

Introduced and Read: JUNE 5TH 2018
Second Reading and Adoption: September 14TH, 2018

CITY OF MOUNT RAINIER, MARYLAND
ORDINANCE NO. 09-2018
CREATING CHAPTER 1E, PROCUREMENT

§ 1E-1. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings set forth in this section:

BID SOLICITATION THRESHOLD — A dollar amount calculated by multiplying \$3,500 by each \$1 million of the City's annual budget.

CAPITAL IMPROVEMENT — Any public improvement undertaken by the City, including construction or reconstruction in whole or in part of any road, bridge, street, building or water, sewer or storm drain facility or any similar structure or facility necessary in carrying out the activities of the City government.

CONTRACTUAL SERVICES — Includes all types of services required by the City but not furnished by its own employees except professional services which are in their nature unusual and not subject to competition.

PROFESSIONAL SERVICES — Services performed by a person whose specialized knowledge and academic preparation have led the person to be a licensed or recognized professional within their vocation. These services include, but are not limited to, accounting, architecture, land surveying, law, actuarial services, professional engineering, and such other services that are customarily negotiated because the individuality of those services do not lend themselves to a fixed price bid.

PURCHASING AGENT — The City Manager or his or her designee.

SUPPLIES — Includes all commodities, materials, equipment and all other articles or things furnished to be used by any department or City official or employee, except supplies of an unusual or noncompetitive nature which shall not be subject to competitive bidding.

§ 1E-2. Emergency purchases.

A. An emergency for purposes of this chapter shall be deemed to exist when a breakdown in equipment, machinery or a threatened curtailment of essential services or a dangerous condition develops, or when any unforeseen circumstance arises causing curtailment or diminution of an essential service.

B. In cases of emergency, the head of the appropriate department or the purchasing agent may purchase directly the required supplies or services. The department head or purchasing agent shall, however, whenever practicable, obtain three competitive telephone or internet bids and order from the lowest responsible bidder. A written record shall be prepared as promptly as possible concerning the circumstances of the emergency and a tabulation of any bids and the amount expended and shall be presented to the City Manager.

C. For emergency purchases that exceed the bid solicitation threshold, the purchasing agent must obtain the approval of a majority of the City Council either via voice vote at a Council meeting or in writing.

§ 1E-3. Procedure where cost exceeds \$3,500 per \$1 million of the City's annual budget.

All supplies, contractual services and capital improvements, where the estimated cost exceeds an amount equal to \$3,500 multiplied by each \$1 million of the City's annual budget for the fiscal year in which the procurement process commences, shall be purchased by formal written contract from the lowest responsible bidder, as determined by the purchasing agent, after publicly soliciting proposals. For example, if the City's annual budget is \$6,500,000 for the fiscal year when the procurement process commences, the City must solicit proposals and comply with this section when the estimated cost exceeds \$21,000 (6 x \$3,500).

§ 1E-4. Procedure where cost exceeds \$500 up to and including the bid solicitation threshold.

Where the estimated cost of a contract for supplies, services or capital improvements exceeds \$500 up to and including the bid solicitation threshold, the purchasing agent shall follow the procedures in § 1E-3, or, alternatively, may obtain at least three price quotes by soliciting informal bids from reputable vendors by personal contact, email, or telephone, or researching costs via the internet. Following any award, a written contract or purchase order shall be signed on behalf of the City by the purchasing agent, or, if no contract or purchase order is available, the purchasing agent shall indicate his or her approval of a purchase in writing.

§ 1E-5. Procedure where cost is \$500 or less.

When the cost of a contract for supplies, services or capital improvements is \$500 or less, the purchasing agent may contract for the same without adhering to specified procedures. Whenever practical, the purchasing agent shall obtain telephone or internet prices from at least two sources.

§ 1E-6. Professional services.

With the approval of the Mayor and Council, the purchasing agent may procure professional services without soliciting bids.

§ 1E-6.1. Cooperative procurement procedures and use agreements.

- A. The City may participate in, sponsor, conduct, or administer cooperative procurement agreements with one or more other public entities when the best interests of the City would be served thereby.
- B. The City may contract with any contractor who offers goods, services, insurance, or construction on the same terms as provided other state, local or municipal governments or agencies thereof who have arrived at those terms through a competitive procurement procedure similar to the procedure used by the City.
- C. The City may contract directly with other public entities for goods or services when such goods or services were obtained through competitive procurement procedures.
- D. The City may contract with any public entity to provide or receive any work or services of the type the City or such other public entity performs for its jurisdiction.
- E. The City may enter into agreements or memoranda of understanding with other public entities for the common use or lease of facilities upon terms agreed upon between the parties.

§ 1E-6.2. Sole source procedures.

Where the City requires supplies, materials, or equipment which are produced or sold by only one manufacturer or vendor, or which cannot practicably be procured by the City from any other source, the City may specify such manufacturer's or vendor's supply, material or equipment in the Invitation to Bid and may obtain competitive bids from that manufacturer or vendor under the following conditions:

1. The City must receive a letter from the manufacturer/vendor enclosing copies of all applicable patents and a statement setting forth the basis for the assertion that the manufacturer/vendor is the sole provider of such supplies, materials or equipment;
2. The purchasing agent has, after a good faith review of available sources, verified that there is only one responsible source for the required supplies, materials, or equipment;
3. Upon a finding that no reasonable alternative source exists other than the manufacturer/vendor asserted to be the sole source for the required supplies, materials or equipment, the purchasing agent shall negotiate in good faith in the best interests of the City the price, delivery and other terms of such sole source purchase; and
4. The purchasing agent shall complete, sign and submit to the City Clerk for recordkeeping in the regular course the City's Sole Source Justification Form, as amended from time to time and available at City Hall, attaching the letter from the manufacturer/vendor required in Subsection 1 above, and therein provide a detailed justification for the sole source purchase to include the City's need for the supply, material or equipment and the unique features of such supply, material or equipment which cause it to be available for purchase from only one manufacturer or vendor.

§ 1E-7. Other laws.

Whenever, by reason of revenue sharing or otherwise, state or federal laws or regulations apply to any anticipated contract for supplies, services or capital improvements, such laws or regulations shall prevail over any inconsistent provisions of this chapter.

§ 1E-8. Division of contracts.

No anticipated contract or purchase shall be subdivided to avoid the requirements of § 1E-3 or 1E-4.

§ 1E-9. Lowest responsible bidder.

In determining the lowest responsible bidder under §§ 1E-3 and 1E-4, the Council shall consider:

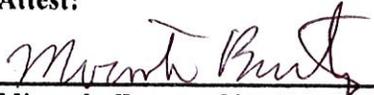
- A. The ability, capacity and skill of the bidder to perform the contract or provide the service required.
- B. Whether the bidder can perform the contract or provide the service promptly or within the time specified without delay or interference.
- C. The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- D. The quality of performance of previous contracts or services.
- E. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
- F. Whether the bidder is in arrears to the City on debt or contract or is a defaulter on surety to the City or whether the bidder's City taxes or assessments are delinquent.
- G. Such other information as may have a bearing on the decision to award the contract.

§ 1E-10. Regulations.

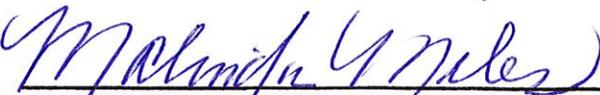
The purchasing agent may promulgate regulations supplementing the policies and procedures set forth in this Chapter. Such regulations must be approved by resolution of the City Council to become effective.

THIS ORDINANCE IS ADOPTED BY THE COUNCIL OF THE CITY OF MOUNT RAINIER THIS 4th DAY OF September, 2018.

Attest:



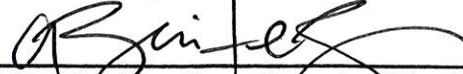
Miranda Braatz, City Manager



Malinda Miles, Mayor



Luke Chesek, Councilmember Ward 1



Celina Benitez, Councilmember Ward 1



Bryan Knedler, Councilmember Ward 2



Shivali Shah, Councilmember Ward 2

