

ORDINANCE NO __-2013

AN ORDINANCE OF NORTH OGDEN CITY, UTAH, REVISING AND RE-ENACTING MUNICIPAL CODE CHAPTER 3.1, PROVIDING A PURCHASING POLICY FOR THE CITY OF NORTH OGDEN, UTAH, AND PROVIDING AN EFFECTIVE DATE FOR SAID RE-ENACTMENT.

BE IT ORDAINED BY THE CITY COUNCIL OF NORTH OGDEN CITY, UTAH:

SECTION 1. DEFINITIONS

- A. Purchasing Form – Purchase order, contract or check request
- B. Local Business – A business with a business license in North Ogden City
- C. Property – Any asset purchased by the city for use in conducting city business

SECTION 2. APPROVAL OF PURCHASES

- A. A purchasing form shall be used whenever goods and limited services are to be acquired by outright purchase. The purchasing form shall specify the nature of the goods or services to be acquired, the purchase price or estimate thereof, the vendor from whom acquired, the department and division for whom the acquisition is being made, the general ledger number where the funding for the proposed purchase has been appropriated, and such other provisions or information as may be appropriate or required. The purchasing form shall incorporate by reference all the terms, conditions, and specifications if any, contained in the related request for bids.
- B. Authorization required: purchase orders or check requests shall require authorization and signatures before purchase is made as follows:

AMOUNT	AUTHORIZATION REQUIRED
Up to \$2,500	Department heads
\$2,501 to \$25,000	City Manager & Finance Director or Treasurer
\$25,001 and up	City Manager, Mayor or Mayor Pro Tem, and Finance Director or Treasurer

- C. Distribution:
 - 1. Purchase Order: A copy of the purchase order will be provided to any vendor who requests or requires one. However, some vendors will not want the copy and may deliver the goods and services based on a verbal submission of a purchase order or purchase order number. In these cases, it is okay not to send the vendor a copy. A receiving copy of the purchase order will be kept by the department until the goods

or services are received. This copy is forwarded to the Finance Department with the billing invoice acknowledging that the goods or services have been received and that payment can be made if everything else is in order. If a department needs to approve a partial payment on a purchase order, a photocopy of the receiving copy and the invoice will be forwarded to the Finance Department. It will be marked to show the items that can be paid, or must describe an amount or percent and reason for paying a partial payment. The original receiving copy will be forwarded to the Finance Department when final payment is approved.

2. Receiving Copy: A receiving copy of the purchase order will be kept by the department until the goods or services are received. This copy is forwarded to the Finance Department with the billing invoice acknowledging that the goods or services have been received and that payment can be made if everything else is in order. If a department needs to approve a partial payment on a purchase order or check request, a photocopy of the receiving copy and the invoice will be forwarded to the Finance Department. It will be marked to show the items that can be paid, or must describe an amount or percent and reason for paying a partial payment. The original receiving copy will be forwarded to the Finance Department when final payment is approved.

- D. Operational Necessity Purchases: When a purchase must be made because of an emergency situation; or when a purchase is needed during non-business hours, i.e. night, weekend, or holiday, then a purchase may be made without authorization being issued first.

Employees who purchase items under this section of the policy will identify themselves to the vendor by showing their employee ID card and telling the vendor that it is an emergency or operational purchase. The employee will ask the vendor to include the employee's name and division on the invoice

The employee will be responsible to tell the division supervisor of the purchase on or before the next business day. Department Directors will monitor all operational necessity purchases to insure that they are used only when necessary and will take appropriate actions to remedy any misuse. Operational necessity purchases should not be used just because someone failed to plan for their materials or supply needs.

- E. Blanket Purchase Orders (or BPO's): Purchase orders which allow spending for multiple purchases of the same type from one or more vendors without obtaining current bids or price quotations shall not be allowed except in the following cases:
1. There is only one qualified supplier;
 2. The supplier has received the bid award amount approved for purchase by the City Manager
 3. The purchases are for items that are "consumable" supplies or small repair parts for the Public Works Department, when 1) the department budget has an original appropriation for such items; and 2) the BPO has been approved for purchase by the City Manager who shall certify by that approval that such "blanket" purchasing

procedure is in the best interest of the City. Blanket Purchase orders issued under the authority of this section, will be issued in accordance with procedures established by the Finance Director

- F. Acting Department Heads: When a Department Head is on vacation, out sick or otherwise unable to sign a purchasing form, the duly appointed Acting Department Head shall sign their name in lieu of the Department Head and shall specify that they are signing in the role of Acting Department Head.
- G. Changes to purchase orders: No items will be added or changed for a purchase after it has been signed by the authorized persons unless such change or addition is approved by the Department Director.
- H. Voiding purchases - Authorized purchases may be cancelled or voided. Department Heads will make sure that the vendor and the Finance Department are notified of the cancellation.

SECTION 2 - SERVICES

All contracts for professional services shall be awarded at the discretion of the city council to include, but not be limited to, the following services: architectural, auditing, banking, engineering, insurance, and legal. Contracts shall be awarded at the discretion of the city council based on the evaluation of professional qualifications, serviceability, cost of service, and other criteria deemed applicable by the city council.

The Mayor (or Mayor Pro Tem) shall sign all service contracts.

SECTION 3 – SUPPLIES, MATERIALS, EQUIPMENT, IMPROVEMENTS, BUILDINGS, AND LAND

All purchases and recording of capital assets shall be made as follows:

The policy for purchases requiring bids is:

\$0 - \$3,000 (no bids required)

\$3,000 - \$24,999 (3 informal bids required. Bids can be verbal or written).

\$25,000+ - Formal competitive bids required

- A. Purchases or contracts for the purchase of buildings, improvements, equipment, materials, and supplies where the amount is Three Thousand Dollars (\$3,000.00) or more shall be awarded only after informal competitive price quotations have been solicited and received, except where formal competitive bidding is required in Section 5, then that Section shall apply. A written record of the informal quotations shall be made and kept by each department for three (3) years after the order of supplies, materials, or capital assets.
 - 1. A purchase form shall be filled out and signed by the department head for any purchases under \$2,500 or for any routine, consistent expenses, such as payroll taxes and related expenses, payments on previously approved leases, contract services, utility bills or similar expenses.

- B. In order to promote overall economy and the best use for the purposes intended, the City administration shall be responsible for assuring that all purchases or contracts for purchase shall obtain the desired supplies, materials, and capital assets for the lowest possible price.
- C. Purchases of land, buildings, improvements, and equipment shall be considered a capital asset for financial reporting purposes if the dollar value equals or exceeds the amount for that class of asset as follows:

Land	\$1
Equipment	\$5,000
Buildings	\$25,000

SECTION 4 – PURCHASES AND CONTRACTS NOT REQUIRING BIDS

- A. EMERGENCY CONDITIONS: The City Manager is authorized to make purchases of up to Fifty Thousand Dollars (\$50,000.00) in emergency conditions when he deems such purchases to be immediately necessary. The City Manager shall present written documentation and justification for any purchases made under this Section to the City Council as soon as possible after the purchases have been made.
- B. SOLE SOURCE - The restriction contained in Section 3 above shall not apply in cases where purchases or contracts are for items which may only be purchased from a single or sole source manufacturer or distributor and no reasonable alternative exists.
- C. STATE PROCUREMENT CONTRACTS:
 - 1. Purchases, which are made from vendors who are under State of Utah Procurement contract, and when the price is that price (or a lower price than that) established by the contract awarded by the State after competitive bidding pursuant to the Utah Procurement Code (63G-6a-101 et seq.).
 - 2. Purchases which are made from vendors who, within the past sixty (60) days, have been under State of Utah procurement contract, and when the price offered is the price established by the former contract awarded by the State after competitive bidding pursuant to the Utah Procurement Code (63G-6a-101 et seq.), or less.
- D. GOVERNMENT GOODS AND SERVICES: For goods and services made available by any federal, state or local unit of government, or association of government, when those goods or services were acquired in compliance with the provisions of this ordinance or the State of Utah Procurement Code (63G-6a-101 et seq.).
- E. FRINGE BENEFITS: Purchases of services or benefits that are part of any personnel fringe benefit agreements that are authorized by the City Council may be negotiated between the City and the service or benefit provider.
- F. CITY OWNED CONCESSION OR RECREATION FACILITY: Materials or inventory to be used for resale at any City-owned and or operated concession or recreation facility.

- G. PUBLIC AUCTION AND OTHER SIMILAR CIRCUMSTANCES: Supplies, materials or equipment which can be purchased at any public auction, closeout sale, bankruptcy sale or other similar sale, and it is found that a purchase at any such auction or sale may be made at a cost below the market cost in the community.

SECTION 5 – FORMAL COMPETITIVE BIDDING

- A. If the City determines to proceed with the project which requires a formal competitive bidding process, it shall request bids by (a) publishing notice at least twice in a newspaper published or of general circulation in the local entity at least five days before opening the bids; and (b) except as provided in paragraph (D) or (G), enter into a contract for completion of the building improvement or public works project with the lowest responsive responsible bidder.
- B. The City shall have the right to reject any or all bids presented, without cause, and all notices calling for bids shall so state. If the bids are rejected and the City decides to re-solicit bids, it shall advertise anew in the same manner as before. If, after twice advertising as herein provided, and no bid has been received that is satisfactory, the City may proceed under its own direction to make the improvement.
- C. Formal competitive bids shall not be divided into parts to avoid subjecting the City to the bidding requirements. However, they may be divided if the City complies with the bidding requirements with respect to each divided part of the capital project.
- D. Exceptions to bidding requirements. If (a) the project is below the threshold; or (b) the project is undertaken in an emergency to eliminate an imminent risk of damage to or loss of public or private property; or (c) is to remedy a condition that possess immediate physical danger; or (d) is to reduce a substantial, imminent risk of interruption of an essential public service, the City may proceed under its own direction to make the improvement.
- E. A performance bond in an amount as shall be reasonably necessary to protect the best interests of the City may be required. The form and amount of said bond shall be described in the notice inviting bids or soliciting price quotations. If the City administration has good cause to believe performance may be achieved, the City Manager may require a performance bond.
- F. All awards shall be made by a selection committee, which shall evaluate bid responses using a sound decision making method which weighs the importance of advantages as outlined in the requests for bids.
- G. Where deemed appropriate by the City, bidders, proponents, and/or suppliers may be pre-qualified for particular types of supplies, services, and construction to determine the responsibility of such bidder, proponent, or supplier.
 - 1. Standard of responsibility. Factors that may be considered when using the sound decision making model to determine whether the standard of responsibility has been met by a bidder, proponent, or supplier include:

- a. Availability of the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them, necessary to indicate the capability of the bidder, proponent, or supplier to meet all contractual requirements;
 - b. A satisfactory record of performance;
 - c. A satisfactory record of integrity and reliability;
 - d. The bidder's conduct under other contracts, regardless of whether the contracts were with the City or with other parties;
 - e. Legal qualifications to contract with North Ogden City
 - f. Whether all necessary information has been supplied in connection with the inquiry concerning responsibility; and
 - g. When possible, preference shall be given to local businesses.
2. Information pertaining to responsibility. The bidder, proponent, or supplier shall supply information requested by the City concerning the responsibility of such bidder, proponent, or supplier. If such information is not supplied, City shall base the determination of responsibility upon any available information or may find the bidder, proponent, or supplier not responsible if such failure, as determined by the City, is unreasonable.
- H. Bids shall be opened publicly at City Hall, or other place designated in the invitation for bids if use of the City Hall is not available or impracticable at the time of the bid opening, in the presence of one or more witnesses, including whenever practicable the City Manager, City Recorder, Finance Director, and the appropriate Department Head at the time designated in the invitation.
- I. The amount of each bid and any other relevant information specified in the bid notice, together with the name of each bidder, shall be recorded by the City Recorder at the time the bids are opened. The record and each bid shall be open to public inspection.

SECTION 6 – DISPOSAL OF CITY PROPERTY

- A. Department Heads shall petition the City Manager or Mayor to declare property surplus, obsolete or unusable.
- B. Any property thus classified with resale value shall be sold by public auction or by sealed bid process through the City Recorder's office. The City may refuse any or all bids on items offered for bid.
- C. Property not deemed to have any resale value shall be disposed of by the Department Head in the manner deemed to be in best interest of the public and approved by the City Manager.
- D. All dispositions of real parcels of land shall be based on the highest and best economic return to the city, except that consideration for real parcels of land conveyed may be based on other public policy factors if the city council makes a legislative determination that the consideration is adequate.

A public hearing will be scheduled before the city council for the purpose of receiving public comment regarding the disposition of a parcel. The city council shall approve, disapprove or approve with conditions the disposition of the parcel.

The city shall provide required notice of its intent to dispose of city owned real parcels of land. Notice shall be provided by the city at least fourteen (14) days before the date of the public hearing by posting notice of the hearing in at least three (3) public places within the city, or on the city's official website; and publishing notice of the hearing in a newspaper of general circulation.

- E. The Department Head or designee shall provide the Finance Department with a list of all such property disposed of so that it may be removed from the list of City assets.

In accordance with the terms of Section 10-8-2 of the Utah Code (as amended), the City may make a finding that a use or disposition of certain City property provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the city, in which case the City Council may authorize purchase, receipt, holding, selling, leasing, conveying, and other disposition of real and personal property for the benefit of the city, whether the property is within or without the city's corporate boundaries, and under the terms of such a finding is not obligated to sell such property at bid but may improve, protect, and do any other thing in relation to this property that an individual could do.

SECTION 7 – PROHIBITED ACTS AND ACTIVITIES:

- A. **Personal Purchases:** Purchases of supplies or equipment for the personal use of an official or employee of the city shall be made only when the item or items are required parts of his or her equipment and are necessary to the successful performance of the duties of such city official or employee. Other personal purchases shall not be permitted and will be the cause for disciplinary action.
- B. **Conflicts Of Interest:** No city official or city employee may have a direct or indirect interest in any contract entered into by the city. A violation of this provision shall be cause for disciplinary action.
- C. **Collusion Among Bidders:** Any agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition, by agreement to bid a fixed price, or otherwise, shall render the bids of such bidder void.
- D. **Advance Disclosures:** Any disclosure about the bids in advance of their opening made or permitted by a city official or a city employee shall render the bids void. This applies whether the bids were solicited by advertisement or by request.
- E. **Gratuities; Exceptions:** No elected or appointed officer or city employee shall knowingly receive, accept, take, seek or solicit, directly or indirectly, any gift or loan for himself or other if the gift or loan tends to influence him in the discharge of his official duties, but this subsection does not apply to:

1. An occasional nonpecuniary gift having a value of less than fifty dollars (\$50.00); or
2. An award publicly presented; or
3. Any bona fide loan made in the ordinary course of business; or
4. Political campaign contributions actually used in a political campaign.