

CITY OF LEE'S SUMMIT

PURCHASING POLICY MANUAL



March 2006

PURCHASING MANUAL
DIVISION OF PURCHASING
CITY OF LEE'S SUMMIT MISSOURI

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Cooperative Programs and Agreements, Revised per Administrative Amendment 05-01, dated November, 2005.

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II. PURCHASING POLICY GOALS

- A. The Purchasing Division provides centralized procurement of goods and services. It is the responsibility of the Purchasing Division to assist city departments in obtaining necessary goods and services at the most economical prices while ensuring compliance with all applicable laws and policies, and maintaining confidence in government expenditures.

III. BUSINESS PURCHASING CARD PROGRAM

- A. Any purchase made pursuant to the Business Purchasing Card Program shall be made in accordance with the terms of the process manual for the Business Purchasing Card Program, and applicable Purchasing Policy provisions.
- B. Any purchases currently being made pursuant to the process for Purchases \$0 to \$250 at Facilities with Charge Accounts may continue until users of that process begin using a Business Purchasing Card.

IV. DEFINITIONS

CONSTRUCTION - the process of building, altering, repairing, improving or demolishing any public structure or facility or other public improvement of any kind.

CONTRACT - a legally binding promise enforceable by law, and generally, in writing.

EXISTING PURCHASING CONTRACTS - contracts previously entered into by the City and currently existing for such items, including but not limited to, term and supply contracts, annual contracts, maintenance contracts, and warranty contracts.

FORMAL WRITTEN BIDS - a competitive bid which must be submitted, in response to an advertised request, in a sealed envelope, in a prescribed format, to be opened in public at a specified time.

INFORMAL WRITTEN BIDS - a competitive bid or price quotation for supplies or

services conveyed to the City in writing by sealed bid without requiring advertising.

ITEMS - a product, material or service.

MATERIAL VALUE - a determination made by the Department Director as to the value of an item to be purchased relative to their respective Department budgets.

PROCUREMENT-purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction, including performance of any necessary functions, such as writing specifications, selection and solicitation of sources, preparation and award of contract, and contract administration.

QUOTATION - a statement of price, terms of sale, and description of goods or services offered by a vendor to a prospective purchaser by letter, fax, telephone or other means of communication.

REQUISITION - an internal document by which a department sends details of supplies, services, or material required to the Purchasing Division and documentation for authority to commit funds for the purchase.

SCOPE OF SERVICES - a detailed description of the tasks to be performed by the successful bidder.

SPECIFICATIONS - a description of the physical or functional characteristics, or of the nature of a supply, service, or construction item; the requirements to be satisfied by a product, material, or process indicating, if appropriate, the procedures to determine whether the requirements are satisfied, and/or the capabilities and performance characteristics that the item must satisfy.

V. PURCHASING PROCEDURES

A. PURCHASES \$0 TO \$50 AND PAID FROM PETTY CASH

1. Items in this range may be purchased directly by city departments with reimbursement from petty cash funds. The Department Director or designated representative must approve the purchase. Department Director will determine the amount of "petty cash" that shall be available at any given time in the department.

B. PURCHASES \$0 TO \$1000

1. Items in this range and not available on an existing purchasing contract, may be ordered by departments. Prior to placing an order, Departments are encouraged to obtain the lowest cost through cost comparisons and must contact the Purchasing Division for a purchase order number. After placing the order, a requisition must be submitted to the Purchasing Division, which shall include the purchase order number, account number, cost comparisons received, and Department Director or designated representative's signature.

C. PURCHASES \$1000 TO \$3000

1. Items in this range, and not available on an existing purchasing contract, through an approved "sole source", or authorized as an emergency purchase may be ordered by departments. Prior to placing an order, the Department Director, or designated representative shall contact the Purchasing Division to coordinate the purchase. The Purchasing Division will briefly summarize purchasing techniques, including a reminder to fully inquire about terms, freight charges and discounts, provide the Department with names and numbers of possible sources of supply, if necessary, and provide the department a purchase order number with which to place the order. The Department Director, or designated representatives, or Purchasing Division, if requested by the Department, shall secure a minimum of three (3) quotations from vendors, if a sufficient number of vendors are available.

2. The Department shall submit a requisition to the Purchasing Division within 24 hours of placing the order, which shall include the purchase order number, account number, a description of the item(s) to be purchased, quotations received, and the Department Director or designated representative's signature.

3. Departments are authorized to repeat an order for a maximum amount of \$3000, if the order is placed within ninety (90) days of the original quotation, following the Purchasing Division's approval, and provided that the supplier agrees to the same terms as the original purchase. When repeating an order, and prior to placing the order, the department must contact the Purchasing Division for a new purchase order number. A requisition must be submitted to the Purchasing Division, which shall include the purchase order number, account number, a description of the item(s) to be purchased, quotations received, and the Department Director or designated representative's signature.

D. PURCHASES \$3000 TO \$10,000

1. Items in this range, and not available on an existing purchasing contract, through an approved "sole source", or authorized as an emergency purchase, are to be ordered by purchase requisition through the Purchasing Division. The Purchasing Division shall obtain informal written bids. A minimum of three (3) bids shall be solicited, if sufficient vendors are available. All bids are to be received and opened by the Purchasing Division.

2. The Department Director or designated representative shall schedule a meeting with the Purchasing Division prior to preparing specifications to determine the method of procurement to be used, identify any special requirements, outline the time line for the project, estimate costs, define roles, and identify possible vendors. The department shall prepare

specifications and submit them, along with the requisition, to the Purchasing Division for review and procurement.

3. The bid shall be awarded to the lowest and best bidder upon the recommendation of the Department Director or designated representative and the approval of the Purchasing Agent or designated representative. The Purchasing Division may repeat an order within these ranges when the previous purchase was made within ninety (90) days of the original order and the seller agrees to the same terms as the previous purchase.

E. PURCHASES OVER \$10,000

1. The items in this range are to be requested by the department by submitting a purchase requisition to the Purchasing Division. The Purchasing Division shall obtain formal written bids, which must be advertised. Certain bonds, including performance, payment, and bid bonds may be required to be submitted when bidding for certain purchases. Purchasing Division will advise departments as to applicable bonds at the preparation meeting set forth in section E.2 below. In addition, the award of purchases in excess of \$20,000 range require City Council approval. All bids are to be received and opened by the Purchasing Division.
2. The Department Director or designated representative shall schedule a meeting with the Purchasing Division, prior to preparing specifications, to determine the method of purchase to be used, identify any special requirements, outline the time line for the project, estimate costs, define roles, and identify possible vendors. The department shall prepare specifications and submit them, along with a requisition, to the Purchasing Division for review and procurement.
3. The bids may be evaluated by the Purchasing Division and/or the Department, at the discretion of the Department Director. The bid shall be awarded to the lowest and best bidder upon the recommendation of

the Department Director or designated representative and the approval of the Purchasing Agent or designated representative. Prior to being placed on the Council agenda, the Department Director or designated representative shall prepare recommendation of award for Council approval. The recommendation must be signed by the Purchasing Agent or designated representative, certifying that all Purchasing policy requirements were met. .

4. "Sole source" purchases, over \$10,000 in price, shall be negotiated upon the approval of the Purchasing Agent, the Finance Director and the City Administrator or their designated representatives. See the Sole Source section of this Policy for additional information.

VI. CHANGE ORDERS (FOR OTHER THAN CONSTRUCTION CONTRACTS)

Revised per Resolution No. 06-06, passed and adopted by City Council, March 9, 2006

- A. Contracts over \$20,000. In the event there is a change in the scope of services or cost in a contract, the Contractor may request a change order. A change order is an amendment to the contract. The contract amendment should contain the change in scope of services and/or in cost and must go to the City Council for approval.

In certain emergency situations or due to the stage of construction in progress or to prevent a lengthy delay in a project, the Department Director, with the approval of the City Administrator, and with notification to the appropriate City Council committee chairperson, can authorize a change order. After authorizing the change order, the change order is prepared and sent to City Council with a request to ratify the change order. These change orders may involve such issues as additional tasks, deletion of tasks, cost changes, and extensions of time.

- B. Contracts less than \$20,000. In the event there is a change in the scope of services or costs in a contract with an original contract amount of less than \$20,000, the Contractor may request a change order. A change order is an

amendment to the contract. The contract amendment should contain the change in scope of services and/or in cost must be approved by the Department Director and Purchasing Division. These change orders may involve such issues as additional tasks, deletion of tasks, cost changes, and extensions of time.

In the event the change order itself contains costs in an amount in excess of \$20,000, the change order must go to City Council for approval. In the event a series of change orders on a single contract accumulates to an amount in excess of \$20,000, all subsequent change orders, regardless of amount, must go the City Council for approval.

- C. Purchase Orders. Change orders to purchase orders are only allowed if the change is in the cost of the item being purchased. No change orders are allowed for changes in quantity or scope of original purchase order. Changes in quantity or scope are to be purchased with separate purchase order numbers. See applicable price range provisions regarding repeat orders.

Purchase Order Change order cost adjustments in an amount up to \$3,000 requires prior approval of the Purchasing Division.

Purchase Order Change order cost adjustments in an amount up to \$20,000 require prior approval of Purchasing Division and City Administrator.

Purchase Order Change order cost adjustments in an amount over \$20,000 require prior approval of the Purchasing Agent, City Administrator and City Council.

VII. COOPERATIVE PROGRAMS AND AGREEMENTS

Revised per Administrative Amendment 05-01, dated November, 2005

1. COOPERATIVE PURCHASING PROGRAMS

- A. As used in this Article, the term “cooperative purchasing program” refers to programs through which the members of the program may acquire goods and

services in cooperation with other members of the program, thereby saving money on the purchase of goods and services through economies of scale and through the reduction of administrative costs. Subject to the provisions of this Article, the Purchasing Agent is authorized to participate in cooperative purchasing programs with the United States or any agency of the United States; with the State of Missouri or any agency, municipality or political subdivision of the State of Missouri; with other states or any agency, municipality or political subdivision of any other state; or with any association of municipalities or political subdivisions; provided that the cooperative purchasing program follows a competitive bidding process.

- B. From time to time, but not less than each July of each even numbered year, the City Council shall authorize by resolution the participation of the City in any and all Cooperative Purchasing Programs which the Council believe appropriate (the "Approved List"). The Purchasing Division shall be responsible for notifying the departments of current approved cooperative purchasing programs and any limitation or special requirements for their use.
- C. Council approval shall not be required for the purchase of any budgeted items from purchasing programs which are on the Approved List. City Council approval will be required for all purchases of unbudgeted items in excess of \$20,000. Specific unbudgeted items less than \$20,000 may be purchased through a cooperative purchasing program on the Approved List provided an alternative funding source with the respective Department's budget is identified in writing to the Finance Director and City Administrator.
- D. During the annual City budget approval process, if a Department knows a proposed budgeted item will be purchased through a cooperative purchasing program or acceptable purchasing agreement, as defined below, the Department shall provide such information to the City Council.

2. COOPERATIVE PURCHASING AGREEMENTS

- A. The City may procure goods or services pursuant to an acceptable cooperative purchasing agreement. An “acceptable cooperative purchasing agreement” is an agreement between a governmental entity and a third party which meets the following conditions:
1. the contract followed a competitive bidding process and was established in accordance with the laws and regulations applicable to the establishing governmental entity;
 2. the contract contains the same, or better, terms, conditions, specifications and pricing for the respective item that the City Department seeking the acquisition would bid and purchase on its own; and
 3. the contract contains a cooperative purchasing clause (sometimes referred to as a “piggyback” clause) which authorizes other governmental entities to purchase under the contract with the same terms and conditions.
- B. In the event a Department desires to acquire goods or services through a cooperative purchasing agreement, the Department Director or designated representative shall contact the Purchasing Department. The Purchasing Agent, or Purchasing Agent’s designated representative, shall determine whether the proposed agreement is an acceptable cooperative purchasing agreement. After this determination is made the matter shall be forwarded to the City Administrator for review.
- C. The City Administrator is authorized to approve purchases through acceptable cooperative purchasing agreements, subject to the following conditions:
1. City Council approval will be required for all purchases of unbudgeted items in excess of \$20,000.00
 2. Specific unbudgeted items less than \$20,000.00 may be purchased through a cooperative purchasing program provided an alternative funding source with the respective Department’s budget is identified in writing to the Finance Director and City Administrator.
- Council approval shall not be required for the purchase of any budgeted items from acceptable cooperative purchasing agreements.

VIII. TERM AND SUPPLY AND ANNUAL CONTRACTS

- A. Term and supply contracts and annual contracts shall be bid through the Purchasing Division following the same procedures established by this policy for other purchases based upon estimated value of contract. The Purchasing Agent shall prepare a recommendation of award for Council approval for all term & supply and annual contracts over \$20,000, based upon the annual value of the contract. In the instance of multiple year contracts, Council approval is not required for the renewal periods when the requested price increase does not exceed the renewal period increase established in the original contract. All multiple year contracts shall contain a clause which states that the Contractor understands that the obligation of the City to pay for goods and/or services under the contract is limited to payment from available revenues and shall constitute a current expense of the City and shall not in any way be construed to be a debt of the City in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the City nor shall anything contained in the contract constitute a pledge of the general tax revenues, funds or moneys of the City , and all provisions of the contract shall be construed so as to give effect to such intent. The Purchasing Division shall be responsible for notifying the departments of all current contracts available for use.

- B. The Purchasing Division will provide ordering instructions for each contract as is appropriate for that particular item. After a Department purchases an item from a term and supply or annual contract, the Department shall submit the signed tickets and/or receipts evidencing the purchase directly to the City Accounts Payable Division.

IX. NON-CONTRACT SERVICES

- A. Departments shall contact the Purchasing Division prior to obtaining quotations for any service involving labor, which is not covered by an existing contract to determine the appropriate method of procurement.

- B. If it is determined by the Purchasing Division that bonds, insurance, or prevailing wage are required, the Purchasing Division shall handle the procurement of such service, regardless of cost.

X. PROFESSIONAL SERVICES CONTRACTS-ENGINEERING, ARCHITECTURAL AND LAND SURVEYING SERVICES

Revision 07-03 Approved per City Administrator effective August 28, 2007

- A. Contracts for architectural, engineering and land surveying services shall be negotiated on the basis of demonstrated competence and qualifications for the type of services required and at fair and reasonable prices. The Purchasing Department shall encourage firms engaged in the lawful practice of the architectural, engineering and land surveying professions to annually submit a statement of qualifications and performance data to the City.
- B. As used in the Article unless the context specifically requires otherwise:
 - 1. "Architectural services" means any service as defined in section 327.091, RSMo.
 - 2. "Engineering services" means any services as defined in Section 327.181, RSMo.
 - 3. "Firm" means any individual, firm, partnership, corporation, associates or other legal entity permitted by law to practice the profession of architecture, engineering or land surveying and provide said services;
 - 4. "Land surveying services" means any service as defined in section 327.272, RSMo.
 - 5. "Protest" means any capital improvement project or any study, plan, survey or program activity of the City, including development of new or existing programs.
- C. Whenever architectural, engineering or land surveying services are needed, the Purchasing Agent and the Department Director, or their designated representatives, shall evaluate current statement of qualifications and performance data of firms on file together with those that may be submitted by other firms regarding the proposed project. Except for those cases in which the required services may be provided through an existing indefinite delivery (aka "on call") contract, the Purchasing Agent or designated representative shall prepare a Request for Qualifications (RFQ) designed to ascertain qualifications of firms that may be interested in providing services for the proposed project.
 - (1) The specialized experience and technical competence of the firm with respect to the type of services required;
 - (2) The capacity and capability of the firm to perform the work in question. Including specialized services, within the time limitations fixed for the completion of the project;
 - (3) The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules;
 - (4) The firm's proximity to and familiarity with the area in which the project is located.When an RFQ is used, a selection committee shall be established by the Department Director or designated representative to review the qualifications.

Each committee member will rank each firm according to the criteria set forth in section C (1-4) of this Article. The composite rating of the committee will be used to determine the three top rated firms, which may be interviewed at the discretion of the Department Director. If interviews are conducted, the firms are again individually rated after the interviews according to the criteria contained in section C (1-4) of this Article and a second composite of the committee's rating of the firms.

The Purchasing Agent and the Department Director, or their designated representatives, shall list three highly qualified firms as determined by the process set forth in this section. They shall then select the firm considered best qualified and capable of performing the desired work and negotiate a contract for the project with the firm selected.. If an RFQ is used, the committee's composite rating shall be used to determine the best qualified firm. For a basic for negotiations the Department Director, or their designated representatives, are unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated. Negotiations shall then commence with another of the qualified firms selected. If there is a failing of accord with the second firm, negotiations with such firm shall be terminated. Negotiations shall then commence with the third qualified firm. If there is a failure to negotiate a contract with any of the selected firms, the Purchasing Agent and the Department Director, or their designated representatives, shall reevaluate the necessary architectural, engineering or land surveying services, including the scope and reasonable fee requirements. again compile a list of qualified firms and proceed in accordance with the provisions of the subsection.

XI.-B. SPECIALIZED CONSULTING SERVICE CONTRACTS

A. When a Department determines that specialized consulting services may be necessary regarding a project or program, the Department shall contact the Purchasing Agent or designated representative to determine the appropriate course of action.

B. The Purchasing Agent, or his or her designated representative, with the approval of the City Administrator, or his or her designated representative, may authorize the award of a specialized consulting services contract when the requesting Department has stated in writing that there is a need for such services from the proposed consultant because of specific circumstance which require a unique combination of abilities or expertise to perform . In the event that the contract amount will exceed \$20,000, the contract must be approved by the City Council upon the recommendation of the City Administrator.

XII.-C PROFESSIONAL SERVICES CONTRACTS- CONTRACT APPROVAL PROCESS AND CONTRACT MODIFICATION

- A. The Department Director or designated representative shall prepare a recommendation of award for Council approval for all contracts over \$20,000. The recommendation must be signed by the Purchasing Agent, prior to being placed on the Council Agenda, certifying that all requirements were met. Council approval is not required for the renewal of contracts when the requested price increase does not exceed the renewal period increase established in the original agreement or contracts under \$20,000 that may be authorized by the City Administrator. All multiple year contracts shall contain a clause which states that the Contractor understands that the obligation of the City to pay for goods and/or services under the contract is limited to payment from available revenues and shall constitute a current expense of the City and shall not in any way be construed to be a debt of the City in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the City nor shall anything contained in the contract constitute a pledge of the general tax revenues, funds or moneys of the City, and all provisions of the contract shall be construed so as to give effect to such intent.

Upon approval of the Purchasing Agent and City Administrator, professional services under \$5,000 may be exempt from the Request for Proposal and competitive bidding process.

B. Contract Modifications & Supplemental Agreements

In the event it is necessary to change the scope of services that increases the total compensation for a professional services contract valued at \$20,000 or more or if the change will cause the contract amount to exceed \$20,000, a written contract modification or supplemental agreement shall be approved by the City Council prior to the work commencing. Contract modifications or supplemental agreements that do not cause the total contract amount to exceed \$20,000 may be executed by the City Administrator.

In certain limited emergency situations, the City Administrator shall be given the authority to execute an emergency contract modification or supplemental agreement prior to City Council approval to modify the scope of services. "Emergencies" shall be defined as those unforeseen circumstances that present an immediate threat to public health, welfare, or safety; or when immediate response is necessary to prevent further damage to public property, machinery, or equipment; or when delay would result in significant financial impacts to the City as determined by the Department Director and City Administrator. The City Administrator shall only execute the emergency contract modification or supplemental agreement if the work qualifies as an "emergency" and the overall project budget is not exceeded. The emergency contract modification or supplemental agreement would be submitted to the City Council for ratification at the next available meeting.

XIII A. CONSTRUCTION CONTRACTS

- A. Construction contracts, supervised by City of Lee's Summit personnel, shall be bid through the Purchasing Division in accordance with the procedures

established for other purchases by this policy according to applicable price range.

- B. Construction contracts, supervised by outside consulting services shall be bid in coordination with the Purchasing Division. A bid package shall be reviewed by the Purchasing Division and approved by the Department Director or designated representative. Construction contracts shall be prepared by the consultant. The bid shall be advertised by the Purchasing Division and/or Department. The Consultant or the Purchasing Division, as determined by the Purchasing Division and the Department Director or designated representative, shall distribute the bid package to potential bidders. Purchasing shall receive, record and tabulate the bids and shall certify that bids were opened in compliance with all Purchasing Policy requirements. The final award of the bid shall be communicated to the successful bidder by the Purchasing Division.

- C. All construction contracts over \$10,000 must be advertised. All construction contracts in excess of \$20,000 must be approved by the City Council. The Department Director or designated representative shall prepare a recommendation of award for Council approval. Prior to being placed on the Council agenda, the recommendation must be signed by the Purchasing Agent or designated representative, certifying that all purchasing requirements were met.

D. CHANGE ORDERS FOR CONSTRUCTION CONTRACTS

Revised per Resolution No. 09-01, approved by the City manager on February 20th, 2009.

- 1. Contracts \$100,000 and Greater: For changes in quantities, materials, or costs not associated with a change in the contract scope, change orders up to a cumulative total **increase** of five percent (5%) of the original contract amount must be approved by the appropriate Department Director and the City **Manager**. Change orders resulting in **an increased** revised contract amount exceeding five percent of the original contract, any single change order **for an increase of** \$100,000 or more, or any

change in contract scope must go through City Council for approval. **Any change order resulting in a decrease in quantities, materials or costs must be approved administratively by the appropriate Department Director and the City Manager.**

2. Contracts less than \$100,000. For changes in quantities, materials, or costs not associated with a change in the contract scope, change orders up to a cumulative total **increase** of ten percent (10%) of the original contract amount must be approved by the appropriate Department Director and the City **Manager** . Change orders resulting in an **increased** revised contract amount exceeding ten percent of the original contract, any single change order **for an increase of \$10,000 or more**, or any change in contract scope must go through City Council for approval. **Any change order resulting in a decrease in quantities, materials or costs must be approved administratively by the appropriate Department Director and the City Manager.**

3. For all contracts. For changes in contract time not associated with a change in contract scope. Change orders up to a cumulative total of ten percent (10%) of the original contract time must be approved by appropriate Department Director and the City Manager. Change orders resulting in a revised contract time exceeding ten percent of the original contract time, and single change order totaling 30 days or more. Or any change in contract time due to a change in scope must be approved by the City Council.

XIV C. EMERGENCY PURCHASES

- A. The Purchasing Agent or designated representative may authorize emergency procurement of supplies, services, or construction items when there exists a threat to public health, welfare, or safety; or when immediate repair is necessary to prevent further damage to public property, machinery, or equipment; or when City operations

will be adversely affected as determined by the Department Director and City Administrator or designated representatives.

- B. Immediately upon determining that an emergency situation exists, and prior to contacting vendors for supplies and services, the Department shall contact the Purchasing Division to determine the appropriate course of action. Emergency purchases require prior approval of the Purchasing Agent or designated representative and shall be procured by the following procedure. The Purchasing Agent or designated representative shall determine whether the purchase can be procured on an existing purchasing contract on a timely basis; approved "sole source"; or securing a minimum of three (3) quotations from vendors, if a sufficient number of vendors are available. Emergency purchases shall be made with as much competition as practical under the circumstances. Departments must submit emergency purchases on the appropriate form and must include an explanation of the emergency.

- C. The Purchasing Agent shall approve all emergency purchases under \$10,000. Emergency purchases over \$10,000 require the approval of the Purchasing Agent and the City Administrator.

- D. During periods of a "declared city emergency" by the Mayor, purchases may be made in accordance with the City Emergency Operations Plan.

____Article XIII of the City of Lee's Summit Purchasing Policy is hereby amended to read as follows:

XV. SOLE SOURCE

Revised per Resolution No. 08-01 approved by the City manager on November 17, 2008

- A. When a Department determines a sole source may be necessary for purchase of an item, and before contacting the sole source vendor, the Department shall contact the Purchasing Agent or designated representative to determine the appropriate course of action **unless a proposed contract is for an item and vendor designated a per-se sole source.**

B. The Purchasing Agent or designated representative and Department Director or designated representative may authorize a sole source purchase when such a request is presented in writing by the requesting Department that only a single feasible procurement source exists. A single feasible sole source exists when:

1. Supplies or services are proprietary and only available from the manufacturer or a single distributor;
2. Or it is determined that only one (1) distributor services the region;
3. Or when supplies or services are available at a discount from a single distributor for a limited period of time;
4. Or specialized consultant or technical services for a project with specific circumstances which require a unique combination or abilities or expertise to perform the services required.
5. In the event a sole source purchase is in the amount excess of \$20,000, it shall also be approved by the Finance Director and City Manager or their designated representatives and must be approved by the City Council.
6. **The following items/vendors are designated as per-se sole source which may be approved without further verification of sole source status:**
 - **private utility companies contracting to move or relocate their own utility facilities.**
 - **maintenance and support contract with vendors or software or hardware, which are required in order to maintain warranty compliance or pursuant to existing licensing agreements.**

C. SPECIAL PURCHASES

A. The Purchasing Agent, under special circumstances, may purchase up to \$3000, through negotiation without competitive bids. This authority shall be used only when a written determination is made by the Purchasing Agent that no better prices could have been obtained through competitive bidding. Orders of this

nature may not be placed more than once during any 90 day period with any one firm or organization.

D. POLICY FOR THE ADMINISTRATIVE ACQUISITION OF RIGHTS-OF-WAY AND EASEMENTS

Revised per Resolution No. 05-16, passed and adopted by City Council, December 1, 2005.

A. Purpose: The purpose of this policy is to provide an administrative approval process for acquiring rights-of-way and easements needed for City projects.

B. Definitions: As used in this article, the following terms shall have the described meaning:

Settlement Amount - the amount to be paid by the City in consideration of receiving a Property Interest from a property owner.

Appraised Value - the fair market value of the subject property as determined by the City's qualified appraiser.

Excess Amount – the difference between the Settlement Amount and the Appraised Value.

Property – legal interests in real estate acquired for the following purposes: rights-of-way, storm water and sanitary sewer easements, water line easements and temporary construction easements.

C. Conditions: Staff is authorized to acquire Property administratively when the following conditions are met:

1. The Property is needed in order to proceed with a project that is part of the Capital Improvement Program that has been approved by the City Council; and,
2. Funding for said project has been included in the current annual budget approved by the City Council.

If the above conditions are met, the acquisition of Property may be approved administratively in the following situations, and subject to the procedures detailed herein.

D. Procedures

1. If the proposed Settlement Amount is equal to or less than \$5,000.00, the City Administrator may approve the acquisition of the Property.
2. If the proposed Settlement Amount is between \$5,000.00 and \$20,000.00, the City Administrator may approve the acquisition of the Property if the Excess Amount is not greater than 10% of the Appraised Value.
3. If the proposed Settlement Amount is not in excess of \$50,000.00, and is equal to or less than the Appraised Value, the City Administrator may approve the acquisition of the Property.
4. All other proposed acquisitions must be presented to the Mayor and City Council for approval.

E. The City Administrator, or the City Administrator's designee, is authorized to execute all documents necessary to carry out the intent of this policy.

F. All deeds, agreements and other documents used for an acquisition under this policy must be approved by the Law Department.

E. SALE AND LEASE OF REAL PROPERTY

Revised per Resolution No. 05-16, passed and adopted by City Council, December 1, 2005.

- a. The Mayor and City Council may lease real property which is currently underutilized in order to maximize the return of the property to the City until such time as such properties shall be required for public usage, after following an applicable process which results in a fair market value determination which is financially most advantageous to the City.
- b. Nothing herein shall prevent, the City Administrator or designated representative from negotiating the lease to a Lessee of any real property that is shown to have a unique value to such Lessee due to its configuration, accessibility or size. Mayor and City Council shall have final approval of all such negotiations and any transaction.

- c. The Mayor and City Council may sell real property after following an applicable process which results in a fair market value determination which is financially most advantageous to the City.
- d. Nothing herein shall prevent the City Administrator or the City Administrator's designated representative from negotiating for sale or trade to a buyer any real property that is shown to have a unique value to such buyer due to its configuration, accessibility or size. The Mayor and City Council shall have final approval of all such negotiations and any related transaction.

XVI. PRODUCT TESTING/DEMONSTRATIONS

- A. Product demonstrations may be held as deemed appropriate by the department without prior approval of the Purchasing Division.
- B. Prior to taking into the City's possession any item for testing or evaluation, departments shall contact the Purchasing Division for approval. Purchasing shall notify the vendor in writing that the City has taken the item into possession for test purposes only and if a purchasing decision is made, that decision will be communicated directly to the vendor at the end of the test period. In no event shall the retention of a test item by the City be evidence of intent to purchase said item.

XVII. GENERAL INSTRUCTIONS

A. SPECIFICATIONS

- 1. It is the responsibility of the department to write their specifications and establish the quality of the product or service required, using standard bid formats prepared by the Purchasing Division. The Purchasing Division may assist the department in writing specifications, upon department request.

2. Specifications shall be written to require competition at the manufacturer's level when possible. Use of a brand name specification shall include the designation "or an approved alternate". A "no substitute" request must be approved by the Purchasing Division following written justification by the department as to why no other brand will meet the need.

B. MULTIPLE PURCHASES

1. Making multiple purchases for the purpose of avoiding the bidding process shall not be permitted and shall be considered a violation of this Policy.

C. INVOICES

1. Vendors are to be instructed to send all original invoices to the City of Lee's Summit Accounts Payable Department, P.O. Box 1600, Lee's Summit, Missouri 64063.

D. DESIGNATED REPRESENTATIVES

5. Throughout this Policy several references have been made to "designated representatives", in order to assure that proper authority has been given to an individual who represents themselves as a "designated representative" the departments are requested to make an effort to communicate said designated authority to the Purchasing Division when appropriate.

6. The Purchasing Division reserves the right to request evidence of an individual's "designation".

E. RECYCLED PRODUCTS

1. The City shall purchase recycled content products over those made from virgin materials when cost, quality, variety, quantity, delivery time and any other defined specifications are comparable to products made from virgin materials.

F. CONFLICT OF INTEREST

1. It shall be considered a conflict of interest and a violation of the City's disciplinary policy for a city employee or an immediate family member to attempt to conduct, or conduct, business with the City as a vendor of goods or services if the employee is involved directly or indirectly with the City's procurement process of the particular items such as preparing specifications, making recommendations, accepting materials or performing any other management act.

G. PURCHASES SUPPORTED BY GRANT FUNDS

1. Departments shall review all requirements for grant funds used in the procurement of items to insure the bidding process required as a condition to receiving said grant funds are complied with during the procurement of the item. The Purchasing Division will assist in the inclusion of all required procedures that are in addition to the requirements of this policy.

H. PURCHASING POLICY SUPPLEMENTAL

1. In the event a specific procurement procedure is required to be in writing when the City is purchasing an item which is funded in whole or in part by grant funds, ie. CDBG, the City Administrator shall have the authority to authorize the amendment of this Purchasing Policy by supplement to incorporate the special requirements of that procurement.

D. DELIVERY OF ITEMS

1. When items are delivered to City Departments, the only paperwork to be signed is the delivery notice. Any other vendor purchase order, document, contract, warranty, maintenance agreement, etc. are NOT to be signed at delivery. All such documents shall be forwarded to the Purchasing Agent or designated representatives.

2. Once the Purchasing Agent or designated representatives receive the aforementioned documents they will coordinate review and execution of the documents with the applicable Department Directors or designated representatives.

XIII. BUDGET

1. It shall be the Department Director's responsibility to ensure that all items to be purchased, of material value, have been approved through the budget process. Unbudgeted or unanticipated items may be purchased during the fiscal year with notification provided to the Finance Department indicating an alternate funding source within the respective department's budget.

2. The Finance Director and Department Director or department designated representative will forward the request with a recommendation to the City Administrator for approval. All other applicable purchasing policy requirements shall be followed for the procurement of the previously unbudgeted item, once approved by the City Administrator.

XIX. DISPUTES ,ADJUSTMENTS AND APPEALS

A. Departments shall notify the Purchasing Division, in a timely manner, concerning any complaint or dispute regarding an order, delivery, specification, defective goods or poor performance by a supplier. Any decision concerning an attempt to cancel a contract or an attempt to resolve a dispute regarding defective products

or unacceptable services shall be made jointly by the Purchasing Division and the Department Director(s) or department designated representative. Any correspondence with suppliers shall be made available to both the Department Director and the Purchasing Agent.

- B. In the event a procurement dispute arises between the requesting Department and the Purchasing Division, the Assistant to the City Administrator supervising the Purchasing Division shall make the final decision. If the Department Director of the requesting Department does not agree or accept the decision of said Assistant to the City Administrator, the requesting Department Director and the said Assistant to the City Administrator may discuss the issue with the City Administrator, or designated representative, and the City Administrator, or designated representative shall make the final decision.

XX. UNAUTHORIZED PURCHASES

The purchase of an item must be made in accordance with the Purchasing Policy and Procedures. Any purchase of item, which does not comply with these procedures shall be considered an unauthorized purchase. Whenever funds have been expended or payment cannot be avoided on an unauthorized purchase, anyone may report the matter in writing to the Department Director and to the City Administrator for action. Said action may include discipline in accordance with the City's disciplinary policies.

XXI. RESPONSIBILITY FOR ENFORCEMENT

- A. The City Administrator will have the responsibility for the enforcement of this administrative policy. Department Directors will be entrusted with the responsibility of enforcing the policy within their departments.

XXII. POLICY AMENDMENT

- A. The City Administrator may authorize amendments to this administrative policy in furtherance of the goals of this Policy.

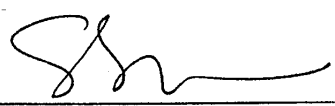
XXIII: BID PROTESTS

Revised per Revision 07-02 approved by City Administrator on September 1, 2007

- (1) Right to Protest. Any actual or prospective bidder who is aggrieved in connection with the solicitation or award of a contract may protest to the Purchasing Manager. The protest shall be submitted in writing within 48 (forty-eight) hours after such aggrieved person knows or should have known of the facts giving rise thereto. The protest shall identify specific issues that are being protested and the facts that the protestor believe supports their claim (it is the protestor's responsibility to establish their case).
- (2) Review of Protest. The Purchasing Manager shall have the authority to resolve a protest of an aggrieved bidder concerning the solicitation or award of a contract. This authority shall be exercised in accordance with the City's Purchase Policy and subject to the approval of the City Administrator.
- (3) Decision. The Purchasing Manager shall issue a decision in writing within three (3) days of receipt of the protest. The decision shall state the reasons for the action taken.
- (4) Notice of Decision. A copy of the decision under Subsection (3) of this Article shall be mailed or otherwise furnished immediately to the protestor and any other party intervening.
- (5) Appeal. A protestor may appeal the decision of the Purchasing Manager by submitting a written appeal to the City Administrator within five business days of the date the Purchasing Manager's decision under Subsection (3) of this article. The written appeal shall state with specificity the facts supporting the protestor's position. The appeal shall be reviewed by the City Administrator, or his designee, who will issue a decision in writing 5 (five) business days of receipt of the protestor's timely filed written appeal.
- (6) Finality of Decision. A decision under Subsection (3) of this Article shall be considered final and is not subject to appeal or further consideration unless a timely appeal is filed under Subsection (5). In the event of a timely appeal under Subsection (5) the decision of the City Administrator, or his designee, shall be considered final and not subject to appeal or further consideration.
- (7) Stay of Procurements During Protests. In the event of a timely protest under Subsection (1) of this Article, the City of Lee's Summit shall not proceed further with the solicitation or with the award of the contract until the Purchasing Manager issues a decision under Subsection (3) or (until the City Administrator, or his designee, renders a decision on appeal pursuant to Subsection (5) of this Article), or until the Purchasing Manager, after consultation with the City Administrator, makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the City of Lee's Summit.

The procedure provided by this Article is intended solely as an attempt to provide bidders with the opportunity to communicate perceived issues to the City's Purchasing Department. It is not intended to create any legal right, cause of action, property interest or independent means of redress that does not otherwise exist under Missouri Law. This article shall not serve to abrogate or effect the City's exclusive right to determine the lowest and most responsible bidder in any particular bid situation.

5/1/03
Date


Shelley Temple-Kneuvean, Acting City
Administrator

(Current as of 5/2006)