

ORDINANCE NO. 17-11

ROLL CALL

VOTING	YES	NO
G. WAYNE ANDERSEN <i>Mayor (votes only in case of tie)</i>		
ROD DART <i>Council member</i>	X	
RICHARD M. DAVIS <i>Council member</i>	X	
STEVE LEIFSON <i>Council member</i>	X	
JENS P. NIELSON <i>Council member</i>	X	
KEIR A. SCUBES <i>Council member</i>	X	

I MOVE this ordinance be adopted: Councilman Leifson

I SECOND the foregoing motion: Councilman Dart

ORDINANCE No. 17-11

AN ORDINANCE AMENDING PROVISIONS OF THE CITY PURCHASING SYSTEM TO PROVIDE BETTER EFFICIENCIES

WHEREAS, Spanish Fork City has adopted a formal purchasing system in order to comply with state law and provide efficiencies; and

WHEREAS, amendments need to be made from time to time in order to remain in compliance with the law and provide greater efficiencies; and

WHEREAS, the City policy seeks to assure City Council control of the budget, while allowing projects to be bid and awarded in a timely manner to complete the projects and avoid taking administrative details to the Council;

NOW THEREFORE, be it ordained and enacted as follows:

I.

Spanish Fork Municipal Code §§3.08.040 through 3.08.070 and §3.08.090 are hereby amended as follows:

3.08.040 Bid Processes

The City shall substantially comply with the following guidelines for the specific bid process used:

A. Formal Competitive Bidding.

1. Notice Inviting Bids Issued

- a. Notice includes a general description of the articles to be purchased or the work to be performed, the location where bid plans and specifications may be secured, and the time and place for opening bids.
- b. The notice inviting bids shall be:
 - i. In cases involving building improvements or public works projects over the bid limit as defined in Utah Code Ann. §11-39-101:
 1. Published twice (2) in a newspaper of general circulation within the City five (5) days before the date of the opening of the bids and, at the discretion of the City, may be:
 - A. Delivered to all known responsible prospective bidders, including those whose names are on a bidders' list or who have made a written request that their names be added to the bidders' list.
 - B. Posted on an electronic bid page which is accessible to large numbers of potential bidders.
 2. Delivered to all known responsible prospective bidders and/or suppliers, including those whose names are on a bidders' list or who have made a written request that their names be added to the bidders' list, or
 3. Post on an electronic bid page which is accessible to large numbers of potential bidders.
 - ii. In cases involving building improvements or public works projects less than the bid limit, or the purchase of any supplies, materials and equipment:
 1. Perform the work itself, purchase off the State Bid, or, at the discretion of the City, bid requests may be;
 2. Delivered to all known responsible prospective bidders and/or suppliers, including those whose names are on a bidders' list or who have made a written request that their names be added to the bidders' list, or
 3. Post on an electronic bid page which is accessible to large numbers of potential bidders.

2. State Bid List

If there is a quotation for the item desired to be purchased on the State bid list, the City may invite prospective bidders to bid against the price quoted in the State bid list.

3. Bid Procedure

- a. Sealed bids shall be submitted as designated in the notice with the statement "Bid for (item or project)" on the envelope.
- b. Bids shall be opened in public at the time and place stated in the notice.
- c. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty (30) days after the bid opening.
- d. Bids submitted to the City shall be evaluated on the basis of compliance with specifications and other relevant criteria.

4. Bid Award

Bids shall be awarded or rejected as set forth in Section 3.08.060.

B. Competitive Sealed Proposals in Lieu of Bids (RFP)

This bid process may only be used when the City Finance Director or designee determines that the use of formal competitive bidding is either impractical or not advantageous to the City, or for professional service contracts.

1. **Notice** shall be given by:
 - a. Solicitation through a request for proposals. Request are to be delivered to all known responsible prospective bidders or suppliers, including those whose names are on a bidders' list or who have made a written request that their names be added to the bidders' list, and/or
 - b. Public notice of the request for proposals may be given by publication once in a newspaper, magazine or journal likely to give notice to qualified bidders or suppliers five (5) days prior to the date of bid opening and/or
 - c. Posting on an electronic bid page which is accessible to large numbers of potential bidders.
2. **Request for Proposals** The request for proposals shall state the relative importance of price and other evaluating factors.
3. **Opening of Proposals**
 - a. Proposals shall be opened so as to avoid disclosure of contents to competing bidders during the process of negotiation.
 - b. A register of proposals shall be maintained by the City for thirty (30) days after the contract award and shall be open for public inspection.
4. **Revision of Proposals**
 - a. As provided in the request for proposals, discussions may be conducted with responsible bidders who submit proposals determined to be reasonably susceptible of being selected for award. The purpose of the discussion is to assure full understanding of and responsiveness to the solicitation requirements.
 - b. Bidders shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Any revision may be permitted after submissions and prior to award for the purpose of obtaining best and final offers.
 - c. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing bidders.
5. **Award of Proposal**

Award shall be made to the responsible bidder whose proposal is determined to be the most advantageous to the City, taking into consideration price, the evaluation factors set forth in the request for proposals, and other criteria set forth herein. The City may further negotiate terms in order to comply with budgets, specific services/products sought, and other matters beneficial to the City. The award shall be in accordance with section 3.08.060.

C. **Open Market Procedure**

1. Supplies may be purchased through supplier accounts the City has opened with various vendors. Employees are encouraged to use sales events for those common supplies sold through various public vendors.
2. Purchases shall, whenever possible, be based on at least three (3) bids (price quotations) and shall be awarded to the lowest responsible bidder.
3. Bids (price quotations) shall be solicited from prospective vendors by written or oral request.

4. The City Finance Director or his/her designee may approve purchases on the open market.

3.08.050 Choice of Bid Process

Except as otherwise provided in this Chapter or by provisions of State or Federal law, purchases of supplies, services, or equipment shall follow one of the bid or rfp processes outlined below for the appropriate dollar amount. In cases where more than one alternative is listed as acceptable for a given dollar amount, any of the listed alternatives shall be acceptable. The City shall not incur any liability for choosing one alternative over another. The choices of bid process are as follows:

- A. Purchases of supplies or services having an estimated value in excess of seventy five thousand dollars (\$75,000.00) shall be pursuant to one of the following procedures:
 1. State bid.
 2. Formal competitive bidding, without the requirement of publishing notice.
 3. Competitive sealed proposals in lieu of bids.
- B. Purchases of supplies or services having an estimated value of greater than five thousand dollars (\$5,000.00) but less than or equal to seventy-five thousand dollars (\$75,000.00) shall be pursuant to one of the following procedures:
 1. State bid.
 2. Formal competitive bidding, without the requirement of publishing notice.
 3. Competitive sealed proposals in lieu of bids.
 4. Open market procedure.
- C. Whenever the supplies or services have an estimated value of \$5,000.00 or less, all bid processes and price solicitation procedures may be dispensed with.

3.08.060 Awarding of Bids and RFPs

- A. **Bids/Purchases in Relation to Budget**

Except as otherwise required by law, building improvement or public works projects and supplies, services, and equipment no more than \$2,500.00 over the appropriation balance, and within the scope of the project, as budgeted by the City Council, may be accepted and awarded by the City Finance Director or designee. Bids which exceed the budgeted amounts by more than \$2,500.00 must be approved and awarded by the City Council.
- B. **Professional Services**

Contracts for professional services in an estimated amount no more than \$2,500 over the appropriation balance, and within the scope of the project, as budgeted by the City Council, may be accepted and awarded by the City Finance Director or designee. Bids which exceed the budgeted amounts by more than \$2,500.00 must be approved and awarded by the City Council.
- C. **Rejection of Bids**

The City Council or the City Finance Director or his/her designee, or others authorized to accept and award bids may reject any and all bids presented, and may resolicit for bids as set forth in this Chapter. The City may proceed to do any work itself after rejecting all bids, by following the procedures set forth in Utah Code Ann. §11-39-103.
- D. **Lowest Responsible Bidder**

Except as otherwise allowed or required, the City shall award the contract or bid to the

lowest responsible bidder.

E. **Negotiation of Bids**

Where a bid exceeds available funds and time or economic considerations preclude resolicitation of work or purchase of a reduced scope or quantity, the City Finance Director or designee may negotiate an adjustment of the bid price, including changes in the bid requirements, with the lowest responsible bidder, in order to bring the low bid within the amount of available funds.

F. **Tie Bids**

If two (2) or more of the bids received are for the same total amount or list price, quality and service being equal, the City Finance Director or designee may negotiate with the bidders and obtain the best bid possible and/or give a preference to a local bidder.

G. **Single Bids**

The City Finance Director or his/her designee may require a price or cost analysis if only one bid is received. The bidder may be required to furnish a detailed cost proposal, and the bid award shall be subject to subsequent negotiation.

H. **Bonds**

Before entering a contract, the City shall have authority to require performance, payment and other bonds in such amounts as deemed necessary to protect the interests of the City. The types and amounts of the bonds to be required shall be described in the notice inviting bids.

I. **Change orders**

Change orders in the amount of \$2,500.00 or less may be approved by the City Finance Director or designee, as long as the overall project budget is not exceeded by more than \$2,500.00. Line item change orders may be approved by the City Finance Director or designee as long as the overall project budget is not exceeded by more than \$2,500.00.

3.08.070 Exceptions to Bidding Requirements

Unless otherwise required by State or Federal law, the bid process requirements set forth in section 3.08.050 do not apply in the following situations.

A. **Professional service contracts**

1. Professional services shall include, but not be limited to, the following: auditing, architecture, banking, insurance, engineering, appraisals, legal services, and other consulting services. Professional service contracts shall be awarded based on professional qualifications, service ability, cost of service, and other criteria deemed important by the City.
2. A professional services contract for the annual fiscal year financial audit shall only be awarded by the City Council. This contract may be awarded for multiple years. The performance of the auditing firm may be reviewed periodically to determine whether to continue the contract or put it back out to bid.

B. **Contracts Not Suited to Competitive Bidding** Contracts, which by their nature are not suited to award by competitive bidding, shall not be subject to the competitive bidding requirements of Section 3.08.040. These contracts include, but are not necessarily limited to:

1. Contracts for items which may only be purchased from a single or sole source.
2. Contracts for additions to and repairs and maintenance of equipment owned by the City which may be more efficiently added to, repaired or

maintained by a particular person or firm.

3. Contracts for equipment which, by reason of the training of City personnel or the inventory of replacement parts maintained by the City, is more compatible with the existing equipment owned by the City.

C. **Library Purchases**

The purchase of library books, records, tapes, films, publications, periodicals and subscriptions are specifically exempted from competitive bidding requirements.

D. **Auction, Closeout, Bankruptcy Sales**

If the City Finance Director or designee determines that supplies, materials or equipment can be purchased at any public auction, closeout sale, bankruptcy sale or other similar sale, and if the City Manager or his/her designee finds that a purchase at any such auction or sale will be made at a cost below the market cost in the county, a contract or contracts may be let, or the purchase made, without complying with the competitive bidding requirements of this Chapter.

E. **Exchanges**

Exchanges of supplies, material or equipment between the City and any other public agency which are not by sale or auction shall be by mutual agreement of the respective public agencies.

F. **Projects Performed by City Employees**

City employees may be used to complete City projects, provided that the City complies with State statutory requirements governing contracts for building improvements and public works projects.

G. **State Bid List**

The City may purchase supplies from the vendor who has submitted the lowest bid price for such items to the State of Utah Purchasing Office at the quoted price, without any solicitation or price quotation or invitation to bid. For such purposes, the quoted price shall be deemed to be the lowest price available for such items and the City need not follow any other bidding requirements.

H. **Utah Correctional Industries Division**

Goods and services produced by the Utah Correctional Industries Division may be purchased from the Utah Correctional Industries Division without following any of the bidding requirements set forth herein.

I. **Emergency Purchases**

Notwithstanding any other section of this Chapter, competitive bidding may be suspended in the event of an emergency when supplies, services, and/or contracts are needed immediately in order to respond to the emergency. A state of emergency must have been declared by the Mayor, City Manager, Public Safety Director, or Public Works Director, or their next in command if they are not available. In order to suspend competitive bidding, the emergency must require immediate action and/or response in order to protect the life, health, or safety of persons or property, or, in the event of an improvement bond forfeiture, the need to complete the bonded improvements in a certain time frame, given all factors, including weather considerations.

3.08.090 Disposal or Lease of Public Property

- A. No public property having an estimated value in excess of one hundred dollars (\$100.00) shall be disposed of or released to anyone other than the City, unless such property has been declared surplus by the City Finance Director or designee.

- B. Whenever public property is surplus, unused, obsolete, unsuitable or otherwise no longer needed, the department head having control of such property shall notify the City Finance Director or designee. The City Finance Director or designee may notify other City departments of the availability of such property. The City Finance Director or designee shall supervise any transfer of such property to any other department. If no use can be made or can be expected to be made within the reasonably foreseeable future, the property shall be disposed of in accordance with this section.
- C. The City Finance Director or designee shall prepare a listing of all City-owned property which s/he feels is no longer needed by the City and which can be declared surplus. After an item has been declared surplus, the property may be disposed of or leased. If an item has an estimated salvage value over twenty thousand dollars (\$20,000), the City Council shall approve its disposal. All disposals, leases and/or subleases of public property shall be made, in accordance with law, under the direction of the City Finance Director or designee.
- D. Except as otherwise required by State law, boundary line agreements and deeds conveying unneeded portions of rights-of-way or easements may be executed without declaring the property surplus.
- E. Before disposing of a significant parcel of real property, the City shall comply with the provisions of Utah Code Ann. §10-8-2(4). For purposes of this section, a significant parcel of real property is defined to be any parcel with a value equal to or greater than \$100,000.00. Reasonable notice shall constitute posting the property thirty (30) days prior and publishing notice in a newspaper of local circulation fourteen (14) days prior to a public hearing concerning the disposition.

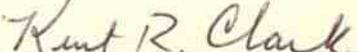
II.

This ordinance shall become effective twenty days after passage and publication.

DATED this 20th day of December, 2011.


G. WAYNE ANDERSEN, Mayor

Attest:


Kent R. Clark, City Recorder

