

## Chapter 25 -- Procurement, Conflict of Interest

### Subchapter A -- Procurement of Professional Services

#### 25.010. Definitions.

1. The term "professional services" shall mean those services within the scope of practice of architecture, engineering, or land surveying, as defined by the laws of the State of Missouri, or those performed by any architect, professional engineer, or registered land surveyor in connection with this professional employment or practice. Furthermore, the term "professional services" shall encompass the services provided by planning consultants, insurance consultants, computer consultants, accountants, and other persons/firms providing consulting services.

2. The term "firm" shall mean any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, or land surveying in the State of Missouri, or to provide professional services as described herein.

#### 25.020. Roster of consultants.

1. The city clerk will maintain a roster, classified by category of professional service, of qualified firms interested in performing professional services for the City. Names of firms will be placed on the roster upon their request, at the request of the Mayor or members of the Board of Aldermen, or when recommended by city departments.

2. Each firm meeting the following minimum qualifications shall be deemed to be a qualified firm and meeting the qualifications of the City.

a. Duly authorized to conduct business in the State of Missouri in their particular profession.

b. Professional registration by the State of Missouri, if required.

c. At least one staff professional assigned to each project. Adequacy of personnel will be determined on a contract-by-contract basis against the City's estimate of manpower required to perform the work in the desired time frame.

3. Each firm listed on the roster shall be responsible for maintaining a current resume describing its qualifications and experience with the city clerk.

Data which should be included is as follows:

- a. Firm name, address, and telephone numbers.
- b. Year established and former firm names (if applicable).
- c. Types of services for which it is qualified.
- d. Names of principals of the firm and states in which they are registered, if registration is required in that profession.
- e. Names of key personnel, with experience of each and length of time in the organization.
- f. Number of staff available for assignment.
- g. Outside consultants and associates usually retained.
- h. Current projects underway and estimated cost of each.

25.030. Selection of Services.

1. Large Projects. Services for projects where fees will exceed \$10,000. The City Administrator will select staff members to act as the screening and selection committee who will have responsibility for the specific project. Formal Advertising for this class of project is required. The firm will be selected by a staff committee which will recommend the firm and appropriate contract to the Mayor and Board of Aldermen for their approval. If the cost of any such professional service is expected to exceed Ten Thousand Dollars (\$10,000), then advertisements for bids shall be inserted at least one (1) time in a newspaper of general circulation in the City of Holts Summit, Missouri, to appear at least one (1) week before such bids are to be opened, and bids may also be solicited by mail from prospective suppliers unless the City is using a service already competitively bid and documented.

2. Small Projects. Services for projects where fees will not exceed the city staff spending limits will be authorized by the City Administrator when budgeted funds are available. The firm will be selected by a staff committee which will recommend the firm and appropriate agreement to the Mayor for their approval. Advertising for this class of project is required only in special instances, such as when highly specialized services are required.

3. It may be necessary on some projects to appoint persons to the selection committee from outside city government who are experts in a particular field and who are disinterested parties in the project at hand. If a project involves a department advised by a citizen commission or independent contractor, it may be desirable to include a representative

from that commission on the selection committee. The City Administrator may appoint these persons to either project type.

4. The Board of Aldermen may direct projects to the staff for the selection process if the Board of Aldermen feels the type of project does not warrant Board participation until actual selection is being considered. This delegation will be made by motion of the Board of Aldermen. The Board of Aldermen may also direct that representatives of the Board of Aldermen be included during the selection process for specific projects if they feel there is a need for such inclusion.

25.040. General procedure and responsibilities.

1. Project initiation. When a department of the City identifies a project for which professional services will be necessary, the department will draft a scope of services for the specific project. This scope of services will be submitted to the City Administrator for authorization to initiate the project, and a determination as to which type of screening and selection committee will be required. The scope of services should include the following:

- a. A description of the work required and its objectives.
- b. The nature of specific tasks and services to be accomplished.
- c. The type and amount of assistance to be given by the city department involved.
- d. Required time frame.
- e. Financial conditions or limitations; grant programs involved.

2. Expressions of interest. After authorization, the administering department will contact those firms on the roster and those firms responding to advertisements for a written expression of interest in the specific project. The request should invite comment as to the special experience in the project being considered, a description of the previous experience with similar projects, and the availability of the firm to provide required service within any time limitations.

3. Initial screening and requests for proposals. The expressions of interest will then be presented to the appropriate screening and selection committee for initial screening. Factors to be determined in the initial screening will include:

- a. Specialized experience in the type of work required.

- in the required time.
- City.
- citizen concerns.
- serve the project.
- b. Record of the firm in accomplishing work on other projects
  - c. Quality of work previously performed by the firm for the
  - d. Recent experience showing accuracy of cost estimates.
  - e. Community relations including evidence of sensitivity to
  - f. Geographic location of the office of the firm which would
  - g. Qualifications and experience of key personnel.
  - h. Relations with previous clients.

The screening committee may designate three or four firms who will be requested to present detailed proposals on the project and be interviewed.

4. Detailed proposals. Firms submitting detailed proposals may be asked to provide the following:

- the project.
- a. A resume of the firm principal who will be responsible for
  - b. A resume of the proposed project supervisor.
  - c. Resumes of key project personnel.
  - d. A statement of the ability of the firm to meet required time
  - e. A description of how the project would be conducted.
  - f. A schedule of hourly rates for various services offered and
  - g. A list of municipal references for similar types of projects.
  - h. Any other pertinent information the firm wishes to present.
- schedules.
- a proposed project fee range.

5. Interview and selection. Upon receipt of the detailed proposals, the selection and screening committee may be convened to review the proposals, interview the prospective firms, and make the final selections as to the firm for the project. Written interview

and selection criteria utilizing a point system shall be established prior to receiving detailed proposals on a project. A copy of the system shall be placed on file with the city clerk. Similar systems for rating shall be used on similar projects and will be standardized where possible. The prime factors to be rated in the final screening are:

- a. Management capabilities
- b. Technical capabilities
- c. Approach to the project
- d. Understanding of City's objectives
- e. Proposed work schedule
- f. Staff to be assigned
- g. Fee and/or schedule of hourly rates
- h. Knowledge of local situation
- i. Ability to communicate
- j. Presentation and attitude
- k. Confidence factor

6. Contract negotiation. The selected firm may be requested to come in for a final conference with the screening and selection committee to define precisely the scope of service to be provided and to finalize the compensation requirements for the work. A contract is prepared and submitted to the city attorney for review, and then submitted to the Mayor and Board of Aldermen for approval.

If, after reasonable effort, a contract cannot be negotiated, the negotiations with the designated firm shall be terminated, and negotiations shall be started with the next firm recommended.

7. Exceptions.

a. In view of the fact that special conditions will occasionally arise that make use of this policy impractical, there can be exceptions made. Reasons for exceptions may include an emergency situation which precludes a selection time frame of at least two months, or an extremely specialized need in which there is only one feasible source of expertise. If it appears there is a need for an exception to the policy, the Mayor will inform the Board of Aldermen to allow them the opportunity to deny the exception.

b. If the number of firms willing and available to perform a specific task is small, the step involving initial screening may be skipped, and the selection process will go directly to detailed proposals.

25.050 Compensation or fee. This amount will include all services to be rendered to the City by the firm, with the exception of certain pass-through expenses that will be identified by contract, if applicable, and it will be calculated by one of the following methods, at the preference of the City:

1. lump sum or fixed fee,
2. cost per unit, or
3. hourly basis with total not to exceed a fixed amount.

25.060. Prohibition against contingent fees.

1. Each contract entered into by the Board of Aldermen for professional services shall contain a prohibition against contingent fees as follows:

"No firm shall retain a person to solicit or secure a city contract for professional services upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business."

2. For the breach or violation of the foregoing provision, the Mayor and Board of Aldermen shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

25.070. Use of procedures. The procedures described herein shall be used in all projects requiring outside professional services. Exceptions to this policy shall be as follows:

1. After the City has used this process to select a firm with specialized expertise that is available to do similar required work in that field of expertise which would fall under small projects type projects, if new contracts can be negotiated, the firm can be retained for additional projects requiring that expertise for a period of no longer than three years. After three years, this procedure shall be used again for selection of professional services.

2. If, after project completion by a firm already selected by the City through this process to do a major project, the City requires professional services on an ongoing consultant basis on that project, the City may retain the services of that firm on a consultant basis for a period of three years. After that period of time, the City shall use this procedure again to select ongoing consultant services.

25.080. Waiver. The Mayor and Board of Aldermen may waive any and all aforementioned procedural requirements in the best interests of the City.

### **Subchapter B -- Procurement of Property, Equipment, or Materials**

25.100. Advertisement for bids required when. All purchases of personal property by the City shall be by competitive bid, except that purchases of less than Two Thousand Five Hundred (\$2,500) may be made on the open market based on comparative prices. If the cost of any such personal property is expected to be between Two Thousand Five Hundred Dollars (\$2,500) and Ten Thousand Dollars (\$10,000), then price quotes shall be informally solicited from at least three prospective suppliers, and such quotes shall be recorded and retained in the City's records for a period of three years. If the cost of any such personal property is expected to exceed Ten Thousand Dollars (\$10,000), then advertisements for bids shall be inserted at least one (1) time in a newspaper of general circulation in the City of Holts Summit, Missouri, to appear at least one (1) week before such bids are to be opened, and bids may also be solicited by mail from prospective suppliers unless the City is using a product already competitively bid and documented. In all cases, the purchase shall be made from the lowest and or best bidder, except that the City shall have the right to reject any or all bids and then either solicit new bids or, in the case where a better price may be obtained on the open market, make the purchase on the open market, except that purchases from other government entities under the State Surplus Property Law and purchases found by the Board to be needed on an emergency basis, need not be competitively bid.

25.105. Purchase Amounts Authorized. The Mayor shall be authorized to make and approve purchases for the City of Holts Summit amounting to less than Ten Thousand dollars (\$10,000), all such purchases shall be made in accordance with the purchasing rules and procedures approved by the Board of Aldermen. The City Administrator shall be authorized to make and approve purchases for the City of Holts Summit amounting to less than Seven Thousand dollars (\$7,000), all such purchases shall be made in accordance with the purchasing rules and procedures approved by the Board of Aldermen. The Department Directors shall be authorized to make and approve purchases for the City of Holts Summit amounting to less than Four Thousand dollars (\$4,000), all such purchases shall be made in accordance with the purchasing rules and procedures approved by the Board of Aldermen. The City Administrator shall coordinate and or supervise the process for all purchases requiring informal or formal bids, and submitted to the Mayor or Board of Alderman for purchasing authority.

25.110. Authorization for purchases.

1. Out of Pocket Expenses. No employee, officer, or City appointed or elected official of the City shall make any purchase on behalf of the City, without written authorization from the Administrative Supervisor responsible for the proper spending of the budgets under their supervision. In cases where cash on demand is required for a purchase for

City business and a City appointed official, officer or employee pays out of pocket for such expense, said individual may be immediately reimbursed for such purchase if first authorized in writing by the appropriate administrative supervisory personnel. Cash on demand purchases shall not be made if the purchase can be made using the purchasing card as stated in Section 2 below.

A. All receipts for reimbursement submitted by an employee shall be approved or disapproved in writing by their Administrative Supervisor. The Administrative Supervisor will then submit the reimbursement request to the City Administrator who may authorize immediate payment to the employee by noting his or her approval on the request for reimbursement who shall submit such request to the City Treasurer for payment. The City Administrator will review and approve or disapprove all requests for reimbursements made by an Administrative Supervisor, an officer or a City appointed or elected official following the procedure as noted above.

B. All Administrative Supervisors must receive prior written approval from the City Administrator for purchases over \$500 except in the case of an emergency purchase.

C. An elected City official shall abstain from voting on the approval of a reimbursement requested by them when such issue is taken up by the Board of Aldermen to authorize payment of the invoice.

2. Purchasing Card. The City Treasurer may issue a purchasing card to each City appointed official, officer or employee of the City to simplify the process of business purchasing and reimbursement. The City appointed official, officer or employee shall make every effort to use the purchase card in lieu of cash on demand purchases or a specific account purchase. No City appointed or elected official, officer or employee shall make any purchase on behalf of the City without written authorization from the appropriate Administrative Supervisor responsible for their specific budgets. The Administrative Supervisor using the purchase order as written authorization shall approve all purchases prior to the purchase being made. See exceptions under Section 7 below.

A. Administrative Supervisors shall be responsible for the security of the cards issued to their departments. The employees are responsible for the security of the card while in their possession. The only person entitled to use the card is the person whose name appears on the face of the card. The Administrative Supervisors shall keep the cards in a locked file when not being used.

B. The purchase cards shall be restricted for transactions not to exceed \$1,000 per month per employee. Purchase cards are not transferable between employees and departments.

C. The Administrative Supervisor shall attached the purchase order to the receipt, noting the budget line item number that the purchase should be deducted

from, and submit to the City Treasurer who shall forward the approved receipt to the City Administrator for payment after approval of the monthly bills by the Board of Aldermen.

3. City Administrator may authorize purchase. Except as set forth herein, no City appointed official, officer, or any employee may incur any debt on behalf of the City without authorization from the majority of the Board of Aldermen by ordinance. The City Administrator shall be the purchasing agent for the City of Holts Summit and all purchases and/or agreements amounting to or less than One Thousand Five Hundred Dollars (\$10,000) shall be made under his or her direction and supervision, and all such purchases shall be made in accordance with the purchasing rules and procedures approved by the Board of Aldermen, and all purchases shall be made in compliance with the current budget. Purchases over \$10,000 require a vote of a majority of the Board of Aldermen prior to the purchase being made, except in emergency situations involving immanent peril as noted in Subsection 4 below.

4. Emergency Purchases. The provision of this subsection notwithstanding, administrative supervisory personnel may exceed the purchase limit of \$10,000 if the purchase is determined by supervisory personnel to be an emergency purchase. An emergency purchase constitutes a purchase which must be made in order to protect the lives, safety or property of the City or its citizens and employees from an immanent peril and for which, in the opinion of said Administrative Supervisory personnel, the provisions of this subsection cannot reasonably be complied with, including but, not limited to, such occurrences as a sewer pump operating improperly causing destruction to property; snow removal equipment fails to operate during the snow removal season; a police automobile or radio needs immediate attention to continue to provide safety for the citizens of Holts Summit, etc. When an emergency purchase is made, the Administrative Supervisor will immediately submit a written report to the Mayor, and copied to the Board of Aldermen. A copy of the invoice will be attached to the report and the report will explain the emergency situation in detail.

5. Purchase orders required. Purchases in excess of Five Thousand Dollars (\$5,000) must comply with the provisions of Section 25.100 of this Chapter. Every purchase over Twenty-five Dollars (\$25) requires a purchase order number obtained from the Administrative Supervisor responsible for the proper spending of the budgets under their supervision prior to the purchase being made. An invoice over Twenty-five Dollars (\$25) will not be paid without the purchase order attached to the invoice.

6. Mileage Reimbursement. Officers and employees of the City shall be allowed the amount per mile as noted under Section 21.440 of Chapter 21 for use of their personal vehicle on official City business.

7. Training and Conventions.

A. The Administrative Supervisor may approve attendance by employees at a training course or convention when the absence of that employee will not cause an undue hardship on the City and insofar as the city streets, sewers, administrative office, and

police department are not left unattended by city personnel. Invoices received for training tuition, fuel and travel expenses including lodging shall not exceed \$750 individually or a total of \$1,000 for one specific training event without prior approval of the City Administrator.

B. When an officer or employee is required to attend a training course or convention that pertains to the duties of their position, reasonable and necessary costs of meals and lodging required for training purposes shall be paid to a maximum daily reimbursement, supported by receipts, of one hundred fifty (\$200.00) dollars per day not including fuel costs. No alcoholic beverages, in-room movies, or personal items and services, etcetera shall be purchased with City funds. Such daily limit shall not apply for the attendance by officers and employees at conventions or meetings where the costs directly attributable to the convention or meeting will exceed the amount and where the Administrative Supervisor has approved a payment for a specific convention or meeting in excess of the dollar amount.

8. Purchase Violations. Every violation of this Chapter may result in the purchase being deducted from the City appointed or elected official, officer, or employee's paycheck, and/or disciplinary action up to and including dismissal as noted in the City Code or the City's policies and procedures manual. Violations shall include but not be limited to the following:

A. Unauthorized purchase. A purchase made without prior approval of the Administrative Supervisor responsible for the proper spending of the budgets under their supervision.

B. Personal purchases. A personal purchase, which is defined as anything that is not purchased for use and ownership by the City. All personal purchases are a violation whether or not the City appointed or elected official, officer or employee intends to pay the City back for the purchase.

C. Cash Advance. Cash or cash type transactions are defined as cash and/or cash in lieu of credit for return or exchange of a purchase.

D. "Split" purchases. Any transaction costing more than the preset or monthly limit that is "split" into multiple transactions to circumvent the spending limits or the intent of this Chapter.

E. Any merchandise, produce or service normally considered being inappropriate use of City funds.

25.120. Bidding Procedure.

1. Competitive bids required on construction contracts. All construction contracts for which more than \$10,000 is expected to be expended shall require the solicitation of competitive bids.

2. Receiving and Opening Bids: Bids may be submitted at any time after the project has been officially advertised or invitations extended and prior to the hour designated for the opening of bids.

A. Bids submitted may be withdrawn or changed at any time before the official opening.

B. No changes shall be permitted after the bids have been opened.

C. Bids shall be submitted on the proposal/bid form with all accompanying papers placed in a sealed envelope addressed to the City Clerk or other person authorized to receive same and endorsed with the bidders name and title of the project.

D. All bids will be opened by the department head or other person authorized to receive same and read aloud publicly at the proper time so that all bidders and others interested may be present as witnesses and/or to tabulate amounts.

3. After the bids have been read, the department head or other person authorized to receive the same shall prepare a compilation of the bids to provide to the Board of Aldermen, who shall determine to whom the bid is to be awarded. If the City has retained an engineer or other consultant in connection with the contract, that individual shall be consulted in preparing the compilation. **Ord. #2049 (07-12-10)**

**Chapter 25 was amended in its entirety by Ordinance No. 2330 (2013-07-08)**