

RESOLUTION# 2018- 27

**A RESOLUTION BY THE MAYOR AND COUNCIL OF THE
TOWN OF ASHLAND CITY TO ESTABLISH PURCHASING
POLICES AND PROCEDURES**

WHEREAS, Section 31 of the City Charter of the Town of Ashland City, states the Mayor and City Council shall set purchasing procedures which shall be in compliance with state law.

NOW, THEREFORE BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF ASHLAND CITY, TENNESSEE, that the following be declared the official purchasing procedures for the Town of Ashland City.

Section 1: Definitions

Accept. To receive with approval or satisfaction.

Acknowledgment. Written confirmation from the vendor to the purchaser of an order implying obligation or incurring responsibility.

Agreement. A coming together in opinion or determination; understanding and agreement between two or more parties.

All or none. In procurement, the Town reserves the right to award each item individually or to award all items on an "all or none" basis.

Annual. Recurring, done, or performed every year.

Appropriations. Public funds set aside for a specific purpose or purposes.

Approved. To be satisfied with; admit the propriety or excellence of; to be pleased with; to confirm or ratify.

Approved equal. Alike; uniform; on the same plane or level with respect to efficiency, worth, value, amount or rights.

Authorized town employee. A Town employee who has been granted the authority to commit city funds to a vendor.

Award. The presentation of a contract to a vendor; to grant; to enter into with all required legal formalities.

Awarded bidder. Any individual, company, firm, corporation, partnership or other organization to whom a purchase or bid is accepted by the Town.

Back order. The portion of a customer's order undelivered due to temporary unavailability of a particular product or material.

Bid. A party's response to an Invitation for Bids (including items of disposal) or, Request for Proposal; the information concerning the price or cost of materials or services offered by a vendor.

Bidder. Any individual, company, firm, corporation, partnership or other organization or entity bidding on solicitations issued by the Town and offering to enter into contracts with the Town.

Bid Bond. An insurance agreement in which a third party agrees to be liable to pay a certain amount of money should a specific vendor's bid be accepted and the vendor fails to sign the contract as bid.

Bid file. A folder containing all of the documentation concerning a particular bid. This documentation includes the names of all vendors to whom the invitation to bid was mailed (electronically or traditionally) or picked up by the vendor, the responses of the vendors, the bid tabulation forms and any other information as may be necessary.

Bid opening. The opening and reading of the bids, conducted at the time and place specified in the invitation for bids and in the presence of anyone who wishes to attend.

Bid solicitation. Invitations for bids.

Blanket bid order. A type of bid used by buyers to purchase repetitive products from the same vendor. The Town establishes its need for a product for a specified period of time. The Town may order small quantities of these items from the vendor, at the bid price, over the term of the contract.

Business. Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or other legal entity, including governmental, through which business is conducted.

Cancel. To revoke a contract or bid.

Capital items. Equipment which has an expected life greater than three years and a value in accordance with the Town's capitalization threshold policy.

Cash discount. A discount from the purchase price allowed to the purchaser if payment is made within a specified period of time or some other stipulation set by the vendor.

Caveat emptor. Let the buyer beware; used in proposals or contracts to caution a buyer to avoid misrepresentation.

Certify. To testify in writing; to make known or establish as a fact.

City Council. Town of Ashland City Mayor and City Council Members.

Competitive Bidding. Bidding on the same undertaking or material items by more than one vendor.

Conspicuously. To be prominent or obvious; located, positioned, or designed to be noticed.

Construction. The building, alteration, demolition, or repair of public buildings, structures, highways and other improvements or additions to real property.

Contract. An agreement, grant, or order for the procurement, use, or disposal of supplies, services, construction, insurance, real property or any other item.

Delivery schedule. The required or agreed upon rate of delivery of goods or services.

Discount for prompt payment. A predetermined discount offered by a vendor for prompt payment.

Evaluation of bid. The process of examining a bid to determine a bidder's responsibility, responsiveness to requirements, qualifications, or other characteristics of the bid that determine the eventual selection of a winning bid.

Fiscal year. An accounting period of 12 months, July 1 through June 30.

Goods. All materials, equipment, supplies, and printing.

Interest or Relationship (which creates a Conflict of Interest). Financial or personal closeness to an individual or other entity where preferential treatment might take place which is not available to all others.

Invitation for bid. All documents utilized for soliciting bids.

Invoice. A written account of merchandise and process, delivered to the purchaser; a bill.

Local bidder. A bidder who has and maintains a business office located within the corporate limits of the Town of Ashland City, Tennessee.

Order. The authorization to a vendor by an authorized Town employee to provide a commodity or service.

Performance bond. A bond, including Letter of Credit, provided to a purchaser by a vendor or contractor guaranteeing the performance of certain services or delivery of goods. The bond can be for a certain period of time, but more generally it's time limit terminates at the delivery or withdrawal by the purchaser of the order. The purpose of

the bond is to protect the purchaser from a financial or other loss which might result if the vendor did not deliver as promised.

Pre-bid conference. A meeting held with potential vendors a few days after an invitation for bids has been issued to promote uniform interpretation of work statements and specifications by all prospective contractors.

Procurement or purchasing. Buying, renting, leasing, or otherwise obtaining supplies, services, construction, insurance or any other item. It also includes functions that pertain to the acquisition of such supplies, services, construction, insurance and other items, including descriptions of requirements, selection and solicitation of sources, preparation and award of contracts, contract administration, and all phases of warehousing and disposal.

Public. Open to all.

Public purchasing unit. Means the State of Tennessee, any county, town, governmental entity and other subdivision of the State of Tennessee, or any public agency, or any other public authority.

PO - Purchase Order. A legal document used by the Town's purchasing agent for acquisition of items and services from a vendor. The requisition is converted to a PO by the purchasing agent or their designee after approval. A PO, when issued to a vendor, should contain statements about the quantity, description, and price of goods or services ordered, agreed terms of payment, discounts, date of performance, transportation terms, and all other agreements pertinent to the purchase and its execution by the vendor.

Purchasing Authority. The upper dollar limit of a purchase set by the City Council which can be made.

Reject. Refuse to accept, recognize, or make use of; repudiate, to refuse to consider or grant.

Requisition. A form containing a description of the item requested, potential sources, estimated price, and the department number and budget item code. The request will be used by the Purchasing Agent or Authorized Town Employee to order the requested item(s).

Responsive bidder. One who has submitted a bid which conforms in all materials respects to the invitation for bids.

Sealed. Secured in any manner so as to be closed against the inspection of contents.

Sole source procurement. An award for a commodity which can only be purchased from one supplier, usually because of its technological, specialized or unique character. There may be other extinguishing circumstances which trigger a *sole source procurement*. The

determination of extinguishing circumstance shall be determined by the Mayor and City Council.

Specifications. Any description of the physical, functional or timing characteristics of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

Standardization. The making, causing, or adapting of items to conform to recognized qualifications.

Telephone bids. Contacting at least three vendors to obtain verbal quotes for items of a value of \$2,500.00 or less. A record of competitive bids shall be made and retained.

Town. The Town of Ashland City, Tennessee.

Using Department. The Town Department seeking to purchase goods or services which will be the ultimate user of the purchased goods or services.

Vendor. The person who transfers property, goods, or services by sale.

Section 2. Purchasing Agent. Except as otherwise provided in this policy, all orders for supplies, materials, equipment, and services shall be assigned a PO (Purchase Order) number by the purchasing agent. The purchasing agent will verify that all requirements for purchase have been completed. Once such requirements have been verified, the purchase may be approved and acquired by the purchasing agent or his/her designee. Purchases up to \$500 when appropriated by budget are exempted from the PO requirement.

Section 3. General Information.

- a) **Federal Excise Tax.** The Town is exempt from the payment of excise taxes imposed by the federal government, and suppliers should be requested to deduct the amount of such taxes from their bids, quotations, and invoices.
- b) **Standardization Requirements.** Standardizing supplies and materials that can be bought in large quantities can save a great deal of money. Thus, department heads should adopt as standards the minimum number of quantities, sizes, and varieties of commodities consistent with successful operation. Where practical, materials and supplies should be bought on the basis of requirements for a six-month period.
- c) **Inspection of Deliveries.** No invoices for supplies, materials, or equipment shall be accepted for payment until such supplies, materials, etc., have been received and inspected by the department head or an authorized town employee.
- d) **Correspondence with Suppliers.** Copies of any correspondence with suppliers concerning prices, adjustments, and defective merchandise shall be forwarded to

the purchasing agent. All invoices, bills of lading, delivery tickets, and other papers relation to purchases shall be sent to the purchasing agent

- e) **Claims.** The purchasing agent, department head, or authorized town employee shall prosecute all claims for shortages, breakages, or other complaints against either shipper or carrier in connection with shipments.
- f) **Public Inspection of Records.** The purchasing agent shall keep a complete record of all quotations, bids, and purchase orders. Such records shall be open to public inspection.

Section 4. General Procedures Prior to Bidding. The following procedures shall be followed by all Town employees when purchasing goods or services on behalf of the Town, prior to initiating the purchase:

- a) ***Items Expected to Cost More than \$15,000***
 - (1) The department head of the using department shall deliver to the purchasing agent a written requisition for the items to be purchased. Such request shall include a brief description of the items, specifications for the items, an estimated cost of the items, recommended sources and shall include the budget line item code to which the purchase is to be charged.
 - (2) The purchasing agent shall review the requisition for completeness as required by this resolution. The request shall then be forwarded to the City Council for review and approval. The requisition will be presented by the mayor, department head, or purchasing agent at the next regularly scheduled or special called meeting of City Council. The City Council shall have the authority to approve, or may disapprove the requisition to comply with the annual budget, or for any reason it deems is in the public interest. The reason for denial shall be stated and recorded in the meeting minutes. Upon denial the City Council shall supply direction as to how to handle the situation that prompted the purchase request.
 - (3) All requisitions approved by the City Council shall be signed by the mayor and returned to the purchasing agent who shall proceed with procurement in compliance with this resolution.
 - (4) The purchasing agent shall follow procedures set forth in the sealed bid requirements in section 8 of this chapter, unless otherwise waived as outlined in section 21 of this chapter.
 - (5) Bids shall be forwarded to the City Council for review. The bids will be presented by the mayor, department head, or purchasing agent at the next regularly scheduled or special called meeting of City Council. The City Council shall have the authority to approve,

adjust or eliminate various specifications for goods and services, or may disapprove the bid to comply with the annual budget, or for any reason it deems is in the public interest. The reason for denial shall be stated and recorded in the meeting minutes. Upon denial the City Council shall supply direction as to how to handle the situation that prompted the purchase request.

- b) *Items Expected to Cost \$2,000 to \$15,000*
- (1) The department head or his/her designee of the using department shall deliver to the purchasing agent a requisition, written or electronically, for the items to be purchased. Such request shall include a brief description of the items, specifications, an estimated cost, a suggested source and the budget department and expense item numbers to which the items are to be charged.
 - (2) The purchasing agent shall review the requisition for completeness. The request shall then be forwarded to the mayor or his/her designee for final review and approval. Items not appropriated in the annual budget or for which there are not funds shall not be approved. The mayor or purchasing agent shall have the authority to adjust or eliminate various specifications for goods or services to comply with town policy, the annual budget, or to avoid depletion of the town treasury.
 - (3) All approved requisitions shall be approved by the mayor or his/her designee and returned to the purchasing agent who shall either proceed with procurement or allow the requesting department head or authorized town employee to procure the items in compliance with this resolution.
 - (4) The purchasing agent, authorized town employee, or department head shall obtain a minimum of three written competitive quotes which shall be made a part of the purchasing agent's purchasing file.

Section 5. Rejection of Bids. The purchasing agent, mayor, or City Council shall have the authority to reject any and all bids or parts of bids, when the public interest will be served thereby or where the supplier has been specifically excluded from bidding work by a unanimous vote of the Town's City Council. The Town shall not accept a bid from a vendor or contractor who is in default on a contract or on the payment of taxes, licenses, fees or other monies of whatever nature that may be due the Town by said vendor or contractor.

Section 6. Conflict of Interest. All employees who participate in any phase of the purchasing function are to be free of interests or relationships which are actually or

potentially hostile or detrimental to the best interests of the Town and shall not engage or participate in any commercial transaction involving the Town, in which they have a financial or other significant interest.

Section 7. Purchasing from Individuals. Purchasing from individuals is permitted so long as other bids indicate that the purchase is comparable in price, function and value.

Section 8. Purchasing from an Employee. It shall be the policy of the Town not to purchase any goods or services from any employee or close relative of any Town employee or Town City Council member without the prior approval of the City Council.

Section 9. Sealed Bid Requirements – \$15,000.00 or Greater.

- a) On all purchases and contracts estimated to be in excess of fifteen thousand dollars (\$15,000), except as otherwise provided in this ordinance, sealed bids shall be submitted to Town of Ashland City: City Hall, Attention: purchasing agent prior to a specified bid due date. The bids from responsive bidders shall be publicly opened by the purchasing agent and read aloud. The purchasing agent will prepare a summary of the bids and provide the bids and summary for presentation to City Council. All such bids shall be submitted for award at the next regularly scheduled City Council meeting or special-called meeting together with the recommendation from the department head or purchasing agent as to the best selection for contract performance.
- b) Plans, specifications, and estimates for any public works project exceeding \$25,000 must be prepared by a registered architect or engineer as required by TCA 62-2-107.
- c) Notice inviting bids shall be published at least once in a newspaper of general circulation in Cheatham County, and at least ten days preceding the last day to receive bids. The newspaper notice shall contain a general description of the good(s) or services to be procured, and the date, time, and place for opening bids.
- d) In addition to publication in a newspaper, the purchasing agent may take other actions deemed appropriate to notify all prospective bidders of the invitation to bid, including, but not limited to, advertisement on community bulletin boards and the Town's website, in professional journals, and electronic media.

Section 10. Competitive Bidding – \$2,001 to \$15,000

- a) All purchases of supplies, equipment, services, and contracts estimated to be in excess of two thousand and one dollar (\$2,001) but less than fifteen thousand dollars (\$15,000), shall be by unadvertised, verbal request for quote or written competitive bidding and may be awarded to the lowest responsive bidder.

- b) A written record of quotes shall be established and available for public inspection showing that competitive bids were obtained by one of the following methods:
 - i. Direct mail advertisement;
 - ii. Face to face;
 - iii. Telephone bids;
 - iv. Public Notice; or
 - v. Internet bids/quotes.These quotes shall be kept on file with the purchase order in the office of the purchasing agent.
- c) The purchasing agent shall obtain a copy of the vendor's liability and workers compensation insurance policies showing coverage amounts for contracts involving construction or other service where the public or contractor's employees could be adversely impacted by the provision of the service. The purchasing agent shall also verify budget account balances prior to issuing approval to purchase.
- d) In the purchasing agent's absence, the mayor shall designate a suitable substitute to perform the purchasing agent's duties.

Section 11. Purchases and Contracts Costing Less Than \$2,000. The department head, after appropriation through the budget, is expected to obtain the best prices and services available for purchases and contracts estimated to be less than \$2,000, but is exempted from the formal bid requirements specified in Sections 8 and 9 of this chapter.

Section 12. Liability and Worker's Compensation Insurance. On all contracts where the contractor's employees and or the public may be subjected to any type of hazard while performing any phase of the said contract the contractor shall have sufficient insurance to hold the Town harmless in the case of any happenstance. The purchasing agent shall obtain a copy of the contractor's coverage before the contractor commences work. A copy of the policy coverage's shall be kept on file in the purchasing agent's filing system.

Section 13. Bid Deposit. When necessary, bid deposits may be prescribed and noted in the public notices inviting bids. The deposit shall be in such amount as the purchasing agent shall determine and unsuccessful bidders shall be entitled to a return of such deposits within ten (10) calendar days of the bid opening. A successful bidder shall forfeit any required deposit upon failure on his/her part to enter a contract within ten (10) days after the award.

Section 14. Performance Bond. The purchasing agent may require a performance bond before entering into a contract, in such amount as he/she shall find reasonably necessary to protect the best interests of the Town, sub-contractors and other furnishers of

labor and materials for an amount not less than that prescribed by the Tennessee Code Annotated.

Section 15. Record of Bids. The purchasing agent shall keep a record of all open orders and bids submitted in competition thereon for all PO's as required by this ordinance, including a list of the bidders, the amount bid by each, the method of solicitation and bidding, and Title VI compliance. All records shall be open to public inspection and maintained in the recorder's office. As a minimum, the bid file shall contain the following information on qualifying orders:

- a) Request to start bid procedures – the requisition if applicable.
- b) A copy of the bid advertisement if applicable.
- c) A copy of the bid item specification if applicable.
- d) A list of bidders including Title VI bidders and their responses.
- e) A copy of the PO.
- f) A copy of the invoice.
- g) A copy of the signed and dated receiver.

Section 16. Considerations in Determining Bid Awards. The following criteria shall be considered in determining bid awards:

- a) The ability of the bidder to perform the contract or provide the material or 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 previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
- e) The quality of performance of previous contracts or services, including the quality of such contracts or services in other municipalities, or performed for private sector contractors.
- f) Compliance with all specifications in the solicitation for bids.
- g) The ability to obtain and maintain any requisite bid bonds or performance bonds.
- h) Total cost of the bid, including life expectancy of the commodity, maintenance costs, and performance.

Section 17. Award Splitting. If total savings generated by splitting the award of a contract is less than \$1,000 bids awards shall not be split among bidders.

Section 18. Statement When Award Not Given to Low Bidder. When the award for purchases or contracts 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, department head, or City Council and filed with all other papers and documents related to the bidding.

Section 19. Award in Case of Tie Bids. When two or more vendors have submitted the low bid, the following criteria shall be used to award the contract:

- a) If all bids received are for the same amount, quality of service being equal, the purchase contract shall be awarded to the local bidder.
- b) If two or more local bidders have submitted the low bid, quality of service being equal, the purchase contract shall be awarded by a coin toss or drawing lots.
- c) If no local bids are received and two or more out-of-town bidders have submitted the low bid, quality of service being equal, the purchase contract shall be awarded by a coin toss or drawing lots.
- d) When the award is to be decided by coin toss or drawing lots, representatives of the bidders shall be invited to observe. In no event shall such coin toss or drawing lots be performed with less than three witnesses.

Section 20. Back Orders. All orders must be completed, whether through complete fulfillment of the order or through closing the order with items not received. The non-delivered items shall be cancelled from the order and payment will be issued to the equal amount of the amended purchase.

Section 21. Emergency Purchases. Emergency purchases are to be made only when normal functions and operations of the Town would be hampered by following the standard purchasing procedure or where property, equipment, or life are endangered through unexpected circumstances and materials, services, etc., are needed immediately. When, in the judgment of the mayor, or vice mayor in the absence of the mayor, an emergency exists purchases and leases of supplies, materials, equipment or services may be made immediately without competitive bidding and public advertisement. Once an emergency purchase is made, the person who made the emergency request must prepare a record specifying the amount paid, the items purchased, the vendor and the nature of the emergency. For amounts over \$2,000 this log must be provided as soon as possible to the City Council and filed in the filing system of the purchasing agent. Emergency purchases are costly and should be kept to a minimum. Avoiding emergency purchases will save the Town money.

Section 22. Cancellation of Invitation for Bid or Request for Proposal. An invitation to bid, a request for proposal, or other solicitations may be canceled, or any or all bids or proposals may be rejected in part as may be specified in the solicitation when it is in the best interest of the city. The reasons shall be made a part of the bid or proposal file.

Section 23. Purchase Orders Requirements. A PO, as defined in this resolution, shall be completed by the purchasing agent per the following criteria:

- a) If the purchase is competitively bid and in excess of \$2,000.
- b) If the purchase is appropriated through the annual budget and in excess of \$500.
- c) If the item is a capital good.

If a PO is required, the purchasing agent will convert the requisition only after being completed by the requestor and approved by the department head or his/her designee. The purchasing agent shall forward a copy of each PO to the requestor or department representative and place a copy of the PO in the purchasing file. The budget line item numbers shall be posted on the PO.

Section 24. Procedures Upon Taking Delivery of Purchased Items. Before accepting delivery of purchased equipment, supplies, materials and other tangible goods, the department head or his/her designee of the using department shall:

- a) Inspect the goods to verify that they are in acceptable condition.
- b) If applicable, verify that all operating manuals, warranty cards and MSDS sheets are included in the delivery of the goods.
- c) Verify that the number of items purchased has been delivered; making special note on the receiver when part or all of a particular purchase has been back ordered.
- d) Record serial numbers on appropriate forms for all capital items, maintain a unique identification number in the capital item as recorded by the recorder's office.
- e) Complete and return to the purchasing agent a copy of the receiver with any required notes, the receiver's initials, and the date received.

Section 25. Items Covered by Warranty or Guarantee. The Town may buy many items that have a warranty or guarantee for a certain length of time, such as tires, batteries, water heaters, roofs, and equipment. Before these items are repaired or replaced, the purchasing agent should be consulted to see if the item is covered by such warranty or guarantee. The purchasing agent shall maintain an active current file with complete information on such warranties or guarantees. All warranties must be remitted to the purchasing agent with the invoice indicating date of receipt.

Section 26. Signatures. Contracts, applications for title, tax exemption certificates, agreements, and contracts for utilities shall not be signed by any city employee unless authorized in writing by the purchasing agent, by action of the governing body.

Section 27. Non-Performance Policy. Failure of a bidder to complete a contract, bid, or purchase order in the specified time agreed on, or failure to provide the service, materials, or supplies required by such contract, bid, or purchase order, or failure to honor

a quoted price on services, materials, or supplies on a contract, bid, or purchase order may result in one or more of the following actions:

- a) Removal of a vendor from bid list for a period to be determined by the City Council.
- b) Allowing the vendor to find the needed item for the city from another supplier at no additional cost to the city.
- c) Allowing the city to purchase the needed services, materials, or supplies from another source and charge the vendor for any difference in cost resulting from this purchase.
- d) Allowing monetary settlement.

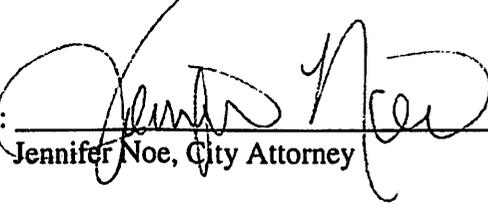
Section 28. Delinquent Delivery. Once the purchasing agent has issued a purchase order, no follow-up work should be done unless the using department says the items haven't been received. If this happens, the purchasing agent will initiate action, either written or verbal as time allows, to investigate the delay. The using department will be advised of any further problems or a revised delivery date.

Section 29. Legal Status Provisions

- a) **Liability for Excess Purchases.** This resolution shall authorize the purchase of materials and supplies and the procurement of contracts for which funds have been appropriated in the annual budget or which have been authorized and lawfully funded by the City Council. The Town shall have no liability for any purchase made in violation of this resolution.
- b) **Additional Forms and Procedures.** The purchasing agent is hereby authorized and directed to develop such forms and procedures as are necessary to comply with this resolution.
- c) **Interpretation.** Words herein in the singular number shall include the plural, the present tense shall include the future, and the masculine gender shall include the feminine and neuter.
- d) **Severability.** Should any section, paragraph, sentence, clause, or phrase of this resolution or its application to any person or circumstance be declared unconstitutional or invalid for any reason, or should any portion of this ordinance be pre-empted by State or Federal law or regulation, such decision or legislation shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.
- e) **Repeal.** All previously passed ordinances or resolutions, parts of ordinances or resolutions, which are inconsistent with the provisions of this ordinance or resolution are hereby repealed to the extent of such inconsistency.

- f) Effective Date. This resolution shall be effective immediately after final passage, the public welfare requiring it.

Approved as to Legality and Form:

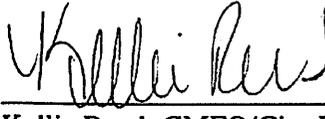


Jennifer Noe, City Attorney

Passed: 8-10-18



Richard Johnson, Mayor



Kellie Reed, CMFO/City Recorder