

Ordinance 2022-06-20(H)

REPEALING ORDINANCE # 2006-08-28(A) IN ITS ENTIRETY AND PLACIHG A REVISED PURCHASING RULES AND REGULATIONS FOR THE CITY OF CONWAY, SOUTH CAROLINA IN ITS STEAD.

WHEREAS, an Ordinance known as the Purchasing Rules and Regulations for the City of Conway was adopted on September 26, 1983 and revised on June 11th, 1990.

WHEREAS, Conway City Council has determined it is in the best interest of the City that Revised Purchasing Rules and Regulations be adopted.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Conway, State of South Carolina, in Council duly assembled, that the Purchasing Rules and Regulations adopted on September 26, 1983 and revised on June 11, 1990 be struck in their entirety and the **Purchasing Rules and Regulations for the City of Conway, Revised**, be adopted in their stead:

There is hereby adopted the responsibility, procedures, Rules and administration of the City purchasing system as outlined in Purchasing Rules and Regulations for the City of Conway, Revised, its adoption, and is to Be kept permanently on file in the Office as past and parcel of the general ordinances of the City of Conway, same being incorporated herein by reference, and without the necessity of setting out and copying in its entirety the said Purchasing Rules and Regulations for the City of Conway, as a part of the permanent record of ordinances of the municipality.

BE IT FURTHER ORDAINED that all former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

City of Conway Purchasing Rules and Regulations

Adopted by City Council On:

PURPOSE

The purpose of this regulation is to prescribe the responsibilities, rules, and regulations for the administration of the purchasing system for the City of Conway, to define procedures and to be used in carrying out these responsibilities, rules, and regulations.

Activities considered to be purchasing include the processing of all requisitions, the determination of the process of these requests, and obtaining requested goods and services from private vendors.

The prime objectives of these regulations are to establish a standardized purchasing system and to implement purchasing that spends tax payer money in a consistent, fair, and impartial manner.

Any revisions to this manual shall be authorized only by the City Council. In the event that such revisions are made, departments using this manual are responsible for making necessary revisions in their copies.

Section 1. Purchasing Agent, specified duties.

The Grants/Procurement Officer or an officer of the city designated by the City Administrator shall be the Purchasing Agent for the City. He/She shall be responsible for:

The purchase of supplies, materials and equipment and contractual services required by any office, department or agency of the city government.

The storage and distribution of all supplies, materials and equipment required by any office, department or agency of the city government.

Establishing written specifications, whenever practicable, for supplies, materials and equipment required by any office, department or agency of the city government. Such specifications shall be definite and certain to allow for competitive bidding. All written specifications shall be conducted with input and consultations with the appropriate Department Head requiring said specifications.

Maintaining, whenever practicable, a perpetual inventory record of all materials, supplies or equipment stored in storerooms or warehouses.

Soliciting and maintaining an up-to-date list of qualified suppliers who have requested their names to be added to a "bidders list". The purchasing agent shall have authority to remove temporarily the names of vendors who have defaulted on their quotations, attempted to defraud the city or who have failed to meet established specifications or delivery dates.

Obtaining as full and open competition as possible on all purchases, contracts and sales.

Review all Purchase orders and compare them with the department's budget. Any overage of a particular line item will be discussed with the City Administrator before any purchase order is signed.

Review on a monthly basis all purchases paid out by the city for compliance with the Cities Purchasing Rules and Regulations.

Review all purchase orders to insure that all required signatures of approval are on the document.

Each Large Purchase Order shall have the Department Head or the Department Heads Designee's signature.

Report to the appropriate Department Head of any violations of purchasing rules involving his/her designee. All violations of purchasing rules by a Department Head will be reported to the City Administrator.

To conduct business with integrity, fairness and dignity to maintain public trust and reduce the government's exposure to criticism and legal action.

To secure the right materials, equipment, and services at the right quality and quantity, on a timely basis, as efficiently as possible, and at the best value.

To conserve public funds by obtaining the best products and services for the dollars spent.

To provide all customers with quality service in a manner that is courteous, responsive, accessible and seamless.

To be receptive to changes in material and requirements along with new products and procedures.

Promote the use of local contractors and purchasing.

Records retention and internal auditing.

All original purchasing documents pertinent to bidding activities including, licenses, insurance certificates, certifications, disclosure statements, reporting updates, and/or agreements of any kind shall be retained in official files of the department issuing the purchase order, all invoices associated with the purchase of goods and or service will be retained by the finance department.

All documents must be maintained under provision of the records retention policy of the city.

The finance department will conduct periodic internal reviews of the department purchasing records to ensure compliance with the provisions of this division.

Ethics and government accountability. The provisions of the Ethics, Government Accountability and Campaign Reform Act (S.C. Code 1976, § 8-13-100 et seq.) as amended are incorporated herein by reference and are applicable to all city procurement activities.

Section 2. Purchasing Rules and Regulations

The Purchasing Agent will conduct consultations with Department Heads on all negotiations affecting the purchase of supplies and contractual services. All items shall be purchased from the lowest responsible bidder, after due notice inviting proposals. The exception to this rule is when an item is under State Contract where no bidding for an item is required. The Purchasing Agent will have a list of all Departments' designees who have purchase order approval during a Department Heads absence.

Purchasing methods.

Purchases should be made following established procurement and contracting principles and requirements of this article. The purchasing method employed is based upon the purchase requisition dollar estimate and the complexity of the purchase requirement.

Noncompetitive purchasing. A noncompetitive purchase is any purchase of supplies, material, equipment or service from one source without competition. Noncompetitive purchases may be made in the following cases:

Up to \$2,500

- **Up to 3 quotes**

\$2,501 - \$25,000

- **Minimum of 3 quotes**

***Simplified or small purchases.* Simplified or small purchase procedures are to be used in making fixed-price purchases up to twenty five thousand dollars (\$25,000.00), and include petty cash transactions. Requirements aggregating more than twenty five thousand dollars (\$25,000.00) may not be split or broken down into several purchases solely for the purpose of avoiding a more stringent or more formal purchasing method.**

Competition for simplified or small purchases. Competition is not required if the purchasing agent determines that the price received is fair and reasonable; signature or approval of the purchase order is deemed to satisfy this determination. Where practicable, noncompetitive purchases may be distributed equitably among qualified suppliers in order to develop and maintain a responsive industrial/supplier base for the city.

Purchases under \$25,000.00 that are not specifically budgeted can be approved by the Procurement Director plus the Finance Director and/or the City Administrator.

Basis for award.

Simplified purchases are awarded to the proposer or quoter who offers the best value to the city. Depending on the product or service being purchased and the needs of the city, best value is obtained by basing the award on price or a combination of price with price-related factors, other evaluation factors, or both. Award may be made to other than the lowest offeror and shall be subject to the provisions of section 18 Local Vendor Preference. Rationale for making other than low price award will be documented in the appropriate files. In instances of equal prices and all other evaluation factors being equal, and no local proposer is involved, award will be made by drawing lots and documented in the appropriate files.

Solicitations.

Solicitation of proposals or quotations for small purchases may be done in writing or orally, at the discretion of the purchasing agent. Public notice of small purchases is not required, but may be accomplished at the discretion of the purchasing agent.

Bidding procedures may be waived under the following circumstances:

When there exists no possibility of a competitive bid, as in the case of only one source of supply.

When it is to the city's advantage to acquire goods or services on the basis of a previously awarded bid or contract.

In the case of emergency purchases or purchase of used equipment.

When in the opinion of the city administrator, it is to the advantage of the city to do so.

For professional services where the person engaged is customarily employed on a fee basis rather than competitive bidding (including, but not limited to appraiser, architect, auditor, consultant, construction/program manager, engineer, legal services, physician).

Negotiations after unsuccessful competitive sealed bidding.

Leasing or purchasing of real property.

Negotiation.

The purchasing agent may negotiate with proposers or quoters when necessary to ensure that the prices are reasonable or to ensure that the city's requirements are understood and will be met.

Suppliers or sources in default to city.

No purchases should be made from suppliers, sources or contractors who are delinquent in the payment of taxes, licenses or other monies due to the city. This applies to any purchase of any dollar value.

Ordering methods.

Simplified or small purchases may be made using petty cash or by purchase methods such as purchase orders, blanket purchase orders and delivery agreements.

Large Purchases are \$25,001 and above

Public Competitive Process (IFB or RFP)

All large purchases that are \$25,000.01 and over shall require the approval of Conway City Council prior to any purchase orders being issued. The Department head will submit an issue paper along with all attached bids to the Purchasing Agent for review prior to submitting documentation to the City Administrator for the council agenda.

Approval of contracts. All formal contracts over twenty five thousand dollars (\$25,000.00) shall be approved by the city council.

Formal contract procedures.

All supplies, material, equipment and contractual services valued in excess of twenty five thousand dollars (\$25,000.00), whether purchased competitively or noncompetitively through sealed bids or sealed proposals, should normally be purchased by formal written contract or purchase order, as appropriate.

Pre-qualification of suppliers.

Prospective suppliers may be pre-qualified by the procurement director for particular types of supplies, services and construction. Solicitation mailing lists of potential contractors shall include, but shall not be limited to, such pre-qualified suppliers, unless determined in writing that a specific project warrants limitation of offerors to the pre-qualified list, and public notice of pre-qualification is given.

***Solicitations.* Except in cases of emergency, written solicitations will be issued when requesting sealed bids and sealed proposals.**

***Invitation to bid.* The purchasing agent shall solicit bids by mail, telephone, newspaper, city website or by any other reasonable means designed to secure responsible bidders. Invitations to bid shall be advertised or noticed ten days prior to the date on which bids are due, unless, due to extraneous time constraints, such cannot be complied with. The notice required shall include a general description of the articles or services to be purchased, shall state where bid blanks and specifications may be secured, and the time and place for opening bids.**

Bid deposits. When deemed necessary by the purchasing agent, bid deposits shall be prescribed in the notices inviting bids. Upon entering into a contract, bidders shall be entitled to return of bid deposit where the purchasing agent has required such. A successful bidder shall forfeit any bid deposit required by the purchasing agent upon failure on his part to enter into a contract within ten days after the award; provided, however, that the town, in its sole discretion, may waive this forfeiture.

Submission and sealing. Bids shall be submitted to the purchasing agent at the designated place no later than the date and time specified in the invitation. Bids shall be securely sealed in an envelope and shall be identified on the envelope in accordance with bid instructions.

Opening. Bids shall be opened in public at the time and place stated in the invitation to bid.

Tabulation. A tabulation of all bids received shall be available for public inspection.

All bids must be approved by the procurement director or its designee and the requesting department head. Award will be made to the lowest qualified, responsive bidder meeting the specifications in most cases, however the city reserves the right to reject any and all bids in whole or in part, to waive any informality in any bid, and/or to accept the bid which, in its discretion, may be in the best interest of the city even if such bid is not the lowest bid.

Rejection of bids. The purchasing agent shall have the authority to reject all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby.

Bidders in default to the city. The purchasing agent shall not accept the bid of a vendor or contractor who is delinquent in the payment of taxes, license or other monies due to the city.

Purchases that are specifically budgeted can be approved by the Procurement Director.

Purchases greater than \$25,000.00.

No less than three written quotes from qualified vendors, unless on state contract, shall be obtained. The quotes will then be presented to the Procurement Director who will review the results and approve the expenditure. If, after due diligence, the procurement director/purchasing agent is not able to obtain three oral and/or written quotes, the purchasing agent, with concurrence by the City Administrator, may waive the bidding requirements of this section.

Request for proposals. This method should be used for purchases of materials, work performed and/or services rendered projected to be greater than \$25,000.00. The procurement director shall issue, or cause to be issued, a request for proposals requesting sealed proposals from prospective vendors. The request shall include specifications and all other contractual terms and conditions applicable to the service or purchase.

Evaluation factors. The request for proposal shall state the evaluation factors in order of importance. Price and qualifications of the offeror shall be the two most significant factors to be taken into consideration when evaluating any proposal solicited under this section. Economic impact to the city shall also be a consideration.

Generally. When lack of price or product competition renders the purposes of competitive bidding ineffective, the purchasing director may purchase supplies, materials, equipment or contractual services through negotiation with a vendor in accordance with preceding sections pertaining to limitations and approvals.

(b)

When permissible. Purchase by negotiation may be made when one of the following types of conditions exist:

(1)

Items are obtained from only one source, and there are no acceptable equivalents;

(2)

Bids are received, but prices are unreasonable;

(3)

Emergencies exist. Emergencies shall be deemed to exist when a breakdown in machinery or in an essential service occurs, or when unforeseen circumstances arise, including delays by contractors, delays in transportation or unanticipated volume of work;

(4)

A contract already exists on a family of items that must be compatible;

(5)

Repair and replacement parts or accessories peculiar to specialized equipment are needed;

(6)

Identical bidding is a persistent pattern;

(7)

Resale price maintenance is practiced by manufacturers, such as exclusive dealerships or other methods which result in only pre-established, published prices being offered;

(8)

There are reasonable indications of collusive bidding; or

(9)

Contracts are renewed if provided for in the original bid invitation.

Condition for use. Contracts amounting to \$25,000.00 or more shall be awarded by competitive sealed bidding.

Request for qualifications. Prior to soliciting bids, the City of Conway may issue a request for qualifications from prospective bidders. Such request shall contain at a minimum a description of the goods or services to be solicited by the invitation for bids, the general scope of the work, the deadline for submission of information, and how prospective bidders may apply for consideration. The request shall require information concerning the prospective bidders' product specifications, qualifications, experience, and ability to perform the requirements of the contract. After receipt of the responses to the request for qualifications from prospective bidders, the prospective bidders shall be ranked from most qualified to least qualified on the basis of the information provided. Bids shall then be solicited from at least the top two prospective bidders by means of an invitation for bids. The failure of a prospective bidder to be selected to receive the invitation for bids shall not be grounds for protest.

Local purchasing. It is the intent of the city to support local merchants, professionals, vendors and suppliers by promoting the use of local businesses whenever practical and when deemed to be in the best interest of the city. Level of quality. In considering and developing specifications, it shall always be borne in mind that expenditures derived for public sources and administered by public bodies cannot be expected to provide for "deluxe" or luxurious levels of quality. Therefore, it shall be necessary to follow a general policy with regard to purchasing good, standard grades of merchandise which represent an optimum relationship between quality and price, at all times consistent with providing a satisfactory level of service.

Testing. The purchasing agent may authorize limited testing or sampling of supplies, materials, equipment or services without solicitation of competitive bids and shall prepare written documentation of the need for the test or sampling and time required for the evaluation thereof.

Section 3. **Exemptions.**

The following goods and services are exempt from the standard purchasing process:

Subscriptions and renewal of subscriptions to periodicals and serial publications and advertisements in newspapers and other publications.

Dues and Memberships

Board and Lodging

Utilities and Water bills

Travel and **Lodging**

Seminars and Conference Fees

Training

Advertising

Rent on land, buildings, and equipment

Casual Field Labor

Financial Services

Lecturer Fees

Maintenance Fees and Insurance

Vehicle Parts

State/**Federal** Surplus and Auctions

Where services required are for professional (architectural, engineering and medical) or artistic skills.

Repair, maintenance, remodeling, renovation, construction or demolition of a single project not involving an increase in the size and type of an existing facility.

Requirements for the use or purchase of information technology such as data processing equipment, data processing systems software, reproduction equipment and communications systems.

Safety shoes and other personal protective equipment;

Existing bid or contract for like supplies, services, construction;

Used equipment/supplies;

Original works of art for public display.

Landscaping and Landscaping materials.

Maintenance on equipment that must be provided by the original equipment manufacturer or an authorized dealer.

Attorneys and legal services.

Christmas Lights

Ammunition

Section 4. Sole Source Procurements

A contract may be awarded for a supply, service, consulting services, legal fees, or construction item without competition when, under regulations the Procurement Agent, determines in writing that there is only one source for the required supply, service, or construction item; **at the time of request, that only a single and sole source for the goods or services exists and therefore, the competitive process is not appropriate, and that sole source purchasing serves a proper corporate and public purpose.** These regulations must include the requirements contained in this paragraph. Written documentation must include the determination and basis for the proposed sole source procurement. Any decision by a City Department that procurement be restricted to one potential vendor must be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need. This section does not apply to State Contract purchases.

Section 5. Emergency Procurements.

Notwithstanding any other provision of these rules and regulations, the Procurement Agent, Department Head, or a designee of either officer may make or authorize others to make emergency procurements only when there exists an immediate threat to public health, welfare, critical economy and efficiency, **and where normal daily operations are affected** or safety under emergency conditions; **a breakdown in machinery or an essential service occurs; or when unforeseen circumstances arise, including delays by contractors, delays in transportation and unanticipated volume of work;** and provided that such emergency procurements shall be made with as much competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included with all purchase requisitions and submitted to the City Administrator for review.

Section 6. Award of contract:

***Award.* The award shall be made to the offeror whose proposal is determined to be the most advantageous to the city, taking into consideration the evaluation factors set forth in the proposal. Prior to the award, the city may negotiate with the lowest responsive and responsible bidder to lower its bid within the scope of the invitation for bids. The contract file shall contain the basis on which the award was made by purchasing agent.**

The purchasing agent shall determine that a prospective contractor is responsible and that the prices offered are fair and reasonable before awarding the contract. The award of a contract based on lowest evaluated price alone can be false economy if there is subsequent default, late deliveries or other unsatisfactory performance resulting in additional contractual or administrative costs. While it is important that sealed bid purchases be made at the lowest price, this does not require award to a supplier solely because that supplier submits the lowest offer. The purchasing agent shall have the authority to award contracts within the purview of this article; provided, however, that contract is no more than **\$25,000.00**. Any contract that is in the amount of **\$25,000.01** or above shall not be awarded without the approval of City Council.

Lowest responsible bidder. Contracts shall be awarded to the lowest responsible bidder. In determining “lowest responsible bidder”, in addition to price, the purchasing agent shall consider:

The ability, capacity and skill of the bidder to perform the contract or provide the service required;

Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;

The character, integrity, reputation, judgment, experience and efficiency of the bidder;

The quality of performance of previous contracts or services;

The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;

The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;

The quality, availability and adaptability of the supplies or contractual services to the particular use required;

The ability of the bidder to provide future maintenance and service for the use of the subject: of the contract;

The number and scope of conditions attached to the bid.

Award to other than low bidder. When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent and filed with the purchase order relating to the transaction. A report will be given to the City Administrator for review whenever an award is made to other than the low bidder.

Tie bids:

Local vendors. If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the local bidder. If two or more of such bids are submitted by local bidders, the purchasing agent shall award the contract to one of the local tie bidders by drawing lots in public. If local bidders are not involved in the tie bids, the purchasing agent shall award the contract to one of the outside tie bidders by drawing lots in public.

The general and special conditions pages within the bid documents should refer to these rules so that the right to withdraw offers after acceptance can be expressed.

(1)

Changes in specifications by bidder. Once a decision has been reached on the specifications, all bids must be based upon the same specifications and no bidder shall have the right to substitute other specifications for those contained in the bid.

(2)

Changes in specifications after bid mailed to prospective bidders. Once an invitation for bid has been mailed, no changes in the specifications shall be made unless all prospective bidders are so notified by means of an addendum clearly pointing out such changes. All addenda, questions and answers will be posted on the city's website. It is the responsibility of the bidders to check the website for any of this information prior to submitting a bid. This addendum shall also instruct the bidder to sign and attach one copy to its bid as proof of receipt and retain the second copy with its bid file.

***Cancellation of contracts.* The purchasing agent shall have the right to cancel any purchase or contract when the vendor is found to have violated or attempted to violate the provisions of this article or in any of the following instances and the City Administrator will be notified:**

(1)

If the vendor fails to make delivery within the time specified in the contract;

(2)

If the vendor fails to provide service when service is part of the contract;

(3)

If any supplies, materials or equipment delivered under the contract are rejected and are not promptly replaced by the vendor (if there are repeated rejections, the contract may be canceled, even though the vendor agrees to replace the items promptly);

(4)

If the vendor agrees to cancellation.

Section 7. Construction Contract Bid Security

Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated to exceed

\$25,000.00. Security shall be a bond provided by a surety company authorized to do business in this state, or the equivalent in cash, or otherwise supplied in a form satisfactory to the city.

Bid security shall be an amount equal to at least (5) percent of the amount of the bid. The City Administrator may waive the bond requirement upon written notification to the City Council when based upon his/her determination that such bond is unnecessary.

Section 8 Contract performance and payment of bonds

When a construction contract is awarded in the excess of

\$50,000.00 the following bonds or security shall be delivered to the city and shall become binding on the parties upon the execution of the contract.

Performance bond in the amount of one hundred (100) percent of the price specified in the contract.

Payment bond in the amount of one hundred (100) percent of the price specified in the contract.

Either bond may be reduced by fifty (50) percent when determined in writing that a reduction is necessary or warranted. Bonds may be required on lesser amounts if the circumstances warrant the same.

The City Administrator may waive the bond requirement upon written notification to the City Council when based upon his/her determination that such bond is unnecessary.

Forfeiture of bid surety. If the successful bidder does not enter into a contract within ten days after mailing of notice of award of contract, he shall forfeit any surety which accompanied his bid, unless the city is responsible for the delay. He/she shall also be held

liable for any cost in excess of his bid surety which the city incurs in purchasing the goods or services elsewhere; provided, however, that the city administrator in his discretion may waive this forfeiture. All invitations to bid and bid forms will include this language.

Section 9. Right to Protest

Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Purchasing Agent. The protest shall be submitted in writing no later than fourteen (14) days after the awarding of the bid or contract.

The Purchasing Agent will consult with the City Administrator to try and resolve the issue. If the protest is not resolved by mutual agreement, a decision will be issued in writing within ten (10) days after the last meeting to reach an agreement. If all attempts have failed to resolve the disagreement, the protestor has the right to bring the issue to City Council.

Section 10. Financial interest of city officials and employees prohibited

No member of the city council or any officer or employee of the city, shall have a financial interest in any contract or in the sale to the city or to a contractor supplying the city of any land or rights or interests in any land, material, supplies or services; except when a majority of the city council determines such exception in the best interest of the city, provided, that no councilman whose interest is involved shall vote on the question. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge expressed or implied of the person or corporation contracting with the city shall render the contract voidable by the City Administrator or the City Council.

Section 11. Surplus stock

The purchasing agent shall have authority to transfer surplus stock to other offices, departments or agencies of the city government.

Purchase of surplus equipment. Purchase of surplus equipment will be by the purchasing director with the approval of the administrator. The purchasing director will work with the using departments in obtaining the supplies from surplus property.

Section 12. Supplies unsuitable for public use, sale or exchange

The purchasing agent shall have the authority to sell all supplies which have become unsuitable for public use, or to exchange the same for, or trade-in the same on, new supplies. Such sales shall be made to the highest bidder, and in conformance with Section 2. All moneys received from such sales shall be paid into the appropriate Fund of the city.

Section 13. Gifts and Rebates

The purchasing agent and every officer and employee of the City are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is, or might be awarded, any rebate, gift, money, or anything of value whatsoever, except where given for the use and benefit of the City.

Section 14. Cooperative purchasing

The Purchasing Agent shall have authority to join with other units of government in cooperative purchasing **where goods and services are available from federal, state or local government agencies and contracts with firms that provide goods or services (utilities) subject to uniform tariff, government regulation or area-wide rates**; when the best interests of the city would be served. The purchasing agent of the city is given the authority to make purchases of supplies and equipment through cooperative purchasing **which** can be done without the formality of publication and receiving competitive bids. **The purchasing laws, ordinances, and policies of each entity will be considered in the intergovernmental agreement.**

Section 15. Assistance to small and disadvantaged businesses

The Purchasing Agent shall take positive steps for the recruitment of, conduct educational and procedural training for and take action which will encourage small disadvantaged and minority businesses to do business with the City of Conway. It shall be the goal of these steps to fully implement the goals of the affirmative action program of the City.

Section 16. Compliance with state and federal regulations When procurement involves the expenditure of state and federal assistance or contract funds, the affected Department Head shall inform the Purchasing Agent of all requirements. The Department Head shall comply with all state and federal rules and regulations in the procurement process.

Section 17. JOINT PARTNERSHIP VENTURES

Whenever the city enters into an intergovernmental agreement for a joint project with the federal or a state government, or with another governmental entity including, but not limited to a county, regional council, special purpose district, special tax district, state authority, joint district, or public university, then the purchasing practices of the other public entity may be used in lieu of the city's own procedures.

(a)

Joint partnership ventures with public or private entities may be authorized. The preferred method of contracting in joint partnership ventures will be by competitive sealed bids or by competitive sealed proposals.

(b)

In instances where a public or private entity has a contract for a construction project in place and the city has a similar or related project to be completed, a contract may be awarded without competitive sealed bids or competitive sealed proposals when the city administrator determines in writing that:

(1)

That there is a substantial or significant benefit of economy or efficiency to be realized by coordinating with another public or private entity for the consolidation of the contracting and construction of a project; and

(2)

That another public or private entity has a mutual interest for the completion of the construction project and has the requisite ability and knowledge with respect to the contracting and construction oversight; and

(3)

That the public or private entity and the city will each continue to be responsible for the payment of their share of the yet to be awarded contract for the construction project to be completed.

(c)

The determination made by the city administrator as described herein shall state with particularity the factual basis for his determination, and such determination shall be accompanied by an explanation as to the reasons it will be in the economic interest or more efficient for the city to enter into a joint partnership venture and why competitive sealed bids or competitive sealed proposals is not suitable or acceptable to meet the need of the particular project. The determination shall also be accompanied by a statement that the city administrator or his designee will monitor and oversee the project and contract

process to ensure that the contract amount is fair and reasonable and that all work is completed satisfactorily.

Section 18. Local Vendor Preference.

EFFECTIVE DATE of this ordinance shall be the date of final reading and adoption.

This option allows the lowest local bidder whose bid is within five-percent of the lowest non-local bidder to match the bid submitted by the non-local bidder and thereby be awarded the contract. This preference shall apply only when (a) the total dollar purchase is ten thousand dollars (\$10,000.00) or more; (b) the vendor has a physical business address located and operating within the limits of City of Conway and has been doing business in the city for a period of twelve (12) months or more; and (c) the vendor provides proof of payment of all applicable City of Conway taxes and fees if so requested.

To qualify for the local vendor preference all of the following requirements must be met and certified by the vendor:

(1)

The vendor must maintain an office within the legally defined boundaries of the city and have a majority of full-time employees, chief officers and managers regularly conducting work and business from this office;

(2)

The vendor must have held a valid city business license for a consecutive period of at least twelve (12) months prior to the date of the application for certification; and

(3)

The vendor must submit a local vendor preference certified application prior to or in conjunction with the sealed bid.

(b)

Use of the local vendor preference during the bid evaluation process:

(1)

For comparing bids, any vendor who meets all the criteria for certification will have their bid price reduced by five (5) percent, not to exceed a maximum reduction of ten thousand dollars (\$10,000.00). If after the application of the local vendor preference, the vendor is determined to be the low responsive and responsible bidder, they will be awarded the contract; and

(2)

Final contract price will reflect the original bid amount before the local vendor preference was applied.

(3)

Should the lowest responsible and responsive City of Conway bidder not exercise its right to match the bid as granted herein, the next lowest qualified City of Conway bidder shall have that right and so on. The right to exercise the right to match the bid shall be exercised within one (1) business day of notification of the right to match the non-city of Conway bidder's bid. A business day is defined as all days excluding Saturday, Sunday, as well as all city holidays.

In order to qualify for the local preference authorized by this section, the vendor seeking same shall be required to submit with its bid a statement containing relevant information which demonstrates compliance with the provisions of this section. This statement shall be on a form provided by the city procurement department and shall be signed under penalty of perjury. Failure to provide such affidavit at the time the bidder submits its bid shall constitute a waiver of any claim for preference.

(5)

Local preference shall not apply to the following categories of contracts:

(a) goods or services provided under a cooperative purchasing agreement or similar "piggyback" contract;

(b) purchases or contracts which are funded, in whole or in part, by a governmental or other funding entity, where the terms and conditions of receipt of the funds prohibit the preference;

(c) To projects funded by bond proceeds where the bond covenants restrict the manner of procurement.

(d) purchases or contracts made pursuant to a noncompetitive award process, unless otherwise provided by this section; or

(e) any bid announcement which specifically provides that the general local preference policies set forth in this section are suspended due to the unique nature of the goods or services sought, the existence of an emergency as found by either the city council or city administrator, or where such suspension is, in the opinion of the city attorney, required by law.