



CITY COUNCIL ACTION FORM

DEPARTMENT Finance	PRESENTED BY Kristen Hussey - Assistant Finance Director	DATE February 20, 2024
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ITEM

Consent Agenda

Adopt the updated purchasing policy.

BACKGROUND

In January 2023, City Council adopted the current purchasing policy. During 2023, it was determined the existing purchasing policy did not include guidance on a situation where a non-employee may request reimbursement for accidental damages that may be caused by City personnel during normal course of business. This update to the policy, as shown in red text in the following pages, adds language to the existing policy to guide City staff on how to address these situations as they may arise. The City's attorneys have reviewed these proposed updates.

FISCAL NOTE

None

STAFF RECOMMENDATION

To approve the updated purchasing policy.

SUGGESTED MOTION

A council person should make a motion to "combine and approve the items on the consent agenda."

Purchasing Policy



Introduction:

The purpose of this policy is to ensure purchases are made in accordance with Colorado Revised Statutes and cash is disbursed only for authorized expenditures after the receipt of acceptable goods or services is verified. In addition, this policy helps ensure that all expenditures are properly recorded and reported in financial reports as required by state law and by government accounting standards. The purchasing levels in this policy are subject to periodic review and may be changed with City Council approval based on inflation and other factors.

Scope:

This policy applies to all purchases of goods or services, including the award of construction contracts.

Purchasing Levels and Required Documentation – for Budgeted Purchases:

Expenditures are pre-authorized by City Council in the budget process. Individual purchases of goods or services included in the approved budget shall be committed by authorized personnel in accordance with the purchasing levels shown below:

	Up to \$500	Up to \$5,000	Up to \$10,000	Up to \$50,000	Over \$50,000
Approval Required	Staff or Higher Level	Supervisor/ Experienced Staff or Higher Level	Department Head, Asst. City Admin or Higher Level	City Administrator	City Administrator (see additional considerations below)
Documentation Required	Receipt, Invoice, or Check Request	Receipt, Invoice, or Check Request	Receipt, Invoice, or Check Request	Purchase Order Process/Informal Bid Process*: - A minimum of three (3) documented telephone/email bids/quotes/proposals, and - Contract, as appropriate, and - Purchase Order Form - Invoice or Check Request to be provided to the Finance Department upon receipt of acceptable goods or services	Competitive Bid Process*
Amendments & Change Orders				Increases greater than 10% require additional approval by City Administrator	

*See Purchase Orders section and Bid Processes section for more detail and for purchases exempt from the Purchase Order Process and Bid Process, respectively.

Additional Considerations:

Any proposed purchase in the following categories shall require City Council approval prior to commitment of funds:

- Any proposal for consulting services over \$50,000;
- Any expense greater than \$50,000 **not** in the approved annual budget.

Staff must be authorized by Department Head and Finance Department to purchase items on open account from vendors of small items such as supplies, fuel for City vehicles, clothing allowance items, etc. Requested changes to the list of authorized users must be submitted to the Finance Department.

When a Department Head is out of the office, they may designate a staff member to approve check requests/invoices in their absence up to the level of the Department Head's approval authority. Such designation shall be in writing (or via email) and provided to the Finance Department.

If the City Administrator is out of the office, the Assistant City Administrator, or the corresponding Department Head and the Finance Director, may provide their joint approvals in substitution of the City Administrator's.

The City Administrator and Department Heads must manage their expenditures within the level of detail as approved by Council. For example, if Council approves total expenditures for a department, staff may allocate those dollars differently between line items. However, if Council approves expenditures by type (personnel, supplies, purchased services, etc.), staff must manage dollars within those categories.

Staff should make reasonable efforts to compare prices of goods and/or services, and proof of price comparing should be documented.

General Purchasing Procedures

Purchases can be made by one of the following means:

1. Open account – The preferred method of payment for most City purchases is through an open account, where the vendor sends invoices for goods and services directly to the Accounts Payable department.
 - a. Only the Assistant Finance Director, Finance Director and City Administrator have authority to apply for credit to open revolving accounts with vendors.
 - b. An IRS Form W-9 must be obtained from all vendors prior to issuing payment.
 - c. If employees are authorized to make small purchases on open accounts with vendors, they must sign off on the charge slip to acknowledge their receipt of the goods. The charge slip is to be turned into Finance, with proper sign off and coding, to match with the vendor statement.
 - d. Invoices or, in the case of certain open accounts, statements are mailed directly to Accounts Payable by the vendor and then routed to the corresponding department for review and proper approval.
 - e. By signing off on the invoice, the approver is verifying all of the following:

- i. The purchase was for City business.
 - ii. The purchase was made within the approved budget.
 - iii. The delivered goods or services were acceptable to you.
 - iv. The invoice agrees to what was agreed to pay upon ordering the item (amount, terms, etc.).
 - v. The charge is within the approval authority.
 - f. Approval of invoices must be evidenced by the authorized employee's signature or distinguishable initials and the date.
 - g. All invoices in excess of \$10,000 must also be approved by the City Administrator, unless they relate to a contract that has already been signed by the City Administrator and/or City Council.
2. City credit card – In accordance with the Credit Card policy, certain employees are issued a City credit card to use for travel and the purchase of miscellaneous goods and services. Please refer to the City Credit Card policy and section 6.20 of the Personnel Manual for further detail regarding authorized uses of credit cards, ethical considerations, allowable expenses, etc.
- a. Employees shall submit an expense report monthly to document usage of the credit card. Documentation submitted with the expense report must include the corresponding invoice or receipt related to each expense. The business purpose must be clearly documented.
 - b. A standard expense report form is to be used to code each item purchased on the credit card.
 - c. Complete a separate expense report for each credit card billing cycle and ensure that the total being reported on the expense report agrees to the total per the credit card statement.
 - d. The cardholder must obtain their supervisor's approval on the expense report, regardless of dollar amount.
3. Expense Reimbursements – Employee may submit an expense reimbursement form for mileage reimbursement, per diem and/or the infrequent occasion when items have been purchased for City business using the employee's own funds. Expenses incurred by an employee personally must be reasonable and customary and must be related to the conduct of official business or attendance at professional meetings, conferences, or training sessions which promote overall job knowledge. For an expense to be reimbursed, adequate appropriations must be available, the expenses must be authorized in advance, and the employee must comply with the procedures and policies identified in Section 6.20 "Travel and Expense Reimbursement" of the Personnel Manual. Employees are encouraged to sign up for ACH reimbursement payments, for which the Finance Department can provide instructions, otherwise a check will be mailed to the employee per the employee's mailing address on file within the City's payroll system.
- a. Documentation submitted with the expense report must include the invoice, receipt or other appropriate documentation (mileage calculations with maps showing mileage driven, evidence of training being attended, etc.) related to each expense. The business purpose must be clearly documented.
 - b. Expense reports must be submitted within 30 days of the purchase.
 - c. Further instructions on where to find per diem information and calculate mileage reimbursement are located on the Expense Report form. The Finance Department will update these instructions annually, or more frequently, as needed, to reflect current reimbursement rates.
 - d. Supervisor approval is required on all expense reports, regardless of dollar amount.
 - e. Any reimbursement claims brought forward to the City related to damages to property must first submit a quote of the work to be performed, including scope of work and corresponding price, to the City Administrator for evaluation and approval prior to work being performed. At that time, the City Administrator will determine if an insurance claim is required to be made. Additionally, any reimbursement claims related to property damage that are less than the City's insurance deductible shall not be paid out until the

claimant has signed the City's Insurance Claim Release Form.

4. Check request – Should be used on the infrequent occasion that a purchase is initiated when a vendor invoice or contract is not available to submit to the Finance Department.
 - a. The purchaser should always attempt to obtain an invoice or some form of documentation from the vendor. The check request is only to be used when the vendor documentation is unavailable or does not provide the necessary information to describe the nature of the expense, payment due dates, etc.
 - b. The requestor must sign the check request and, if the purchase amount exceeds the requestor's purchase authority, the requestor's supervisor must also approve the check request.
 - c. The requirements in 1.e. above also apply to check requests.
 - d. There is no need to complete a check request to attach to expense reports or vendor invoices.

5. Petty cash – Used only in approved locations for small items that cannot be charged to a credit card or open account.

Any time that an expense is incurred for multiple City employees, the employee with the highest seniority must pay the bill. This will avoid a situation where a manager may be approving his or her own expenses. (For example, if a manager and staff members attend an out of town training seminar and one bill is incurred for a meal for all employees, the manager must be the one to pay the bill.)

When an invoice is paid, separation of duties between the check signer and check processor shall be maintained.

Tax-Exempt Status:

As a government municipality, the City is exempt from sales and use taxes and fuel excise taxes. Every attempt, within reason, should be made to ensure the City is not billed for taxes. A copy of the City's tax exemption certificates may be obtained through the Finance Department.

Multiple Year Obligations:

Article X of the Colorado Constitution prohibits municipalities from entering into direct or indirect multiple fiscal year financial obligations without prior voter approval or without adequate cash reserves pledged irrevocably and held for payments in all future years. The Colorado Court of Appeals has held that contracts which are expressly subject to annual appropriation or non-renewal are not obligations within the meaning of this provision.

Conflict of Interest:

Purchases over \$10,000 from family members, Council members, City employees or any other person where an actual or perceived conflict of interest may exist must be preceded with either an informal or formal bid process. The purchase must be disclosed at an open City Council meeting prior to the actual award of the bid or commitment to purchase. Purchases under \$10,000 from family members, Council members, City employees or any other person where an actual or perceived conflict of interest may exist must be preceded with City Administrator approval.

Professional Services:

One-time or expected ongoing professional services over \$10,000 are required to have a written contract in place for services to be performed. Copies of signed contracts should be distributed to the Finance Department and the Clerk's office for document retention. Selection of a vendor/consultant for professional services should not be based solely on the lowest offered price, and department heads should also consider the below criteria when selecting a vendor/consultant. The below list is not meant to be exhaustive, and any other necessary criteria specific to the scope of the work should also be considered. Consideration of the below and any other applicable criteria used in the selection of a vendor/consultant should be documented.

- Vendor/consultant applicable qualifications
- Institutional knowledge of facilities and infrastructure
- Vendor/consultant's past success working with the City and other various governmental agencies (e.g., CDOT, CDPHE, etc.)
- Requirements to use certain vendors/consultants, as stipulated by other governmental agencies or utility contractors on the project, as applicable

In the event of a new vendor/consultant or if a change in vendor/consultant is needed for an ongoing professional service (e.g., on-call engineering services, etc.), department heads should engage in a Request for Qualification (RFQ) process in addition to obtaining price estimates in order to select the best vendor/consultant.

Purchase Orders

A standard purchase order is to be used and appropriate approvals are to be obtained for all purchases included in the budget of \$10,000 or more (individually, or as a total project) excluding items listed in the 'Exempt Items' listing below. **Approval of the Purchase Order must be obtained from the City Administrator and the Finance Department before the order is placed** and should be evidenced by signatures; however, email approvals and/or electronic signatures will also be accepted. Departments are responsible for obtaining contractor proof of insurance, as applicable, based on the scope of work to be performed.

Invoices will be matched to the approved Purchase Order prior to being routed for approval. Invoices related to a Purchase Order will not be paid until the corresponding Department has communicated to the Finance Department the acceptable receipt of the goods or services. Should the actual charges exceed the amount approved on the Purchase Order by ten percent (10%) or more, an amended Purchase Order must be completed with additional approval from the City Administrator. Department heads are responsible for working with contractors and vendors to ensure charges are within the approved amounts. If a Purchase Order results in a budget overage, a budget amendment must be taken to the Finance Committee and City Council for their review and approval at the Finance Director's discretion. Budget amendments are to be obtained prior to the commitment of additional funds, except in emergency situations or where it is impractical to do so.

While departments should consider overall life cycle cost when selecting vendors/contractors to work with, the lowest priced vendor/contractor may not always be the most appropriate choice. Department heads should also consider other qualifications and historical experience working with vendors/contractors, and document these considerations in writing.

Exempt Items

- Council or City Administrator Approved Contracts
- Debt Service Payments
- Annual/Recurring Dues & Subscriptions
- Insurance
- Investment Transactions
- Recurring Lease Payments
- Maintenance and Support Licensing Agreements (associated with an approved contract)
- Payroll (direct deposit, checks, taxes, deductions and other payroll related expenditures)
- Professional Services (associated with an approved contract)
- Sole source items (see Sole Source section below)
- Utilities
- Emergency-related Purchases

Bid Processes

Competitive bids are required according to the thresholds identified in the purchasing level matrix above. Depending on the nature of the product or service, bids are not necessarily awarded to the lowest bidder. For those situations where the low bid is not accepted, the basis for the award must be documented in writing.

The City is not required to advertise for and receive bids for technical, professional, or incidental assistance. Hiring outside help to address an emergency situation that poses a threat to public health and safety is deemed “incidental assistance” for purposes of this policy. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

1. The City Administrator’s approval shall be obtained before the bid is advertised.
2. A request for open bids must be advertised in a newspaper of general circulation in the City, in local online publications, and on the City website, and must be posted to any bidding portal the City is under contract with.
3. The City shall always reserve the right to reject any and all bids.

4. The primary criteria for a bid award are conformance with all bid specifications including all bonding and licensing requirements and low amount of bid. However, department heads should also consider other qualifications of the bidder including, but not limited to: historical experience with the bidder, and the bidder's institutional knowledge of facilities and infrastructure. Department heads are encouraged to utilize a Request for Qualifications (RFQ) process in order to obtain a vendor/contractors qualifications as it relates to the proposed project.
5. Where no bids are received or, if in the opinion of the City Council, all bids received are too high, the City may enter into negotiations concerning the contract. No negotiated price shall exceed the lowest responsible bid previously received.
6. City Council shall award the contract to the successful bidder, considering bidder's qualifications, bid amount, and other relevant specifications.

Alternate contract delivery methods may also be appropriate and acceptable based on the scope of the public improvement project. Department heads should use their professional judgement in determining if a design-build contract or a Construction Manager At-Risk (CMAR) contract is most appropriate given the public improvement project.

Contractors who are working under a Public Works contract must meet the eighty percent (80%) Colorado labor requirements, unless waived by the City Council pursuant to the Colorado Revised Statutes. Refer to the Colorado Division of Labor and Employment Keep Jobs in Colorado Act for further information. <https://cdle.colorado.gov/keep-jobs-in-colorado-act>

Types of Bids

Competitive (Formal) Bid Process

A formal, competitive bid process is generally recommended for all purchases estimated to cost in excess of \$50,000 excluding the items in the areas listed in the 'Exempt Items' list below. A Formal Invitation for Bid (IFB) or Request for Proposals (RFP) shall be required. *Capital improvement projects cannot be exempt.*

1. The City Administrator shall approve all purchases being initiated through a formal bidding before the bid is advertised. City Council shall award the contract to the successful bidder. The bidding procedure shall follow what is described above for public improvement projects.
2. A request for open bids (IFB or RFP) must be advertised in a newspaper of general circulation in the City, on the City website, with local online publications, and must be posted to any bidding portal the City is under contract with.
3. The award shall be made to the vendor meeting the specifications of the bid, having the lowest price and giving consideration to service, quality, references and delivery. The City shall reserve the right to reject any and all bids.

Informal Bids

- a. Department heads or their designees may obtain informal bids on purchases of goods or services with a cost of less than \$50,000. This may be accomplished by phone calls, emails or similar communication and a written quote or bid must be obtained and documented.
 - a. Informal bids or quotations must include the name of the firm, name of person providing the information, delivery date and terms, and payment terms.

- b. A minimum of three quotations shall ordinarily be required.
- c. A refusal to bid constitutes a bid but cannot be the only other bid received. Every effort must be made to receive at least three actual bids.
- d. The award shall be made to the vendor meeting the specifications of the bid, giving consideration to service, quality, references and delivery, and having the lowest price. The City shall reserve the right to reject any and all bids.
- e. Copies of all bid documents shall be submitted to the Finance Department for filing and will be kept in accordance with the Document Retention Schedule.

Local Vendor Preference

Bids by vendors with their primary operations located within the City of Salida will receive preference within a five percent (5%) price difference. Bids by vendors with their primary operations located within Chaffee County will receive preference within a three percent (3%) price difference. The provisions for local preference apply to consideration of cost only. Bids that include other requirements regarding product specifications, vendor qualifications, or other criteria based on the nature of the product or service, may not necessarily be awarded to the lowest cost bidder.

Justification for any other exceptions to the bid process must be approved by the City Administrator. A sole source purchase (the designation of a manufacturer or "brand name only" for goods or a specific vendor for service) is permitted only when fully justified by the requester (refer to Sole Source Exemption section below for criteria that need to be met). Competitors' deficiencies shall also be documented. All requests for sole source purchase must have a statement addressing conflict of interest (refer to Sole Source section for further information related to sole source items and documentation required).

Items/Purchases Exempt from Bidding Process

- Sole source items (see Sole Source section)
- Compatible Parts
- Used or Pre-Owned Items
- Emergency-related Purchases
- Council Approved Service Contracts
- Debt Service Payments
- Insurance
- Investment Transactions
- Lease Payments
- Maintenance and Support Licensing Agreements (associated with an approved contract)
- Payroll (checks, taxes, deductions and other payroll related expenditures)
- Professional Services (associated with an approved contract)
- Utilities

- Cooperative Purchasing

Requirements Specific to Construction of Works of Public Improvement

In accordance with C.R.S. §31-15-712, all work done by the City in the construction of works of public improvement with a cost of \$5,000 or more must be done by contract to the lowest responsible bidder on open bids after ample advertisement. It is unlawful to divide work into two or more separate projects for the sole purpose of evading or attempting to evade this statutory requirement, as it relates to construction of works of public improvement.

Sole Source Exemption from Formal Procurement

Sole source purchases may be made if it has been determined that there is only one good or service that can reasonably meet the need and there is only one vendor who can provide the good or service and is in the best interest of the City. To take advantage of the exemption, the following criteria must be met:

1. The vendor is the original equipment supplier/manufacturer/service provider and similar parts, equipment or services are not available from another manufacturer; or
2. The vendor is the only source of equipment, materials, goods or services compatible with or conforming to City-owned equipment, materials, goods or services and addition of nonconforming equipment, materials, goods or services would require the expenditure of additional funds; or
3. No other equipment, materials, goods or services are available that can meet the specialized needs of the department or perform the intended function; or
4. Detailed justification is available which reasonably establishes that the vendor is the only source practicably available to provide the item or service required; or
5. The product, equipment or service is functionally superior to all other competitive products.

Up to \$25,000. To take advantage of the sole source exemption for purchases between \$10,000 and \$25,000, Department Heads are responsible for selection and contract administration. Semiformal procurement processes are not required; however, Department Heads are responsible for selection based on applicable and appropriate qualifications, experience, referenced successes and cost factors. The City Administrator must approve reliance on this exemption in writing in advance.

Over \$25,000. To take advantage of the sole source exemption for purchases with a total cost of over \$25,000, Department Heads are responsible for selection and contract administration. Formal procurement processes are not required; however, Department Heads are responsible for providing the written justification for the exemption and obtaining written approval before engaging any such exempted services or procuring exempted goods. Approval must be obtained in accordance with the following:

- a) The Department Head requesting the exemption must complete the Exemption Approval Form (Exhibit C) as provided by the Finance Department,
- b) The completed Exemption Approval Form must be submitted to the Finance Department for a recommendation and signature; and
- c) The Exemption Approval Form with the Finance Department's recommendation must be submitted to the City Administrator for final

authorization of the exemption.

Cooperative Purchasing

City staff may use State of Colorado bids (solicited through the Bid Information and Distribution System), bids from the Multiple Assembly of Procurement Officials (MAPO), the General Services Administration (GSA), National Cooperative Purchasing Alliance (NCPA), NPPGov or Sourcewell (formerly National Joint Power Alliance) to get the benefit of the pricing available through those procurement systems. Similar organizations may be added to the above list with the approval of the Finance Director. While exempt from the formal bid process, these purchases are subject to the normal approval process. Depending on the nature of the product or service, bids are not necessarily awarded to the lowest cost vendor.

Cooperative purchasing may also include the bidding of like requirements with other governmental entities to purchase in quantities. This practice may sometimes be beneficial for all entities involved as it may result in lower per-unit costs, while still assuring bid requirements are met. When cooperative bidding is done, each entity shall supply its own requirements; however, one entity shall be chosen to administer the bid process. Bid awards are to be determined either on an individual basis or as a total, whichever is the most cost-effective to all bidders. Depending on the nature of the product or service, bids are not necessarily awarded to the lowest cost bidder.

City Council may, by resolution or by ordinance, enter into contracts or agreements with other governmental units or special districts for the use of buildings, equipment, or facilities, and for furnishing or receiving commodities or services.

Procurement for Purchases of Goods or Services Using Federal, State or Grant Funds

When any procurement involves the expenditure of federal or state funds or restricted grant funds, the procurement shall be conducted in accordance with any mandatory applicable federal and/or state laws, regulations, or grant requirements. The procurement requirements for any procurement involving the expenditure of federal funds shall, at a minimum, comply with the requirements of Appendix A, incorporated herein. In the event of a conflict between such federal fund procurement requirements and the requirements of the City as otherwise set forth herein, the stricter requirements shall apply.

Miscellaneous Purchasing Provisions

1. Professional Dues and Licenses – Professional dues, licenses, and memberships to associations and organizations that benefit the City will be paid from City funds but shall be the responsibility of the employee to obtain and maintain. Examples would include, but are not limited to: professional engineer license, water/wastewater treatment operator's licenses, professional certifications, etc.
2. A \$400 uniform allowance is provided for those employees subject to uniform requirements at the discretion of the corresponding department head. Each department is responsible for monitoring their employee's uniform purchases and obtaining/retaining appropriate

documentation. The Finance Department may request employee uniform allowance documentation to ensure employees are adhering to this policy, per the Finance Department's discretion.

3. Guidance on Tipping for Services:
 - a. For tips on meal service related to official functions, the maximum allowable amount is 20% of the final bill (including tax), if the final bill does not already include a tip. If the final bill includes a set amount (of any percentage) for gratuity, then no additional tip may be provided.
 - b. For tips on ground service transportation (taxi, shuttle, Uber, Lyft, etc.), the maximum allowable amount is 20% of the service charge, if the final bill does not already include a tip. If the final bill includes a set amount (of any percentage) for gratuity, then no additional tip may be provided.

Ethical Responsibilities

All city personnel are obligated to establish and maintain ethical relationships with all vendors or suppliers of City goods and services. The following are examples of unacceptable City employee relationships with vendors or suppliers. The list is not intended to be all-inclusive. City employees must also consider the appearance of fairness and propriety in their relationships with City vendors or suppliers.

- Seeking or accepting directly from any persons, partnerships, corporations, or other business entities or representatives which are doing or seeking to do business with the City of Salida, services, cash or loans, vacations or pleasure trips, preferential treatment not generally available, or any gifts exceeding the value of \$65.00 or the state constitutional gift ban amount which is adjusted for inflation over time, whichever amount is higher.
- Knowingly over- or underestimating the requirements of this policy and/or bids or failing to disclose the existing requirements in order to avoid doing business with a particular vendor or supplier.
- Misrepresenting competitors' prices, quality, or services in order to obtain concessions from vendors or suppliers.
- Having personal investments in any non-publicly owned business entity which will create a substantial conflict between private interests and public duties when the City of Salida employee is involved in making a particular purchasing decision.

Inexpensive advertising items bearing the name of a vendor (i.e. pens, pencils, paper weights, cups, caps, candy, calendars, etc.) are not considered articles of value or gifts in relation to this policy.

Appendices:

- [Appendix A: Procurement Policies and Procedures for Federally Funded Programs](#)

Exhibits:

- A. Purchase Order Form
- B. Expense Report Form

- C. Purchasing Policy Exemption Approval Form
- D. Check Request Form
- E. Insurance Claim Release Form

References:

- *Colorado Revised Statutes*, §29-1-701 to 707 and §31-15-72
- *Municipal Procurement*, Colorado Municipal League, 2013

Related Policies:

- Credit Card Policy/Employee Agreement
- Electronic Payments Policy
- Personnel Policy

Definitions:

- **Contract** – All types of City agreements, regardless of what they may be called, for the procurement or disposal of supplies, services, or construction.
- **Cooperative Purchasing** – involves sharing procurement contracts between governments. Cooperative procurement contracts are usually based on the common requirements of multiple governments. There are several types of cooperative purchasing arrangements, but the type the City will use the majority of the time will be so-called “piggyback options”. These occur when one or more organizations represent their requirements and include an option for other organizations to “ride” or “bridge” the contract as awarded.
- **Department Head** – includes the Finance Director, Community Development Director, City Clerk, Police Chief, Fire Chief, Arts & Culture Director, Public Works Director, Parks & Recreation Director, and any other head of a department as designated by the City Administrator.
- **Designee** – A duly authorized representative of a person holding a superior position.
- **Invitation for Bids (IFB)** – All documents, whether attached or incorporated by reference, utilized for soliciting bids.
- **Non-budgeted** – operating or capital expenses not included in the City’s annual budget.
- **Request for Proposals (RFP)** – A process used to acquire supplies and/or services that involves the review of written proposals and the use of negotiations with the most qualified bidder(s). This process may also include the use of a Request for Information (RFI) as a preliminary step to the RFP process in an attempt to gather information and pre-qualify prospective bidders.
- **Sole Source Item/Provider** – Purchases of supplies, products or services indispensable to the City for which there is only one source practicably or reasonably available.

Revision History:

Version	Date Revised	Reason for Change
1	01/17/2023	Initial Adoption to Replace Outdated Policy
2	02/20/2024	Expanded policy to include guidance on non-employee reimbursement claims

Appendix A**Procurement Policies and Procedures for Federally Funded Programs****Reference 2 CFR 200.318-326**

1. Purpose of procurement standards. These standards establish procedures for City of Salida (“City”) procurement of supplies and other expendable property, equipment, and services utilizing federal funds. All departments and operations of the City expending federal grant monies shall adhere to these standards, as follows, as they may be amended or supplemented over time. In the event the federal government regulations that govern procurement policies and procedures for federally funded programs or for procurements made with federal funds are amended, these standards and procedures will be deemed automatically amended to conform to such requirements.

2. Code of conduct. No employee, officer, or agent shall participate in the selection, award, or administration of a contract or purchase order if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the entity selected for an award. The officers, employees, and agents of the City shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to sub agreements except for where the financial interest is not substantial, or the gift is an unsolicited item of nominal value. Members of the City Council shall comply with all relevant fiduciary duties, including those governing conflicts of interest, when they vote upon matters related to procurement contracts in which they have a direct or indirect financial or personal interest. Officers, employees, directors, and agents of the City shall be subject to disciplinary actions for violations of these standards. This code of conduct supplements any other applicable Code of Ethics.

3. Competition.

Procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The City shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. To ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the City, price, quality and other

factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the City. All bids or offers may be rejected when it is in the City's interest to do so. In all procurement, the City shall avoid practices that are restrictive of competition. These include but are not limited to:

- a. Placing unreasonable requirements on firms in order for them to qualify to do business;
- b. Requiring unnecessary experience and excessive bonding;
- c. Noncompetitive pricing practices between firms or between affiliated companies;
- d. Noncompetitive awards to consultants that are on retainer contracts;
- e. Organizational conflicts of interest;
- f. Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement; and
- g. Any arbitrary action in the procurement process.

4. Methods of Procurement to be followed.

- a) Procurement by Micro-purchases. A micro-purchase is the acquisition of supplies or services under \$5,000. To the extent practicable, the City must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the City considers the price to be reasonable.
- b) Procurement by Small Purchase Procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that cost at least \$5,000 but do not cost more than \$150,000 (OMB memo dated June 20, 2018 M-18-18). If small purchase procedures are used, price or rate quotations must be obtained from at least three qualified sources.
- c) Procurement by Sealed Bids (formal advertising). Bids are publicly solicited, and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c) (1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

- i. A complete, adequate, and realistic specification or purchase description is available;
- ii. Two or more responsible bidders are willing and able to compete effectively for the business; and
- iii. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

- i. Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local and tribal governments, the invitation for bids must be publicly advertised;

- ii. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
 - iii. All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
 - iv. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
 - v. Any or all bids may be rejected if there is a sound documented reason.
- d. Procurement by Competitive Proposals. Competitive proposals are normally conducted with more than one source submitting an offer, and either a fixed price or cost- reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
- (1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical.
 - (2) Proposals must be solicited from at least three qualified sources;
 - (3) The City agency must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
 - (4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
 - (5) The City must use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms that are a potential source to perform the proposed effort.
- e. Procurement by Noncompetitive Proposals. Procurement by non-competitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
- (1) The item is available only from a single source;
 - (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the City; or

(4) After solicitation of a number of sources, competition is determined inadequate.

5. Procurement procedures.

a. All procurement by the City shall comply, at a minimum, with the requirements of subsections (i), (ii), and (iii) below:

(1) The City avoids purchasing unnecessary items.

(2) Where appropriate, an analysis is made of lease versus purchase alternatives to determine which would be the most economical and practical procurement.

(3) Solicitations for goods and services provide for all of the following.

- i. A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
- ii. Requirements which must be fulfilled and all other factors to be used in evaluating proposal submitted in response to solicitations.
- iii. A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
- iv. When relevant, the specific features of "brand name or equal" descriptions that are to be included in responses submitted to solicitation.
- v. The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
- vi. Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

b. All necessary affirmative steps shall be made by the City to utilize small businesses, minority-owned firms, women's business enterprises, and labor surplus area firms, whenever possible. The City shall take all of the following steps to further this goal.

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or any quantities to permit maximum participation by small and minority businesses, and women's business enterprises.

- (4) Establishing delivery schedules, where the requirements permit, which encourage participation by small and minority businesses, and women's business enterprises;
 - (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Development Agency of the Department of Commerce; and
 - (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (i) through (v) of this section.
- c. The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the City but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The "cost-plus-a-percentage-of- cost" or "percentage of construction cost" methods of contracting shall not be used.
 - d. Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.
 - e. Debarment and Suspension - No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees. For instructions and more information on how to find a list of current companies and individuals that have been declared ineligible to receive federal contracts can visit the Department of Labor's website at www.dol.gov/agencies/ofccp/debarred-list. Contractors with multiple year contracts will be checked against the GSA list at each renewal time.
 - f. Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.
 - g. To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the City is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.
 - h. The City is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
 - i. The City is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

- j. The City must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the City must not preclude potential bidders from qualifying during the solicitation period.

6. Procurement of Facilities or Land Special Requirements. Procurement of facilities or land is rarely done and considered outside the scope of this policy. If such an activity is proposed in the future, the City should involve City Council, legal counsel, and explore financial assistance opportunities, as necessary.

7. Cost and price analysis. Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action in excess of the Semiformal Acquisition Threshold (48 CFR Subpart 2.1) as Adjusted and currently at \$150,000. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

8. Procurement records. Procurement records and files for purchases in excess of the Micro-purchase threshold as fixed at 48 CFR Subpart 2.1 (currently \$5,000) shall include the following at a minimum: (a) basis for contractor selection, (b) justification for lack of competition when competitive bids or offers are not obtained, and (c) basis for award cost or price.

9. Contract administration. A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. The City shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

10. Contract provisions. The City shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts.

- a. Contracts more than the Semiformal Acquisition Threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms and provide for such remedial actions as may be appropriate.
- b. All contracts in excess of the Semiformal Acquisition Threshold shall contain suitable provisions for termination by the City, including the manner by which termination shall be affected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
- c. For contracts dealing with construction or facility improvements the City shall comply with all requirements imposed by its funding sources (and the government regulations applicable to those funding sources) with regard to construction bid guarantees, performance bonds, and payment bonds.
- d. All negotiated contracts (except those for less than the Semiformal Acquisition Threshold) awarded by the City shall include a provision to the effect that the City shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

- e. All contracts, including small purchases, awarded by the City and their contractors where the source of the funds, directly or indirectly, is the federal government, shall contain the following procurement provisions as applicable.
- i. Equal Employment Opportunity - All contracts, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
 - ii. Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c) - All contracts in excess of \$2000 for construction or repair, when funded in whole or part by monies derived from the Federal government (either directly or indirectly) shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or sub recipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.
 - iii. Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7) - **When required by Federal program legislation**, all construction contracts awarded by the recipients and sub recipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.
 - i. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) - All contracts in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5).
 - ii. Rights to Inventions Made Under a Contract or Agreement - Contracts or agreements for the performance of experimental, developmental, or research work, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
 - vi. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended -

Contracts and sub grants of amounts in excess of \$100,000, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

- vii. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contacts for an amount above \$100,000, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall include a certification by the contracting parties that they have not and will not use Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352, and to further require disclosure of any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.
- i. Third party contracting requirements (FTA Circular 4220.1F) - This circular sets forth the requirements a grantee must adhere to in the solicitation, award and administration of its third-party contracts. Provisions of this circular will be added to all operating contracts utilizing formula funds for operating assistance.



It is a crime to commit a fraudulent insurance act, which includes, knowingly and with intent to defraud any insurance company or other person, filing a statement of claim containing any materially false information or concealing facts for the purpose of misleading the insurance company or other person.

RELEASE FOR PROPERTY DAMAGE ONLY

We, _____, or MYSELF/OURSELVES, MY/OUR heirs, executors, administrators, successors and assigns in consideration of the payment of \$_____ do hereby remise, release and forever discharge the City of Salida and their heirs, executors, administrators, successors and assigns from and against all claims, demands, actions and causes of action for damages whensoever and howsoever arising on account of damage to property (including loss of use thereof) arising out of _____, which occurred on or about _____ at _____, Salida in the State of Colorado.

The above sum, stated as consideration of this release is to be paid as follows:

Lump Sum Full and Final payment of \$_____.

IT IS UNDERSTOOD AND AGREED that neither this release or any payment made pursuant hereto is to be taken as an admission of liability on the part of any person in whose favor this Release is given.

We have read this Release and Settlement in full and fully understand the content and effect of executing it. We understand that no other promise or agreement exists between us and the City of Salida, Colorado, and their agents and that this document contains the entire agreement between us. The terms of this document are not simply a recital of facts but are contractual promises that we are making.

BY WITNESS HEREOF We have signed and sealed this Release at Salida, Colorado, in the State of Colorado.

DATE SIGNED: _____

SIGNED: _____

PRINTED NAME: _____