

**CITY OF SULTAN  
WASHINGTON  
RESOLUTION NO. 22-02**

**A RESOLUTION OF THE CITY OF SULTAN,  
WASHINGTON, REPEALING AND REPLACING CITY  
PURCHASING POLICIES**

WHEREAS, the City of Sultan updated the purchasing policy in May of 2021; and

WHEREAS, it was determined that a section related to the use of Federal Funds was missing;  
and

WHEREAS, staff reviewed the necessary changes to meet the federal requirements and updated  
the policy to meet these requirements; and


WHEREAS, the updated policy meets the needed requirements for purchasing of goods and  
services with federal; and


WHEREAS, the City Council has determined it is in the best interest of the City to update the  
policy.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON,  
DOES RESOLVE AS FOLLOWS:

Section 1. The City Council of Sultan hereby repeals and replaces the City Purchasing  
Policies, attached hereto as Exhibit A.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 27TH  
DAY OF JANUARY, 2022.

DocuSigned by:  
CITY OF SULTAN  
  
2/10/2022  
76379EAB08164E6  
Russell Wiita, Mayor

DocuSigned by:  
ATTEST/AUTHENTICATED:  
  
2/22/2022  
95FC34C461FC42F  
Tami Pevey, City Clerk



City of Sultan Purchasing Policy  
Adopted January 27, 2022

## Table of Contents

Title	Page #
Policy; Enforceability	1
Definitions and Acronyms	1
General Provisions	3
Purchasing Code of Ethics	3
Controlling Laws	4
Monitoring and Compliance	4
Proper Authorization/Certifications	4
Budget Sufficiency	5
Financing	5
Breaking Down or Bid Splitting Purchases	5
Cost	5
Local Businesses	5
Purchasing Limitations	6
Public Works Projects	6
Change Orders	7
Prevailing Wage Laws	7
Professional and Personal Services	8
Purchases of Materials, Supplies, and Equipment	8
Miscellaneous purchases	8
Bid Procedures	9
Formal Competitive Bid	9
Bid Opening	10
Small Works Roster	11
Limited Public Works Process	12
Exemptions to Competitive Bidding Requirements	12
Single Source/Sole Source	13
Special Facilities or Market Conditions	13
Auctions	13
Surplus Property	13
Emergency Purchases	14
Interlocal Agreements	14
No Bids/Quotations Received	14
Travel	15
Payment Processing	15
Approvals	15
Accounts Payable	15
Pre-Council Meeting Checks	15
Credit Cards	16
Bank Issued Credit Cards/Procurement Cards	16
Store Issued Credit Accounts	18
Petty Cash	18

## **1 POLICY: ENFORCEABILITY**

The purpose of this policy is to implement the requirements of state law and, when applicable, federal guidance with regards to procurement of goods and services and the bidding on public contracts for public works, goods, services, supplies, and materials. It is the City's policy to follow state and, when applicable, federal requirements with regard to the expenditure of public funds, to provide a fair forum for those interested in bidding on public contracts, and to help ensure that public contracts are performed satisfactorily and efficiently at least cost to the public, while avoiding fraud, waste, and favoritism in their award. For federally funded purchases and contracts, the purpose of this policy is to also ensure that there is no abuse of federal funds and that all allowable costs are accorded consistent treatment.

Except as otherwise expressly provided herein, the provisions of this policy are intended solely as a convenience and reference guide for City officials and employees. Nothing in this policy is intended to create any liability for or against the City. Nothing in this policy is intended to create any enforceable right, entitlement, or cause of action in or for any third parties.

This policy does not, in any way, limit the City's ability to procure goods and services in accordance with state and federal law.

## **2 DEFINITIONS and ACRONYMS**

- a. "Architectural and Engineering services" means services rendered by any person, other than a City employee, to perform activities within the scope of the professional practice of architecture RCW 18.08, professional practice of engineering and landsurveying RCW 18.43, and/or professional practice of landscape architecture RCW 18.96.
- b. "Bid splitting" means breaking a public work project or purchase of equipment or supplies into segments. The City may not break a public works project to avoid compliance with bidding statutes. RCW 35.23.352(1).
- c. "Contract" means a contract in writing for the execution of a fixed or determinable amount duly awarded after advertisement and competitive bid, or a contract awarded under the small works roster process in RCW 39.04.155.
- d. "DES" – Washington's Department of Enterprise Services.
- e. "Formal competitive bid" is the process of advertising and receiving sealed written bids from prospective vendors. The selection of the vendor is primarily based on the lowest cost from a responsive and responsible vendor.
- f. "Informal competitive quotes" are price quotes from vendors that are obtained using a variety of mediums such as phone, fax, e-mail, or writing. Results must be documented and submitted to the Finance Department. The selection of the vendor is primarily based on the lowest cost from a responsible vendor.
- g. "Interlocal agreements" are the exercise of governmental powers in a joint

or cooperative undertaking with another public agency. (RCW 39.34)

- h. "SMC" – Sultan Municipal Code.
- i. "MRSC" – Municipal Research Services Center.
- j. "Newspaper" – a publication issued at regular intervals, generally daily or weekly, and commonly containing news, comment, features, and advertising.
- k. "Non-Travel Status" – City business or training that does not qualify for travel status or meal reimbursement because it is less than 30 miles or more from their point of origin (City Hall or home, whichever is closer to the destination) and does not require overnight stay.
- l. "Ordinary maintenance" is work not performed by contract and that is performed on a regularly scheduled basis (e.g. daily, weekly, seasonally, semiannually, but not less frequently than once per year), to service, check or replace items that are not broken; or work not performed by contract that is not regularly scheduled but is required to maintain the asset so that repair does not become necessary.
- m. "OSP" – Washington's Office of State Procurement. This is now "DES" - the Washington State Department of Enterprise Services.
- n. "Personal services" and "professional services" are services which involve technical expertise provided by a consultant to accomplish a specific study, project, task, or other work. These activities and products are mostly intellectual in nature, and they do not include Architectural and Engineering services. Example of these services include accounting, legal, comprehensive planning, and real estate services.
- o. "PSE" – Puget Sound Energy.
- p. "Public work," as defined in RCW 39.04.010(4), means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein. All public works, including maintenance when performed by contract shall comply with chapter 39.12 RCW. "Public work" does not include work, construction, alteration, repair, or improvement performed under contracts entered into under RCW 36.102.060(4) or under development agreements entered into under RCW 36.102.060(7) or leases entered into under RCW 36.102.060(8). "Publication" – printed or otherwise reproduced textual or graphic material for sale or distribution to the public.
- q. "PUD" – Public Utility District.
- r. "Purchased services" – different from personal services in that these services are generally routine, repetitive, or mechanical in nature and supports the City's day to day operations. Purchased services include janitorial, debt collections, equipment service agreements, machine repair, or delivery services. (May include ordinary maintenance.)
- s. "RCW" – Revised Code of Washington.

- t. "RFP" or "Request for Proposal" means a process that requests interested firms to submit a statement of their proposal for completing a project. Proposals are evaluated based upon the suitability, practicality, quality of the proposal, experience and cost.
- u. "RFQ" or "Request for Qualifications" means a request only for a firm's general capabilities, including a list of principals, previous projects, number of employees, and licenses. An RFQ does not include pricing information.
- v. "Small Works Roster" is a roster of qualified contractors maintained for use in a modified formal bid process. When the contract amount for a public works project is \$350,000 or less, the City may follow the small works roster process for construction of a public work or improvement as an alternative to formal competitive bid requirements. (RCW 39.04.155(2)).
- w. "Sole Source Supplier" occurs when a purchase is clearly and legitimately limited to a single supplier. These situations often arise when an agency has specific technological requirements. Examples include: (a) licensed, copyrighted, or patented products or services that only one vendor provides; (b) new equipment or products that must be compatible with existing equipment or products; (c) proprietary or custom-built software or information systems that only one vendor provides; and (d) products or services where only one vendor meets the required certifications or statutory requirements. (RCW 39.04.280(1)(a)). Requires Council Approval prior to the purchase commitment by the City.
- x. "Travel Status" is defined by the IRS as a time when your duties require you to be away from the general area traveling on City business. To qualify as travel the employee must travel a distance of 30 miles or more from their point of origin (City Hall or home, whichever is closer to the destination), stay overnight and obtain advance approval from the department director.
- y. "Use Tax" is a tax on the use of goods or certain services in Washington when sales tax has not been paid. Goods used in Washington are subject to either salesor use tax, but not both.
- z. "WAC" – Washington Administrative Code

### **3 GENERAL PROVISIONS**

#### **3.1 Purchasing Code of Ethics**

To instill public confidence in the award of public contracts and the expenditure of public funds, the City adopts the following code of ethics with regard to public contracting:

- a) Actions of City employees shall be impartial and fair.
- b) City decisions and policies shall be made in compliance with required procedures and within the proper channels of government structure.

Public employment shall not be used for personal gain, and City

employees shall not solicit, accept, or agree to accept any gratuity for themselves, their families, or others that would or could result in personal gain. Purchasing decisions shall be made impartially, based upon the City's specifications for the contract and the responses of those bidding on the contract; and

- c) No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his other partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.
- d) Employees will disclose to their manager if they have been lobbied by a potential contractor.
- e) The City will not purchase any goods or services from an employee or a member of their family.

### **3.2 Controlling Laws**

The expenditure of public funds for the purchase of and contracting for goods, services, supplies, and materials shall comply with all applicable state law requirements including those set forth in the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC). Where this policy conflicts with state law requirements, the more restrictive provision shall prevail. Where this policy is silent with regards to purchasing and/or bidding requirements, state law shall prevail.

Purchases made with grant funding shall be bound by any such grant agreement.

Purchases and/or contracts which include federal funding shall also comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, published under Title 2 of the Code of Federal Regulations (2 CFR 200), hereinafter referred to as the Uniform Purchasing Guidance.

### **3.3 Monitoring and Compliance**

The department director shall implement, monitor, and enforce these policies. In the event of any conflict in procurement requirements or questions about proper procedure or other requirements, the matter shall be referred to the City Administrator and/or the Administrator's designee for further action. Willful or intentional violations of public procurement requirements may result in personal penalties, financial liabilities, and/or discipline (RCW 39.30.020).

In addition to the enforcement of these policies, the department director shall insure that reasonable measures are taken to safeguard protected, personally identifiable information and other information the federal awarding agency or pass-through entity designates as sensitive or that the City considers sensitive consistent with applicable federal, state, and local laws regarding privacy and obligations of confidentiality.

### **3.4 Proper Authorization/Certifications**

Only authorized employees acting within the scope of their authority may obligate the City in the acquisition of goods or services. Any employee purchasing goods on behalf of the City without proper authorization may be personally liable to the vendor and/or to the City and subject to disciplinary action.

For federally funded purchases and contracts, to assure that expenditures are proper and in accordance with the terms and conditions of the federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreement must include a certification, signed by an official who is authorized to legally bind the City, which reads as follows:

*By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements, and cash receipts are for the purposes and objectives set forth in the terms and conditions of the federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (US Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812.)”*

### **3.5 Budget Sufficiency**

Each department director must ensure that purchases are initiated only when the departmental budget is sufficient to cover the anticipated cost. Expenditures that exceed departmental appropriations require a budget amendment approved by City Council. Requests for budget amendments must be submitted in writing and shall be approved by the requesting director or manager and forwarded to the City Administrator and Finance Director for review prior to being forwarded to the Mayor and then City Council for approval.

### **3.6 Financing**

If a department is requesting financing for equipment or vehicles, it is necessary to work with the Finance Director early in the process and well before any commitment of City funds is made. Financing documentation shall be included as part of the documentation for City Council approval to authorize Mayor or designee to sign loan or bond documents.

### **3.7 Breaking Down or Bid Splitting Purchases**

The breaking down or bid splitting of any purchase or contract into units or phases for the purpose of avoiding the maximum dollar amount is prohibited. Amounts for similar items shall be considered on an annual basis for purpose of determining the appropriate approval threshold.



### **3.8 Cost**

Purchase cost includes sales tax, use tax, delivery charges, and any related miscellaneous charges.

### **3.9 Local Businesses**

The City will take affirmative steps to ensure that businesses situated within the City limits are encouraged to participate in its procurement process to the extent permitted by federal, state, and local laws and regulations. When determining the lowest bid on purchase of supplies, materials, or equipment, the City may, whenever indicated in advance, take into consideration sales and/or B&O tax revenue (as applicable) it would receive from a supplier located within its boundaries pursuant to RCW 39.30.040.

### **3.10 Purchasing Limitations**

- a. Expenditures may not exceed the annual budget.
- b. Purchase limitations apply to the aggregate cost of individual items, whether purchase in one order or over a series of orders within a fiscal year. Cost is inclusive of sales tax, use tax, delivery charges, and any related miscellaneous charges.
- c. The Mayor or designee may execute professional services, and purchase services contracts, up to \$10,000 (ten thousand), as long as the contract is consistent with the adopted budget.
- d. Services contracts greater than \$10,000 (ten thousand) require Council authorization.
- e. Contracts of any amount that are not consistent with the adopted budget require Council approval.
- f. Initial Interlocal agreements of any amount with governmental agencies require Council authorization. The Mayor or designee up to \$10,000 (ten thousand) may execute renewal or extension of existing Interlocal agreements with governmental agencies, if the agreement's terms address renewal and the agreement is consistent with the adopted budget.
- g. The Mayor or designee may present any contract to the Council for approval even if the contract is not required to be approved by the Council.

## **4 PUBLIC WORKS PROJECTS**

The preparation of plans and/or specifications and an estimate of project cost shall be authorized by the Mayor or designee for projects up to \$10,000 and by the City Council for larger projects.

Type of Purchase or Project	Process (see attached matrix* for details)	Other Requirements	Contract Authorization
Projects costing under \$350K using State or local funds.	May use Small Works Roster (the City uses the MRSC Rosters RCW39.04.155)	<ul style="list-style-type: none"> <li>• Prevailing wage</li> <li>• Insurance</li> <li>• Contract/ Performance bond</li> <li>• Bid bond/deposit (unless using Small Works Roster)</li> </ul>	<ul style="list-style-type: none"> <li>• Must be budgeted</li> <li>• If under \$10K, Mayor or designee may execute</li> <li>• All other must be approved by Council</li> </ul>
Projects costing \$20K or more	Formal bids	<ul style="list-style-type: none"> <li>• Prevailing wage</li> <li>• Insurance</li> <li>• Contract/ Performance bond</li> <li>• Bid bond/deposit</li> </ul>	<ul style="list-style-type: none"> <li>• Must be budgeted</li> <li>• Requires Council approval</li> </ul>
Projects costing under \$20K (Alternative to the Small Works Roster)	Solicited quotes	<ul style="list-style-type: none"> <li>• Prevailing wage</li> <li>• Contract/ Performance bond required between \$5K to \$10K</li> </ul>	<ul style="list-style-type: none"> <li>• Must be budgeted</li> <li>• Mayor or designee may execute if 10K or under</li> </ul>
		<ul style="list-style-type: none"> <li>• Bid bond/deposit (unless using Small Works Roster)</li> </ul>	<ul style="list-style-type: none"> <li>• All other must be approved by Council</li> </ul>

\*The Public Works Contract Requirements Matrix is adopted by reference as part of this policy and procedure document.

\*\* On contracts of \$100,000 or less, at the option of the contractor, the City may, in lieu of the bond, retain ten percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the department of revenue, the employment security department, and the department of labor and industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later.

Regardless of cost limits, the City may in its discretion solicit formal bids at any time.

Project budget authorization may include a project contingency, which amount shall be disclosed as part of the project description in the budget. If additional budget authority is needed for the project, Council must approve the increase for budget amendment prior to approval of the contract.

#### **4.1 Change Orders**

Change orders which fall within the Council approved scope, project budget, and project contingency may be executed by the Mayor or his/her designee in an amount of up to 10% of the original award or \$10,000, whichever is greater. Change orders which would change the scope of the project and/or exceed the Council approved project budget and Council approved project contingency require additional Council action.

All change orders, regardless of amount, will be reported to Council on a monthly basis.

## **4.2 Prevailing Wage Laws**

Public work projects and maintenance, when performed by contract, are governed by chapter 39.12 RCW, Prevailing Wages on Public Works, regardless of contract amount. It is the responsibility of the contracting employee to notify the vendor of prevailing wage requirements and obtain compliance documentation prior to awarding any public work or maintenance contract. Public work and ordinary maintenance contracts will only be awarded to contractors who document compliance with the Washington State Prevailing Wage Law. The department director or designee managing the project is responsible for collecting ongoing compliance documents. If a contractor is found to be in violation of prevailing wage laws by the Department of Labor and Industries, the City will withhold payment (including retainage) from that contractor. The City shall notify Labor and Industries of any such violation.

## **5. PROFESSIONAL AND PERSONAL SERVICES**

Type of Purchase	Process	Other Requirements	Contract Authorization
Architectural, Land Surveying, and Engineering Services	Request for Qualifications (RCW 39.80)	<ul style="list-style-type: none"> <li>• Publish RFQ</li> <li>• Must evaluate on performance and qualifications</li> <li>• Negotiate contract after selection</li> </ul>	<ul style="list-style-type: none"> <li>• Must be budgeted</li> <li>• If under \$10K, Mayor or designee may execute</li> <li>• All other must be approved by Council</li> </ul>
All other personal services	No state law required process		<ul style="list-style-type: none"> <li>• Must be budgeted</li> <li>• If under \$10K, Mayor or designee may execute</li> <li>• All other must be approved by Council</li> </ul>

Any professional and/or personal services contracts not part of the budget, regardless of amount, must be authorized by Council.

### **5.1 Architectural and Engineering Services (A&E Services)**

Architectural and Engineering consultants are initially selected based upon their qualifications, rather than price. The defining characteristic of chapter 39.80 RCW is its strict insistence on qualification-based selection (QBS) of A&E professionals. In contrast to public works contracts, purchases (equipment, materials, and supplies), and purchased service contracts, an agency cannot consider price in the selection process for professional A&E services: it must select the most qualified firm, and then negotiate a price for the work contemplated. There are two ways to select an A&E firm based upon their qualifications:

1. Procure using a request for proposals (RFP) process. This process requires the City representative to develop a written scope of the project and any criteria used to select the service provider and then select a qualified contractor from the City's MRSC architectural, landscape architectural, and engineering service roster, following the procedures of 39.80 RCW.

2. If the City does not choose to use the appropriate roster, then a formal Request for Qualification (RFQ) process must be followed, following the procedures of 39.80 RCW.

The City will negotiate a contract with the most qualified firm at a price which the City determines is fair and reasonable. In making its determination the City shall take into account the estimated value of the services to be rendered as well as the scope, complexity, and professional nature. If the City is unable to negotiate a satisfactory contract with the firm selected at a price the City determines to be fair and reasonable, negotiations shall be terminated and the City shall begin negotiations with the next highest qualified firm.

## **6 PURCHASES OF MATERIALS, SUPPLIES, AND EQUIPMENT (not associated with Public Works projects)**

Type of Purchase	Process	Other Requirements	Contract Authorization
Items costing less than \$7,500	No state law required process		<ul style="list-style-type: none"> <li>• Must be within department budget</li> <li>• City Administrator or designee may execute</li> </ul>
Items costing over \$7,500 (except equipment and vehicles replaced through Fund 520 Fleet & Equip. Fund)	Must call for bids or use State Bid or other Interlocal Council approved bid process	Publication of RFP if bidding	<ul style="list-style-type: none"> <li>• Must be within department budget</li> <li>• Over \$7,500 but less than \$10K, Mayor or designee may execute</li> <li>• Over \$10K, Council must authorize</li> </ul>
Items costing over \$7,500 purchased by Fund 315 Equipment Fund only	Must call for bids or use State Bid or other Interlocal Council approved bid process	Publication of RFP if bidding	<ul style="list-style-type: none"> <li>• Must be within department budget</li> <li>• Mayor or designee may execute</li> </ul>

## **7 Purchasing requirements when utilizing federal funds**

There are federal standards that must be met when the city utilizes federal dollars on any purchase. There are three different aspects of it.

- A. Simplified Acquisition Threshold. If federal funds are used to pay for all or a portion of the cost of a Small Works Roster project, then formal bidding must be performed at the federal threshold of \$250,000 per OMB Memo M 18-18.
- B. Cost or Price Analysis. (2 CFR 200.323) The Uniform Guidance, 2 C.F.R. 200.323, requires the performance of a cost or price analysis in connection with every federal procurement action more than the simplified acquisition threshold. The independent cost estimates must be on file before receiving bids or proposals, including proposals for change orders and contract modifications. The city will strive to have a cost estimate on file for every solicitation.
- C. Most Restrictive Procurement Standard. When procuring with federal funds the procurement process must align with the most restrictive thresholds of state, local

and federal rules. In the absence of local and state statutes specific to personal services the City will follow its process for items costing over \$7,500 (Section 6). Further, if the contract and contract amendments exceed the simplified acquisition threshold of \$250,000 (OMB M-18-18), formal bidding is required.

- D. Suspended or debarred from doing business. The city will verify and document that vendors are not suspended or debarred from doing business with the federal government. Federal guidelines require grant recipients, to ensure vendors with contracts or purchases exceeding \$25,000.00 are not suspended or debarred from participating in federal programs. All City purchases and contracts issued from federal resources that exceed \$25,000 are subject to these guidelines.

## **8 MISCELLANEOUS**

A lease of property with option to purchase, where the cost of the real or personal property to be leased exceeds the amounts specified in RCW 35.23.352, shall be treated similar to a public works project (RCW 35.42.220) subject to the same process requirements as outlined in Section 5 of this policy.

A competitive negotiation process, as an alternative to bidding, may be used for computer and telecommunications equipment, software, and services (RCW 39.04.270). Item(s) must be within budget and may be authorized by the department head if under \$7,500, by the Mayor or designee if between \$7,500 and \$10,000, and by the Council if over \$10,000.

If the public works project is for street signalization or street lighting, it is treated as a single craft or trade project for bidding purposes.

## **9 BID PROCEDURES**

The following shall apply for public work contracts and when formal bidding is required for the purchase of materials, supplies, or equipment, except as otherwise noted:

- To ensure consistency and fair process, the City will use standard forms, documents, contracts, and terms and conditions, when practical. The City's construction specialist will maintain templates for bid-related documents for use by departments when practical. The City may use an evaluation selection committee to promote an open, proper selection. The requesting department director will appoint committee members to act in an advisory capacity.
- Minimum qualifications and/or specifications are stated to ensure bids address the needs of the City. Minimum qualifications cannot be used to eliminate qualified contractors and vendors. Minimum qualifications should be tested against the marketplace to ensure they aren't overly restrictive.
- When practical for public works contracts, the City will conduct a pre-bid conference to allow a thorough discussion of the City's intent, scope, specifications, and terms. Interested companies should be encouraged to attend.

- Bids must be sealed and filed with the City Clerk within the time specified.
- Each bid requires a bid proposal deposit of 5% or more in the form of cashier's check, postal money order, or surety bond.
- Public bid opening is required.
- The City will verify the whether the bids meet the requirements of the Invitation to Bid and determine the lowest responsive bid.
- Selection of a winning offer is based primarily on lowest responsive bid. Quality and expertise, however, may be a consideration to the extent legally permissible.
- The City, within two business days of the bid opening, shall provide copies of the bids it received if requested by a bidder (RCW 39.04.105).

**9.1 Formal Competitive Bid (RCW 35.23.352(1))**

a. Publication of Notice.

After authorization by the City Administrator or designee, the requesting department will publish the Call for Bids for sealed bids in the official newspaper, or a newspaper or publication of general circulation most likely to bring responsive bids, at least thirteen (13) days prior to bid submittal deadline. Provided that, in addition to the foregoing, the Call for Bids may also be published in any publication deemed appropriate in the sole discretion of the City Administrator or designee. This subsection does not apply if using an authorized Interlocal cooperative purchasing agreement as described in § 11.6 of these Policies.

b. Notice Contents for Public Works Contracts.

Notice (or advertisement) for bids should contain definite specifications and procedures for bidders to use to estimate their bids. At a minimum, a bid notice for public works must include:

- i. Project title;
- ii. Nature and scope of work;
- iii. Where contract documents (plans and specifications) can be reviewed or obtained;
- iv. Cost to obtain a set of contract documents;
- v. Place, date, and time that bids are due;
- vi. Place, date, and time that bid will be opened;
- vii. Statement that a bid bond must accompany the bid;
- viii. Statement that the City retains the right to reject any and all bids and to waive minor irregularities in the bids and/or the bidding process;
- ix. Statement that the contract involves "public work" and that workers shall receive the prevailing rate of wage pursuant to the Prevailing Wages on Public Works Act (Chapter 39.12 RCW);
- x. List of the applicable prevailing wage rates or prevailing wage statement;

- xi. Statement that the City is an equal opportunity employer and invites responsive bids from all qualified responsible bidders;
        - xii. The materials and equipment to be furnished, if any.
- c. Notice Contents for Purchases of Materials, Supplies, or Equipment. Notice (or advertisement) for bids should contain definite specifications and procedures for bidders to use to estimate their bids. At a minimum, a bid notice must include:
  - i. Name and description of requested items;
  - ii. Where contract documents (plans and specifications) can be reviewed or obtained;
  - iii. Cost to obtain a set of contract documents;
  - iv. Place, date, and time that bids are due;
  - v. Statement that the City retains the right to reject any and all bids and to waive minor irregularities in the bidding process;
  - vi. Place, date, and time that bid will be opened.

## **9.2 Bid Opening**

Bids are submitted to the responsible department director or designee, where they are time and date stamped and processed. The bids shall be opened at the time and place specified in the advertisement for bids.

**9.2.1** Report on Bids: The responsible department director or designee will prepare a report and recommendation on all bids received to the decision maker with the authority to approve the contract.

**9.2.2** Bid Award: The City shall award the contract to the lowest responsible bidder or shall have power by Council resolution to reject any or all bids and to make further calls for bids in the same manner as the original call.

**9.2.3** Bid Bonds for Public Works Contracts: Upon award of a public works contract or rejection of all bids, bid bonds shall be returned to the unsuccessful bidders. All bid guarantees must be deposited to the City's account. Bid guarantees belonging to the unsuccessful bidders must be returned as soon as practical after the bid opening in the form of a check written to the contractor. The City shall hold the bid guarantees of the two lowest responsible bidders. If the successful bidder fails to enter into the contract, the bid guarantee is forfeited and the contract is awarded to the next-lowest bidder. If the lowest bidder enters the contract, the guarantee for the second-lowest bidder is returned. The successful bidder's bid bond or deposit shall be retained until the bidder enters a contract with the City and furnishes a performance bond in the full amount of the contract price.

Per RCW 35.23.352, if the City has previously issued a written finding that the lowest bidder has, within the last three years, delivered to the City a project that was late, over budget, or did not meet specifications, and the

City does not find in writing that the lowest bidder has shown how they would improve performance so as to be likely to meet project specifications, the City may award to the second-lowest bidder that falls within 5% (five percent) of the lowest bidder and meets the same criteria as the lowest bidder.

### **10. SMALL WORKS ROSTER (RCW 39.04.155(1) And (2))**

RCW 39.04.155 provides uniform small works roster provisions to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property. The Small Works Roster may be used for public work projects valued below \$20,000 in lieu of formal bidding. Use of the Small Works Roster allows the City to waive the advertisement requirements of the formal competitive process.

The Washington State Municipal Research Services Center (MRSC) compiles small works rosters for cities and counties throughout the State of Washington. The City of Sultan has contracted with MRSC to use its small works rosters for public works contracts valued below \$20,000.

1. Invitations for Quotations.

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. This subsection does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes.

2. Number of contractors invited.

Quotations shall be invited from all, or at least three (3), appropriate contractors per the attached Public Works Contract Requirements Matrix.

3. Vendors/contractors selected from the Small Works Roster are not relieved from observing applicable legal requirements such as Contract Bond, Prevailing Wage, Retainage, etc.

4. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

5. As required by RCW 39.04.200, the City must post a list of contracts awarded from the small works roster once every year. The list must contain the name of the contractor, the amount of the contract, a brief description of the type of work performed, and the date of the award.

### **11. Limited Public Works Process (RCW 39.04.155(3))**

For public work projects with an estimated cost of less than \$50,000.00 the City may use the Limited Public Works Process in lieu of the small works process.



1. **Invitations for Quotations.**  
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. This subsection does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes.
2. **Number of contractors invited.**  
Quotations shall be invited from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder. If no bids are received, see Section 11.8 for guidance.
3. **Notification of Award.**  
After an award is made, the quotations shall be open to public inspection and available through a public disclosure request. The City shall maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four 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.
4. **Vendors/contractors selected using the Limited Public Works Process are required to comply with prevailing wage and insurance requirements.**

## **12. Exemptions to Competitive Bidding Requirements**

RCW 39.04.280 provides uniform exemptions to competitive bidding requirements utilized by municipalities when awarding contracts for public works and contracts for purchases.

### **12.1 Purchases that are clearly and legitimately limited to a single source of supply(Sole Source Vendor)**

If, after conducting a good faith review of available resources, the requesting department/director determines that there is only one source of the required materials, supplies, or equipment, a purchase contract may be awarded without complying with established bid requirements. The requesting department director will submit a written request for sole source procurement to the Mayor/Council for approval, and conduct price, terms, and delivery negotiations, as appropriate. The vendor must certify in writing that the City is getting the lowest offered price.

The City Council shall approve all sole source purchases by resolution that identifies the factual basis for the sole source justification and concludes that "the purchase is clearly and legitimately limited to a single source or supply." A sole source resolution shall not be required in case of emergency, under the terms and conditions specified

in RCW 39.04.280(2)(b) and (c). On-going sole source purchases of materials, equipment, and supplies should be reviewed annually to ensure the pricing is still the lowest price for the City and that the conditions that justify the sole source purchase still exist.

### **12.2 Purchases involving special facilities or market conditions**

RCW 39.04.280(1)(b) authorizes the City Council by resolution to waive established bidding requirements if an exceptional opportunity arises to purchase favorably priced equipment or supplies or used goods that will be sold before the City can conduct the bid process. The resolution must set forth the factual basis for the special market conditions.

RCW 70.95(A).090 authorizes exceptions to the requirements of Section 6 of this policy as it applies to purchases for Pollution Control Facilities as they are defined in RCW 70.95(A).020.

### **12.3 Auctions**

RCW 39.30.045 authorizes the City to acquire supplies, materials, and equipment through an auction conducted by an agency of the State of Washington, an agency of the United States, any municipality or other government agency, or any private party if the items can be obtained at a competitive price. Prior to auction, the Council should preapprove an upper limit for the person doing the bidding.

### **12.4 Surplus Property**

The City may acquire surplus property from another governmental entity without the use of competitive quotes or bids (RCW 39.33.010), when it is possible to procure obvious bargains through the procurement of surplus or distress material, supplies, or equipment. The requesting department director will submit a written request for procurement to the Mayor for approval, and conduct price, terms, and delivery negotiations, as appropriate.

### **12.5 Purchases in the event of an emergency**

Emergency is defined as "...unforeseen circumstances beyond the control of the municipality that either: (a) present a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken." If an emergency situation has been declared, the Mayor or designee may make or authorize others to make emergency procurements of materials, supplies, equipment, or services without complying with the requirements of this policy when there exists a threat to public health, welfare, or safety or threat to proper performance of essential functions; provided, that such emergency procurements shall be made with such competition as is practical under the circumstances. A written determination of the basis for the

emergency and for the selection of the particular contractor/vendor shall be included in the contract file. As soon as practical, a record of each emergency procurement shall be made and shall set forth the contract's name, the amount and type of the contract, and listing of the item(s) procured under the contract, which shall be reported to the Council at the next subsequent meeting.

If a contract is awarded without competitive bidding due to a declared emergency, the City Council must adopt a resolution certifying the emergency situation existed no later than two weeks following the award of the contract (RCW 39.04.280(2)(b)). The persons authorized to issue an emergency proclamation are authorized to declare an emergency for purposes of this bidding exemption.

Public works and improvements emergencies (e.g., broken water main, washed out road, sewer main break, etc.) require contract, performance bond, prevailing wages, and insurance. Local, state and federal laws do not exempt these requirements during an emergency.

### **12.6 Interlocal Agreements**

The City may enter Interlocal agreements with other public agencies similarly authorized under RCW 39.34.030. State law regarding competitive bidding shall govern any cooperative purchasing agreement. The competitive bid process of the original jurisdiction may substitute for Sultan's if consistent with the bidding laws that apply to Sultan. "Piggybacking" on another jurisdiction's bid requires an Interlocal agreement. All Interlocal cooperative-purchasing agreements shall be presented to Council for approval.

The Finance Department maintains an updated list of active Interlocal agreements through which the City of Sultan may be able to realize savings. This list is available to all City staff for use in their procurement activities.

### **12.7 State or County Construction or Repair of Streets**

By passing a resolution, the City Council may authorize the County to construct, repair, or maintain a City street. The City pays the "actual cost" of the work, with the payment being deposited in the county road fund. The state Department of Transportation may also provide engineering assistance road projects or do the actual construction. The state is reimbursed from the City's share of the motor vehicle excise tax in the motor vehicle fund. Such agreements with the county or the state do not require competitive bids.

### **12.8 No Bids or Quotations Received**

When no responsive bids or quotations are received in response to an invitation to bid or request for quotations, the department director or his/her designee is authorized to procure the required item through direct negotiations with a vendor or to rebid, or do the project with City employees for public works contracts, as the Mayor or his/her designee deems appropriate.

### **13. TRAVEL**

All expense payments or reimbursements for travel and/or subsistence expenses must meet the requirements set forth in the City of Sultan Personnel Policy, which establishes policy and procedure related to obtaining travel authorization, advance travel funds, and expenditure or reimbursement for travel and subsistence expenses incurred in conduct of business of the City. Refer to the City of Sultan Personnel Policy or details.

### **14. PAYMENT PROCESSING**

#### **14.1 Approvals**

Vendor invoices shall be signed for approval by the department director or designee. Reimbursements payable to City employees shall be signed for approval as follows (employees may not approve their own reimbursement):

- Council – approved by the Mayor, City Administrator, or designee;
- Mayor – approved by the City Administrator or designee;
- City Administrator – approved by the Mayor or designee;
- Department Head – approved by the City Administrator or designee;
- Other employees – approved by the Department Director or designee.

#### **14.2 Accounts Payable**

Original invoices that are received by accounts payable will be date-stamped and routed to department directors weekly. Other invoices may be received directly by the department director or other staff, such as when items are picked up at will-call or services are performed on-site. For all invoices, department director or designees will verify that the invoiced items have been received and that the invoiced amount is correct. The accounts payable original invoices should include the correct account coding and have a required authorized approval signature added. The approved invoice will be routed to accounts payable for payment. There are two accounts payable check cycles scheduled each month, at each Council meeting, unless the date falls on a holiday. The Finance Director or designee audits the bills prior to City Council meetings ensuring the correct coding of the bills, authorization approvals, and proper documentation prior to Council approval. The Finance Director or designee approval is required before bills can be paid.

#### **14.3 Pre-Council Meeting Checks**

Departments should avoid requests for pre-Council meeting checks by submitting approved invoices to accounts payable as soon as invoices are received. If extenuating circumstances exist, a check may be issued to avoid incurring penalties, interest, or late charges. Recurring invoices for utilities, PUD, PSE, and telephones may be paid early to avoid penalties or late fees.

## **15. CREDIT CARDS**

In accordance with RCW 43.09.2855, local governments are authorized to use credit cards or procurement cards for official government purchases and acquisitions. Cash advances on credit cards or procurement cards are prohibited. Credit cards and procurement cards may not be used to purchase alcoholic beverages. It will be the responsibility of each department director to assign credit cards or procurement cards to employees that need them for City operations. Refer to the City of Sultan Personnel Policy for details regarding credit card usage when traveling.

### **15.1 Bank-Issued Credit Cards/Procurement Cards**

The City has obtained purchasing card (P-Card) participation in the statewide contract administered by DES, Office of State Procurement (OSP). A benefit of using the contract allows the City to earn a quarterly rebate based on the volume spent and timely payment. The rebate received is distributed to the source of funds expended for the purchase card transactions. The use of the P-Card does not relieve the employees from complying with other City and departmental policies and procedures.

The Program Administrator maintains the accounts and is authorized to make necessary changes and updates, corresponds with the bank to resolve issues, orders P-Cards, reconciles purchases made during the billing cycle to the bank statement, verifies accuracy of supporting documents and signatures, maintains records, and assures timely payment. The Program Administrator will pay by P-Card recurring payments such as utility, phone, postage, and other authorized purchases.

Credit limits and other controls are established by department directors when the card is authorized.

Department directors may request a change of credit limits and cancel or suspend a card when needed. P-cards will be issued to employees after the employee has received a copy of the City's Procurement Policies and Procedures and has signed a Purchasing Card Acceptance Agreement form. Department directors or designee will ensure employees approve their charges and submit the proper supporting documents within five days after the billing cycle date (currently the 10th of the month). Department directors will verify the accuracy of charges and approve supporting documentation, assign correct fund numbers, and descriptive information for each charge, final approve the charges online, print activity statements, and submit paperwork to the Program Administrator within ten days after the billing cycle date. The department director may designate another employee who will fulfill these responsibilities in their absence.

As authorized, employees will use their P-Card at time of purchase for goods, maintenance, services, and construction as allowed by the vendor. The employee should not exceed the credit limit on their P-Card. The employee should contact their department director if the limit needs to be adjusted to make purchases. Employees will approve their charges and submit the proper supporting documents to their

department director within five days after the billing cycle date (currently the 10th of the month). The documents must be turned in or made accessible to a department director before any absences (i.e. vacations, personal leave, or sick days). The department director may authorize employees' online access to view and approve their charges, update descriptive information, and print an activity statement. If there is a disputed charge on account, the employee should immediately notify the merchant. If unable to get satisfaction from the merchant, contact the Program Administrator to dispute the amount with the bank.

Unauthorized usage examples include, but are not limited to:

- Travel Status meals (see the City travel policy which pays for meals at a per diem rate);
- Non-Travel Status meals;
- Personal charges;
- Cash advances; and
- Unauthorized purchases.

The purchase of meals by police officers for individuals needing outreach as part of the embedded social worker program is an authorized usage.

Proper Supporting Documentation:

- Itemized receipts;
- Itemized invoices;
- Detailed Online Order Confirmations;
- Training Request forms.

Employees who are frequently late submitting or missing supporting documentation will lose their P-Card privileges for an amount of time determined by their department director. Improper use of the P-Card may result in disciplinary action up to and including termination of employment.

A few vendors, such as Lowe's and Costco, offer the City discounts by using an existing account rather than the P-Card. The Program Administrator should be notified if there are any other vendors who offer these discounts as it would be in the City's best interest to receive them (refer to Section 14.2 Store-Issued Credit Accounts).

The employee should safeguard their P-Card and account numbers against loss, theft, and unauthorized use. The P-Card may be used in person, by phone, online, or by fax and should be kept either by the employee or locked in a secure location when not in use. If a P-Card is lost or stolen, the employee should immediately notify the bank and inform the Program Administrator. Failure to notify the bank may result in the City's responsibility for payment.

## **15.2 Store-Issued Credit Accounts**

The City discourages the practice of requesting new charge accounts from vendors unless the vendor will not accept a procurement card or check on delivery and the City will realize cost savings or has time constraints. It is the City's preference for employees to use the procurement cards whenever possible. Store-issued credit cards shall have a limit of \$1,000. Individual store credit limits may only be modified by City Council resolution upon finding that special circumstances necessitate the higher amount.

## **16. COOPERATIVE PURCHASING AGREEMENTS**

Cooperative purchasing fosters greater economy and efficiency and promotes cost-effective use of shared services.

Pursuant to RCW Chapter 39.34, the City may enter into an Interlocal Cooperative Purchasing Agreement with any public agency, the State of Washington, a political subdivision thereof, another state or a political subdivision of that state, an agency of the Federal Government, or a Federally Recognized Indian Tribe. As provided by state law, Interlocal Cooperative Purchasing may be used to jointly make bid calls for a joint purchase, or to purchase equipment, materials, supplies, or services on terms contained in a proposal or contract offered to another public agency. When the City uses an Interlocal Cooperative Purchasing Agreement, the procurement must comply with the procurement requirements of the other public agency. Firm written quotes shall be obtained in advance to document pricing and terms of all cooperative purchases.

Interlocal Cooperative Purchasing Agreement purchases may be made without advertising in the City's official newspaper; however, Council authorization may be required based on the anticipated or actual cost to the City.

When practical, the City should include language in its solicitations that allows other public agencies to purchase from the City's bids, quotations, or contracts, provided that the other agencies allow similar rights and reciprocal privileges to the City.

## **17. CANCELLATION OF INVITATIONS FOR QUOTATIONS OR BIDS**

An invitation for quotations or bids may be canceled at the discretion of the department director. The reasons shall be made part of the contract file. Each invitation for quotations or bids issued by the City shall state that the invitation may be canceled. Notice of cancellation shall be sent to all parties that have been provided with a copy of the invitation. The notice shall identify the invitation for quotations or bids and state briefly the reasons for cancellation.

## **18. RETAINAGE**

State law (Chapter 60.28 RCW) requires the City to withhold up to five percent (5%) of the contract price earned by the City's contractor during performance of public work and construction contracts. The withheld amount, known as "retainage," is for the benefit of laborers and material suppliers in the event the contractor fails to pay them. Retainage may also be used to satisfy tax claims by the Department of Revenue and/or the City,

prevailing wage related claims by the Department of Labor and Industries, unemployment compensation related claims by the Employment Security Department, and contract performance claims by the city itself. Retainage is not paid (“released”) to the contractor until appropriate releases are received from the involved state agencies and City departments/divisions.

A contractor has several options in how retainage will be held, as outlined in RCW 60.28.011, including:

1. The most common is to have the City withhold and retain five percent (5%) from each payment made during performance of the contract in a non-interest bearing fund.
2. A bond in-lieu-of retainage (aka “retainage bond”) may be submitted by the contractor for all or any portion of the contract retainage amount.
3. The amount(s) retained may be deposited by the City in an interest bearing account. Interests on such monies shall be paid to the contractor and is not subject to withdrawal until after final acceptance of the work.
4. An escrow account may be jointly established by the contractor and the City with a bank. The monies placed in escrow must be converted into bonds and securities approved by the City and any interest is paid to the contractor as it accrues.

Retainage requirements are not mandatory for non-public works supplies or services, but may be used in the discretion of the department/division. Note that even when the City has required a performance bond for these types of contracts, retainage is not held unless specified in the solicitation and contract. This is rare.

At the conclusion of contract performance, any retainage reserved by the City will be released or otherwise disbursed according to the City’s contract close out process.

## **19. TRADE-INS**

Trade-Ins are allowed on new purchases if approved by Legal and Finance in advance. Trade-Ins must be negotiated, documented at “Fair Market Value” by the department head, and declared surplus ahead of time.