th</sup> day of July, 2017.

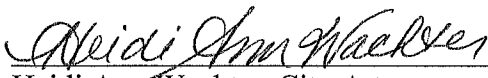
CITY OF LAKEWOOD

  
Don Anderson, Mayor

Attest:

  
Alice M. Bush, MMC, City Clerk

Approved as to Form:

  
Heidi Ann Wachter, City Attorney

**EXHIBIT A  
CITY OF LAKEWOOD  
PURCHASING POLICIES**

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## **GENERAL PROVISIONS**

### **Section 1. Purpose.**

The purpose of the City of Lakewood Purchasing Policies (“Policies”) is to protect and advance the public interest by providing for the fair and equitable treatment of all persons involved in the purchasing process, by maximizing the purchasing value of public funds, by providing safeguards for maintaining a purchasing system of quality and integrity, and by following state law.

### **Section 2. Application.**

These Policies apply to the award of contracts by the City for:

- (1) purchases of materials, supplies, and equipment;
- (2) public works and improvements;
- (3) maintenance; and
- (4) other goods and services.

These Policies do not apply to:

- (1) the reimbursement of business expenses incurred by employees
- (2) purchase and/or lease of real estate;
- (3) lease agreements for materials, supplies and equipment unless the agreement is in excess of fifty thousand dollars (\$50,000); and
- (4) professional and non-professional service contracts as defined in Section 5.

### **Section 3. Federal Funds.**

When a purchase involves the expenditure of federal funds, purchasing shall be conducted in accordance with any applicable federal law or regulation.

### **Section 4. Grants.**

Nothing in this chapter shall prevent the City from complying with the terms and conditions of any grant, gift or bequest which is otherwise consistent with law.

### **Section 5. Professional service contracts.**

- A. General. Professional services, including but not limited to contracts for architectural, engineering, legal and consulting services, are not subject to the requirements of these Purchasing Policies. Contracts for architectural and engineering services shall be awarded in accordance with Chapter 39.80 RCW. For purposes of this section, “professional services” are those services involving labor, skill, education and special knowledge and where the labor and skill involved is predominately mental or intellectual, rather than physical or manual.
- B. Publication. At least once a year, on behalf of the City, Municipal Research and Services Center of Washington (“MRSC”) shall publish in a newspaper of general circulation within the City a notice of the existence of the consulting services roster or rosters and solicit statements of qualifications from firms providing consulting services. Such advertisements will include information on how to find the address and telephone number of a representative of the City who can provide further details as to the City’s projected needs for consulting services. Firms or persons providing consulting services shall be added to appropriate MRSC roster or rosters at any time that they submit a written request and necessary records.

- C. Professional Architectural and Engineering Services. The MRSC Rosters will distinguish between professional architectural and engineering services as defined in RCW 39.80.020 and other consulting services and will announce generally to the public the City's projected requirements for any category or type of professional or other consulting services. The City reserves the right to publish an announcement on each occasion when professional services or other consulting services are required by the agency and to use paper and/or other electronic rosters that may be kept on file by appropriate City departments.

#### **Section 6. Responsibility for purchasing.**

- A. General. The City Manager or designee shall be responsible for all City purchasing under these Policies except where otherwise provided. The Assistant City Manager/Administrative Services or designee shall administer these Policies.
- B. Duties. In accordance with the Purchasing Policies, the Assistant City Manager/Administrative Services or designee shall:
1. Purchase or supervise the purchase of all materials, supplies, equipment and nonprofessional services and award of all public works and improvement contracts by the City;
  2. Sell, trade or otherwise dispose of surplus personal property belonging to the City. The City Manager shall be responsible for the disposal of real property;
  3. Establish and maintain programs for specifications development, contract administration and inspection and acceptance, in cooperation with City departments using the items purchased;
  4. Propose operational procedures consistent with these Policies relating to the execution of his or her duties. Such procedures shall be followed by all City departments. These operational procedures are subject to prior approval of the City Manager; and
  5. Determine liability and property damage insurance requirements, including but not limited to coverage requirements, limits of liability, necessary endorsements and other matters relating to insurance, for any contract entered into by the City under these Policies.

#### **Section 7. Authority to execute.**

Every contract under these Policies where the annual cost to the City for such contracts is:

- A. Fifty thousand dollars (\$50,000) or less including addenda the City Manager or designee is authorized to sign such contracts on behalf of the City;
- B. More than fifty thousand dollars (\$50,000), approval of the City Council is required for such contracts.

#### **Section 8. Routine expenses.**

Routine expenses such as utilities charges, claims and judgments, witness fees, governmental taxes and governmental fees for licenses and permits may be acquired, ordered or paid in the best interests of the City within budget appropriations or other City Council authorization therefor.

## **Section 9. Recycling procurement policy.**

- A. Intent. In accordance with RCW 35A.40.210, 35.22.620(10) and 39.30.040 including all future amendments, additions and deletion, the City of Lakewood finds it desirable to adopt a procurement policy promoting the use of recycled products and recyclable products by the City of Lakewood departments, thereby stimulating the demand for these products and helping to develop markets for materials that have been diverted from the solid waste stream.
- B. Use of recycled Materials. All City of Lakewood departments shall use recycled products and recyclable products whenever practicable and reasonable.

## **COMPETITIVE BIDDING PROCESS**

### **Section 10. Bid Limits.**

The competitive bidding process outlined in Section 20 is required whenever the estimated cost of a tangible personal property (materials, supplies and equipment not in connection with public works projects) is between \$9,999 and \$25,000.

The competitive bidding process outlined in Section 11 is required whenever the estimated cost of a tangible personal property (materials, supplies and equipment not in connection with public works projects) is greater than \$25,000.

The competitive bidding process outlined in Section 11 is required whenever the estimated cost of a purchase of materials, supplies and equipment, or a contract for public work or improvement (including the cost of materials, supplies, equipment and labor), will exceed the sums as set forth in RCW 35A.40.210 and 35.22.620(3) including all future amendments, additions and deletions.

Whenever the estimated cost of the public work or improvement is less than the bid limit as stated above a contract for the public work or improvement may be awarded in the manner authorized by Section 21 (small works roster). The public work or improvement may be performed by City employees within the limits and to the extent authorized by state law.

### **Section 11. Competitive bidding.**

- A. General. Any purchase of material, supplies, and equipment, or any contract for public works or improvements where the cost thereof exceeds the bid limit in Section 10 shall be by competitive bidding in accordance with RCW 35A.40.210 and 35.22.620(6) including all future amendments, additions and deletions, except for purchases and contracts made pursuant to Sections 17 (cooperative purchasing), 18 (emergency) and 19 (sole source).
- B. Request for Bids. Request for bids issued which shall include the specifications and the contractual terms and conditions applicable to the procurement. The request for bid may be changed or amended by the City provided the change is issued in writing at least three (3) business days prior to the bid opening date. Such changes will be furnished to all interest vendors in the form of an addendum. Any material information provided to a prospective bidder with regard to a request for bid shall be furnished to all bidders on the vendor list receiving a copy of the original request for bid. Oral interpretations of contract terms and conditions shall not be binding on the City unless confirmed in writing by the City and provided to all bidders at least three (3) business days before bid opening. The City will not be responsible for oral

interpretations not confirmed in writing by the City giving the interpretation at least twenty-four (24) hours before bid opening.

- C. Public Notice. Public notice of the request for bids shall be given not less than fourteen (14) calendar days prior to the date set forth therein for the opening of bids unless another timeline is deemed necessary by the City Manager or designee. Such notice shall be published, at least once in a newspaper of general circulation. The public notice shall state the date and time of bid opening. Bids not received by the date and time stated for bid opening will not be accepted or considered.
- D. Bid Opening. Sealed bids shall be received by the City Clerk or designee, at any time within regular business hours and shall be identified as bids on the envelope. Bids shall be date and time stamped when received by the City. Bids shall be opened in public by the City Clerk or designee at the time and place stated in the request for bids. The amount of each bid, and such other relevant information as the City Manager or designee deems appropriate, together with the name of each bidder, shall be announced and recorded. The record and each bid shall be open to public inspection. The City Clerk or designee shall tabulate the bids and submit them to the concerned department, which will make appropriate recommendations to the City Manager. Bids which are received, but which do not identify the request to bid or the time for bid opening may be opened, but solely for identification purposes. All late bids or late withdrawal request will be date and time recorded.
- E. Bid Evaluation. Bids shall be evaluated based on the specifications and other relevant evaluation criteria set forth in the bid specifications. The evaluation criteria shall be objectively measurable whenever possible, and may include such factors as discounts, transportation costs, and total or life cycle costs, inspection or testing which has been done of the product bid, quality, workmanship, delivery time, and suitability for a particular purpose.
- F. Bid Irregularities. Except where otherwise provided in these Policies, bids containing irregularities may be accepted by the City for consideration. Any action concerning the bid(s) containing irregularities shall be at the discretion of the City Manager and/or City Council in accordance with the provisions of law. The call for bids for all bids shall state the reserved right of the City to reject any and all bids and to waive irregularities in any provided that no bidder shall be permitted to gain unfair advantage over other bidders by action of the City Council pertaining to this section.
- G. Correction or withdrawal of errors; Cancellation of Awards. Correction or withdrawal of inadvertent errors in bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted by the City to the extent allowed by law.
  - (1) Mistakes discovered before bid opening may be corrected by bidder withdrawing the original bid and submitting a corrected bid to the City before the bid opening. If there is not sufficient time prior to bid opening to withdraw the original bid and submit a corrected bid, the bidder, or an authorized representative, may correct the mistake on the face of the original bid; provided the official opening time has not yet been reached. A corrected bid must be stamped upon resubmission.
  - (2) Mistakes discovered during or after bid opening may not be corrected. If the bidder submits evidence in writing satisfactory to the City Manager and City Attorney that a mistake has been made by the bidder in the calculation of its bid, the City Manager may

allow the bid to be withdrawn; provided, that the claim of mistake and the evidence in support thereof must be made and provided within 3 business days after the bid has been opened. Compliance with this section within the specified time limit shall relieve the bidder of forfeiture of its bid bond if the City Manager and City Attorney approve the bid withdrawal.

- H. Award or rejection of bids. The recommended bids over fifty thousand dollars (\$50,000) shall be submitted to the City Council by the City Manager. The City Council may award the bid to the lowest responsive, responsible bidder in accordance with Section 12, or may reject all bids in its sole discretion. The contract shall be considered and/or awarded to the lowest responsible bidder whose bid meets the specifications and evaluation criteria set forth in the request for bids.
- I. Recalling for bids. The City Council may reject any or all bids and/or call for further bids. If no responsive, responsible bid is received on the first call, the City may readvertise and make a second call, or may enter into a contract without any further call.

**Section 12. General standards for determining lowest responsible bidder.**

In accordance with RCW 39.04.350 including all future amendments, additions and deletions to determine the lowest responsive, responsible bidder, in addition to price, the following may be considered:

- A. The ability, capacity and skill of the bidder to perform the contract;
- B. Whether the bidder can perform the contract promptly, or within the time specified, without delay or interference;
- C. The reputation, experience and efficiency of the bidder;
- D. The quality of performance of previous contracts by the bidder;
- E. The previous and existing compliance by the bidder with laws and ordinances relating to contracts or services;
- F. The sufficiency of the financial resources and ability of the bidder to perform the contract;
- G. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
- H. The number and scope of conditions attached to the bid.

**Section 13. Cancellation of requests for bids or requests for proposals.**

In accordance with processes set forth in RCW 39.26.160 including all future amendments, additions and deletions, a request for bids may be canceled at the discretion of the City Manager or Designee. The reasons therefor shall be made part of the contract file. Each request for bids issued by the City shall state that the request may be canceled. Notice of cancellation shall be sent to all parties that have been provided with a copy of the request. The notice shall identify the request for bids and state briefly the reasons for cancellation.

## **Section 14. Specifications.**

- A. Maximum Practicable Competition. All specifications shall be drafted so as to promote overall economy for the purposes intended and encourage maximum free and open competition in satisfying the City's needs. The policy enunciated in this section applies to all specifications including but not limited to those prepared for the City by architects, engineers, designers, and drafters.
- B. "Brand Name or Equivalent" Specification. Brand name or equivalent specifications may be used when the City Manager or designee determines that use of a brand name or equivalent specification is in the City's best interest.
- C. Brand Name Specification. Because use of a brand name specification is often restrictive of competition, it may be used only when the City Manager or designee makes a written determination that only the identified brand name item or items will satisfy the City's needs.
- D. Experience Clause Restrictions. Experience clauses requiring prospective bidders to have a record of satisfactory operation or performance may only be used if such requirements have been adequately justified in writing and approved by the City Manager or designee.

## **Section 15. City procurement records.**

- A. Procurement File. All determinations and other written records pertaining to the request to bid, award, or performance of a contract shall be maintained for the City in a contract file by the City Department.
- B. Retention of Procurement Records. All procurement records shall be retained and disposed of by the City in accordance with state law and city ordinances, regulations and guidelines. If a contract is being funded in whole or in part by assistance from a federal agency, then all procurement records pertaining to that contract shall be maintained in accordance with any applicable requirements of federal law.

## **Section 16. Unauthorized purchases.**

Any purchase or contract made contrary to the provisions hereof and except as authorized by the City's operational procedures shall not be approved by any city officer and the City shall not be bound thereby, except as may be required or provided by law.

## **EXEMPTIONS TO COMPETITIVE BIDDING REQUIREMENTS**

### **Section 17. Cooperative purchasing.**

The City Manager or designee is authorized to recommend to the City Council that it join in cooperative purchasing arrangements with other public agencies similarly authorized. Any cooperative purchasing agreement shall comply with RCW 39.34.030(3) including all future amendments, addition and deletions and set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties. Any cooperative purchasing agreement shall be governed by the requirements of state law in regard to competitive bidding when applicable. In addition, City Manager or designee may utilize existing contracts or proposed solicitations of other local, state, or federal agencies to procure



materials, supplies, and equipment for the City consistent with legal requirements if such methods of procurement would foster economy and efficiency.

### **Section 18. Emergency procurement.**

Notwithstanding any other provisions of these Policies, the City Manager or designee may, in accordance with RCW 35A.40.210, 35.22.620(6), and 39.04.280 including all future amendments, additions and deletions, make or authorize others to make emergency procurement of materials, supplies, equipment, or construct public works projects without complying with the competitive requirements of these Purchasing Policies when there exists a threat to public health, welfare, or safety or where the City may suffer a substantial monetary loss by reason of the time required to follow regular purchasing procedures; provided, that such emergency procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the procurement file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, and a listing of the item(s) procured under the contract, which shall be reported to the City Council.

### **Section 19. Other exemptions.**

- A. The City Manager or designee is authorized to make open market purchases without obtaining competitive bids or quotations therefor in accordance with RCW 35A.40.210, 35.22.620(6), and 39.04.280 including all future amendments, additions and deletions under the following conditions:
  1. Items of Special Design. When an item required is of special design, shape or manufacture to match or fit in with an existing installation and competitive bidding is impracticable;
  2. Surplus or Distress Sales. When it is possible to procure obvious bargains in surplus or distress material, supplies or equipment.
  3. Items for Quick Delivery. When the obtaining of competitive bids or quotations will cause delay resulting in an appreciable loss to the City.
- B. Small Items Not Stocked, Blanket Purchase Orders. The Assistant City Manager/Administrative Services or designee is authorized to establish blanket purchase orders with local vendors for the purchase of items which are not stocked by the departments of the City and are available at usual market prices. Such local vendors shall be selected based on best overall price policies, breadth and depth of stocks and delivery service.
- C. Sole Source Procurement. A contract for the purchase of materials, supplies or equipment may be awarded without complying with the bidding requirements of this chapter when the City Manager or designee determines in writing, after conducting a good faith review of available sources, that there is only one source for the required materials, supplies or equipment. A record of sole source procurement shall be maintained that lists each contractor's name, the amount and type of each contract, and a listing of the items(s) procured under each contract.
- D. Electronic Data Processing & Telecommunications Systems. The purchase of electronic data processing and telecommunications systems is called out specifically in RCW 39.04.270. In that section, cities are authorized to use a "competitive negotiation" process as an alternative to the competitive bid process or other allowable processes when purchasing telecommunications and

data processing (computer) equipment or software because of the unique aspects. This alternative process requires a request for proposals (RFP) that identifies significant evaluation factors, including price, and their relative importance and provides reasonable procedures for technical evaluation of the proposals, identification of qualified sources, and the selection process for awarding the contract.

## **MATERIALS, SUPPLIES AND EQUIPMENT**

### **Section 20. Small purchases.**

- A. General. Any purchase of materials, supplies or equipment not exceeding the bid limit specified in Section 10 shall be considered a “small purchase” and shall be made in accordance with RCW 39.04.190 including all future amendments, additions or deletions. The City Manager or designee shall adopt purchase procedures whereby the requirements of Section 11 shall not apply. Insofar as it is practical, three businesses shall be solicited to submit quotations. The Assistant City Manager/Administrative Services or designee shall keep a record of all small purchases and quotations submitted in competition thereon and such records shall be open for public inspection during regular office hours. The City Manager or designee shall consider and/or award the purchase order on small purchases to such vendor as the City Manager or designee determines to have submitted the lowest responsive, responsible quotation, in accordance with the provisions of this chapter.
- B. Filing of statements on awards to other than vendor submitting lowest quotation. When the award for a small purchase is not given to the vendor submitting the lowest quotation, a statement of the reasons for placing the order elsewhere shall be prepared and filed with the other papers relating to the transaction.
- C. Rejection of quotations. The City Manager or designee shall have the authority to reject all quotations or parts thereof, with regard to a small purchase of any materials, supplies, or equipment when he/she determines the public interest will be served thereby, and upon consultation with the appropriate department director. The rejection of such quotations shall include the reason therefor in the records of the transaction.

### **Section 21. Inspection and testing.**

The City Manager or designee shall inspect or supervise the inspection of all deliveries materials, supplies, or equipment to determine their conformance with the specifications set forth in the request to bid.

- A. Inspection by Using Department. The City Manager or designee may authorize a using department having the staff and facilities for adequate inspection to inspect all deliveries made to such using departments, under operational procedures.
- B. Tests. The City Manager or designee may 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, he/she shall have the authority to make use of laboratory facilities of any outside laboratory.

## **Section 22. Purchases for special events.**

The City Manager may promulgate procedures to govern the purchase of supplies, such as food, beverages, decorations and awards, for public events and employee activities, including employee of the year recognition, volunteer recognition and ceremonial openings of public facilities.

## **PUBLIC WORKS OR IMPROVEMENTS**

### **Section 23. Definition of public works.**

RCW 39.04.010 including all future amendments, additions and deletions is incorporated by reference.

### **Section 24. Plans and specifications - Estimates–Publication - Emergencies.**

Plans and/or specifications, and an estimate of the cost of such work must be filed with the City Manager or designee when a public work or improvement is necessary. The City Manager or designee shall approve the plans, specifications and estimates of cost and the original draft or a certified copy filed with the City Clerk or designee before further action is taken.

If it is determined that it is necessary or advisable to execute such public work or improvement by any means, e.g., force account, or method other than by contract, and it appears that the estimated probable cost of executing the work will exceed the amount as set forth in RCW 39.04.020 including all future amendments, additions and deletions, then, at least fifteen days before the work is begun, the City Clerk or designee shall cause such estimate, together with a description of the work, to be published at least once in a newspaper of general circulation within the City; except that when any emergency requires the immediate execution of such public work or improvement, upon finding of the existence of an emergency by the authority having power to direct such public work or improvement to be done, duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work.

### **Section 25. Small works roster.**

As an alternative to general competitive bidding requirements set out in Section 11, the following small works roster procedures are established for use by the City pursuant to RCW 39.04.155 including all future amendments, additions and deletions.

- A. Cost. The City need not comply with formal sealed bidding procedures for the construction, building, renovation, remodeling, alteration, repair, or improvement of real property where the estimated cost does not exceed Three Hundred Thousand Dollars (\$300,000), which includes the costs of labor, material, equipment and sales and/or use taxes as applicable. Instead, the City may use the Small Public Works Roster procedures for public works projects as set forth within this Section. The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process.
- B. Publication. At least once a year, on behalf of the City, Municipal Research and Services Center of Washington (“MRSC”) shall publish in a newspaper of general circulation within the City a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. Responsible contractors shall be added to appropriate MRSC Roster(s) at any time that

they submit a written request and necessary records. The City may require master contracts to be signed that become effective when a specific award is made using a small works roster.

- C. Telephone or Written Quotations. The City shall obtain telephone, written or electronic quotations for public works contracts from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to a contractor who meets the mandatory bidder responsibility criteria in RCW 39.04.350(1) and may establish supplementary bidder criteria under RCW 39.04.350(2).
- (1) A contract awarded from a small works roster need not be advertised. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation.
  - (2) Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. "Equitably distribute" means that the City may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.

If the estimated cost of the work is from one hundred and fifty thousand dollars (\$150,000) to three hundred thousand dollars (\$300,000), the City may choose to solicit bids from less than all the appropriate contractors on the appropriate small works roster but must notify the remaining contractors on the appropriate small works roster that **quotations** on the work are being sought. The City has the sole option of determining whether this notice to the remaining contractors is made by:

- (a) publishing notice in a legal newspaper in general circulation in the area where the work is to be done;
  - (b) mailing a notice to these contractors; or
  - (c) sending a notice to these contractors by facsimile or email.
- (3) At the time bids are solicited, the City representative shall not inform a contractor of the terms or amount of any other contractor's bid for the same project;
  - (4) A written record shall be made by the City representative of each contractor's bid on the project and of any conditions imposed on the bid. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.
- D. Limited Public Works Process. If a work, construction, alteration, repair, or improvement project is estimated to cost less than thirty-five thousand dollars (\$35,000), the City may award such a contract using the limited public works process provided under RCW 39.04.155 (3). For a limited public works project, the City will solicit electronic or written quotations from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder as defined under RCW 39.04.010. After an award is made, the quotations shall be open to public inspection and available by electronic request.

For limited public works projects, the City may waive the payment and performance bond requirements of chapter 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, materialmen, suppliers, and taxes imposed under Title 82 RCW that may be due from the contractor for the limited public works project. However, the City shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

The City shall maintain a list of the contractors contacted and the contracts awarded during the previous 24 months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded.

- E. Determining Lowest Responsible Bidder. The City Council shall award the contract for the public works project to the lowest responsible bidder provided that, whenever there is a reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the City Council may call for new bids. A responsible bidder shall be a registered and/or licensed contractor who meets the mandatory bidder responsibility criteria established by RCW 39.04.350 and who meets any supplementary bidder responsibility criteria established by the City.
- F. Award. All of the telephone bids or quotations shall be collected and presented at the same time to the City Council for consideration, determination of the lowest responsible bidder, and award of the contract.

#### **Section 26. Bonds and bid security-Noncollusion affidavit-Insurance.**

- A. Requirement for Bid Security. Bid security shall be required for all competitive bidding for public work or improvement contracts in accordance with RCW 39.08.010 and 39.08.030 including all future amendments, additions and deletions. Bid security shall be of a type and in a form established by the City Manager or designee and approved by the city attorney or designee, which may include a bond provided by a surety company authorized to do business in this state, or the equivalent in cash, cashier's or certified check and shall be included in the bid package. Bid security shall be required on bids for materials, supplies and equipment only if determined necessary by the City Manager or designee.
- B. Amount of Bid Security. Bid security shall be in an amount equal to at least five percent (5%) of the amount of the bid or in another amount as determined by the Assistant City Manager/Administrative Services.
- C. Rejection of Bids for Noncompliance with Bid Security Requirements. When the request for bid requires submittal of bid security, noncompliance will result in rejection of the bid.
- D. Withdrawal of Bids. If a bidder is permitted to withdraw its bid before award as provided in Section 11(G), the bidder's bid security shall be returned.
- E. Contract Performance and Payment Bonds. When required — Amounts. When a public works or improvement contract is awarded as a result of a call for bids under Section 11(H) of these Purchasing Policies, the following bonds or security shall be delivered to the City and shall become binding on the parties upon the execution of this contract:

(1) A performance bond satisfactory to the City Attorney or designee, executed by a surety company authorized to do business in this state or otherwise secured in manner satisfactory to the City for an amount equal to one hundred percent of the price specified in the contract.

(2) A payment bond satisfactory to the City Attorney or designee, executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the City for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent of the price specified in the contract.

F. Authority to Require Additional Bonds. Nothing in this section shall be construed to limit the authority of the City to require a performance bond or other security in addition to the bonds specified herein.

G. Noncollusion Affidavit. As part of any bid submitted, the bidder shall be required to warrant that the bid is a genuine bid and that he or she has not entered into collusion with any other bidder or any other person by submitting with his or her bid an executed and notarized noncollusion affidavit on a form approved by the City Attorney.

H. Insurance. Contracts for public works and improvements shall contain such requirements for the provision of insurance by the contractor as are determined by the Assistant City Manager/Administrative Services or designee.

#### **Section 27. Administrative procedures.**

The City Manager may promulgate procedures for the purpose of administering public works improvement contracts. Such procedures may define the levels of authority pertaining to review and approval of contract change orders.