

ORDINANCE NO: 63

**AN ORDINANCE ADOPTING THE FARMINGTON CITY PROCUREMENT POLICY
AND AMENDING CHAPTER 3-6 OF THE MUNICIPAL CODE**

WHEREAS, the City Council establishes policy related to the procurement of goods and services to advance government purposes: and

WHEREAS, Utah law permits municipalities to establish purchasing procedures pursuant to Utah Code Ann. § 10-6-122(1); and

WHEREAS, the City Council finds that the categories of purchases that require formal and informal bidding are in need of adjustment; and

WHEREAS, the City Council finds that the procurement policy adopted by this ordinance renders some portions of the existing city code redundant,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
FARMINGTON CITY, STATE OF UTAH, AS FOLLOWS:**

Section 1: Adoption of Procurement Policy. The City Council adopts the Farmington City Procurement Policy, attached to this Ordinance, as the governing policy for procurement in Farmington City.

Section 2: Amendment of Code. The City Council adopts the amendments to chapter 3-6 of the Farmington City Municipal Code, as provided in Exhibit A.

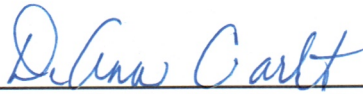
Section 3: Severability. If any section, clause, or provision of this Ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

Section 4: Effective Date. This Ordinance shall become effective immediately upon its passage.

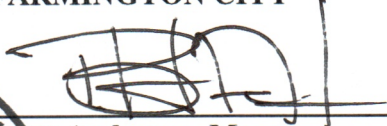
**PASSED AND ADOPTED BY THE CITY COUNCIL OF FARMINGTON CITY,
STATE OF UTAH, THIS 14TH DAY OF November 2023.**

ATTEST:

FARMINGTON CITY


DeAnn Carlile, City Recorder




Brett Anderson, Mayor

CHAPTER 6

PROCUREMENT AND SURPLUS PROPERTY

3-6-010: Compliance

3-6-020: Purchasing Agent

3-6-030: Budget Limitation

~~3-6-040: Purchase Requisition~~ (Reserved)

3-6-050: Classification Of Expenditures

3-6-060: ~~Formal~~ Bidding Procedures

~~3-6-070: Informal Bidding Procedure~~ (Reserved)

3-6-080: Additional Data

3-6-082: Retention Of Bids

3-6-084: Restrictions On Architect Or Engineering Services

3-6-090: Delivery

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3-6-115: Use Of Recycled Goods

3-6-010: COMPLIANCE:

All expenditures of the city shall conform to the procurement policies and procedures adopted by the city and all applicable provisions of state law, including, but not limited to, the uniform fiscal procedures act set forth at Utah Code Annotated section 10-6-101 et seq., as amended, and the Utah procurement code as set forth at Utah Code Annotated section 63-56-101 et seq., as amended. Any expenditures of the city involving federal assistance funds shall comply with applicable federal law and regulations. Any expenditures of the city involving the construction, maintenance or improvement projects of a class C road shall comply with applicable provisions of the state highway code, including, but not limited to, Utah Code Annotated sections 72-6-108 and 72-6-109, as amended. Included in this chapter is the designation of the city manager as the purchasing agent of the city. This designation and powers are contained herein.

3-6-020: PURCHASING AGENT:

The city manager is hereby designated as the purchasing agent for the city. The purchasing agent shall be subject to the direction and supervision of the city council and shall have the powers and duties concerning procurement as established in this chapter and the authority to delegate such powers and duties, including, but not limited to:

A. Administer and interpret the procurement system provided herein, in accordance with any rules and regulations established by the city;

B. Procure or supervise the procurement of all supplies, services and construction needed by the city, including preparation of specifications and negotiation of contracts connected therewith;

C. Exercise general supervision and control over all inventories or supplies of the city and the inspection of and accounting for all such inventories or supplies;

D. Prepare and maintain forms and reports as are reasonably necessary to the operation of the chapter and other rules and regulations of the city;

E. Keep generally informed of current developments in the field of procurement, including, but not limited to, market conditions and new products; and

F. Recommend to the city council from time to time such new or revised procurement rules and regulations as are desirable and in conformance with other statutory requirements.

3-6-030: BUDGET LIMITATION:

All expenditures or encumbrances made by the city for supplies, services or construction shall be made in accordance with the uniform fiscal procedures act for Utah cities, set forth at Utah Code Annotated section 10-6-101 et seq., as amended. Except as provided in said act or herein, all expenditures or encumbrances shall be made or incurred within the appropriate budget limitations adopted or subsequently amended by the city. The city manager or designee is authorized to approve certain transfers of funds from one expenditure account to another within a department or an excess expenditure of one or more line items, provided the total of all excess expenditures or encumbrances do not exceed the total unused appropriations within the department at the close of the budget year, in accordance with Utah Code Annotated section 10-6-124, as amended. The city manager may not make adjustments to capital funds budgets without prior approval from the city council.

3-6-040: PURCHASE REQUISITION: (Reserved)

~~Before any order may be placed for the purchase of any supply, service or construction having a unit value in excess of three thousand dollars (\$3,000.00), a purchase requisition form shall be submitted to the purchasing agent. The purchasing agent shall review all purchase requisitions and determine whether the expenditure requested is for a city purpose, properly budgeted, and in compliance with city ordinances and state law. If the purchasing agent determines the expenditure requested complies with these requirements, he or she shall sign the purchase requisition and initiate the appropriate procedures set forth herein for procurement of the supply, service or construction. A purchase requisition shall not be required for service contracts entered into between the city and the contracting party specifying the cost of service.~~

3-6-050: CLASSIFICATION OF EXPENDITURES:

A. Large Expenditures: Except as otherwise provided herein, any expenditure of the city of one-hundred twenty five thousand dollars (\$125,000.00) or more shall be referred to as a "large expenditure" and shall be made pursuant to formal bidding procedures set forth in ~~section 3-6-060 of this chapter~~ the procurement policies and procedures adopted by the city council.

B. Small Expenditures: Except as otherwise provided herein, any expenditure of the city of ~~less greater~~ than ~~twenty-seventy-five~~ thousand dollars (\$~~2575,000.00~~) but less than one-hundred twenty-five thousand dollars (\$125,000.00) shall be referred to as a "small expenditure" and may be made pursuant to either formal or informal bidding procedures set forth in the procurement policies and procedures adopted by the city council ~~section 3-6-060 of this chapter or pursuant to informal bidding procedures set forth in section 3-6-070 of this chapter~~. It shall be unlawful to artificially divide a purchase or expenditure so as to constitute a small expenditure under this section.

C. Exempt Expenditures: The following expenditures of the city shall be referred to as "exempt expenditures" and may be made without formal or informal bidding procedures, but should be made with as much competition as practicable under the circumstances. Detailed explanations of each exempt expenditure shall be provided in procurement policies and procedures adopted by the council. ~~The purchasing agent should maintain a record of expenditures made hereunder, other than minor expenditures, documenting information such as the supplier's name, the amount and type of expenditure, and the supplies, services or construction procured.~~

1. Minor: Any expenditure amounting to less than three-seventy-five thousand dollars (\$375,000.00). ~~Such minor expenditures may be made by department heads and the finance director as authorized or delegated by the city manager. Chairpersons of volunteer committees are not considered department heads as referred to herein, but shall be permitted to make minor expenditures amounting to less than two hundred fifty dollars (\$250.00), but only when authorized or delegated by the city manager.~~

2. Single-Sole Source: Any expenditure for goods or services which by their nature are not reasonably adapted to award by competitive bidding. ~~These expenditures include, but are not limited to, goods or services which can only be purchased from a single source, contracts for additions to and repair and maintenance of equipment already owned by the city which may be more efficiently added to, repaired or maintained by a certain person or firm, and equipment which, by reason of the training of the personnel or an inventory of replacement parts is compatible with the existing equipment owned by the city. The purchasing agent or his or her designee shall make a written determination that there is only one source for the required supply, service or construction.~~

3. Professional Services: Any expenditure for professional services which by their nature are not reasonably adapted to award by competitive bidding, which. ~~Such expenditures shall be authorized awarded at the discretion of the city council based on the city council's evaluation of the professional qualifications, service ability, experience, cost of services and other applicable criteria.~~

4. Emergency: Any expenditure made under the existence of an emergency condition threatening the public health, welfare or safety. ~~The purchasing agent or his or her designee shall prepare a written determination of the basis for the emergency and the selection of the particular supplier or contractor.~~

5. State BiddingContract: Any expenditure for which competitive bidding or price negotiation has already occurred on the state level.

6. Interlocal CooperationCooperative Agreement: Any expenditure made in conjunction with an agreement approved by resolution of the city council between the city and another city or governmental entity.

7. Special Sale: Any expenditure made in conjunction with any public auction, closeout sale, bankruptcy sale or other similar sale when the purchasing agent determines in writing that such purchase may be made at a cost below the market cost for the same or similar goods.

8. Exchanges: Any exchange of supplies, materials, property or equipment between the city and other public or private party made by mutual agreement of the respective parties.

3-6-060: ~~FORMAL~~ BIDDING PROCEDURES:

A. Procedures for the soliciting and processing bids both formally and informally shall be established in the procurement policies and procedures adopted by this city council. Such policies shall be interpreted to conform to applicable federal and state requirements and if found to be in conflict with such requirements, the federal or state requirements shall be followed. Except as otherwise provided herein, all large expenditures shall be made by written contract or purchase requisition between the city and the lowest responsible bidder according to the following procedure:

~~—A.— Specifications: Specifications should be prepared by the purchasing agent when he or she deems them appropriate and practical, which specifications shall be submitted to the city council for approval and authorization prior to any advertisement for bids.~~

~~—B.— Invitation For Bids: An invitation for bids shall be prepared by or under the direction of the purchasing agent, which invitation shall:~~

~~—1.— Describe the goods or services to be purchased or work to be performed;~~

~~—2.— Set forth all contract terms, conditions and bond requirements applicable to the purchase or work;~~

~~—3.— Set forth the criteria that will be used to evaluate the bid;~~

~~—4.— State where plans, specifications and other information may be obtained;~~

~~—5.— State the time and place of the bid opening; and~~

~~—6.— Reserve for the city the right to reject any and all bids for any reason without liability.~~

~~—C.— Notice: The invitation for bids shall be published at least twice in a newspaper of general circulation in the jurisdiction of the city at least five (5) days prior to the opening of bids. In the event there is no newspaper of general circulation printed or published within the jurisdiction of the city, the notice shall be posted at least five (5) days prior to the opening of bids in at least three (3) public places in the city which notice shall remain posted for at least three (3) days.~~

~~—D.— Amending Invitation: The invitation to bid may be amended, supplemented or canceled at any time prior to the opening of bids when the purchasing agent determines that such action is in the best interest of the city. The reasons for the amendment or cancellation of the invitation shall be in writing and shall be made a part of the city's records.~~

~~—E.— Sealed Bids: All bids shall be received by the city in sealed envelopes labeled "Bid For (Item)" which shall not be opened prior to the time set for opening of the bids, except as provided in subsection F of this section.~~

~~—F.— Correction Of Bids: The purchasing agent may permit correction or withdrawal of inadvertently erroneous bids in appropriate circumstances; provided, that no changes in bid prices or other provisions of bids which are prejudicial to the interest of the city or fair competition shall be permitted. Any decision to permit the correction or withdrawal of bids shall be supported by a written determination prepared by the purchasing agent.~~

~~—G.— Opening Bids: The bids shall be opened publicly by the purchasing agent in the presence of one or more witnesses at the time and place designated in the invitation for bids.~~

~~—H.— Recording Bids: The amount of each bid and the name of the bidder shall be read aloud as the bids are opened, and such information shall be recorded and open to public inspection during regular business hours for a period of not less than thirty (30) days after the bid opening.~~

~~—I.—B. Evaluating Bids: The b~~Bids shall be evaluated within a reasonable time by the purchasing agent to determine the lowest responsible bidder based upon the following objectively measurable criteria as set forth in the invitation for bids:

1. Price: The total price of the bid.
2. Quality: The overall quality of the goods or work to be provided and/or the ability, capacity and skill of the bidder to provide any services or work required.
3. Conditions: The number and scope of any conditions or qualifications set forth in the bid.
4. Time: The time limit within which the bidder can provide the goods, services or work.
5. Reputation: The character, integrity, reputation, judgment, experience and efficiency of the bidder and the quality of previous goods, services or work obtained from the bidder.
6. Compliance: The previous and existing compliance by the bidder with laws and ordinances relating to the goods, services or work.
7. Financial Resources: The sufficiency of the financial resources and ability of the bidder to provide the goods, services or work.
8. Future Service: The ability of the bidder to provide future maintenance and service and the local availability of parts, materials, etc.

~~—J.—Determination: The purchasing agent shall determine the lowest responsible bidder and communicate such determination, in writing, to the city council. The city council may accept, reject or modify the purchasing agent's determination and thereupon award the contract or reject any and all bids. All information relating to the selection of the lowest responsible bidder shall be retained by the city in accordance with the city government records access and management ordinance.~~

~~—K.—Cancellation And Rejection Of Bids: The city reserves the right to cancel an invitation for bids or to reject any or all bids for any reason. Such cancellation or rejection shall be in writing and shall be made part of the city records. In the event all bids are rejected and the city determines to make the improvement or purchase, it shall advertise anew as provided herein. If after twice advertising, no satisfactory bid is received, the city council may proceed to negotiate or make the improvement or acquisition or enter such other agreements as it deems necessary or desirable.~~

~~—L.—Tie Bids: If two (2) or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of readvertising for bids, the city council shall accept the lowest bid made by and after negotiation with the tie bidders after the time of the bid opening.~~

~~—M.—Bonds: Prior to entering any contract hereunder, the city council may require performance and payment bonds to be provided in such form and amounts as required by law and by the city council as reasonably necessary to protect the best interest of the city.~~

~~—N.—Responsibility Of Bidder: The purchasing agent may request additional information with respect to the responsibility of a bidder. The unreasonable failure of a bidder to promptly supply information in connection with a request of the purchasing agent regarding responsibility may be grounds for a determination of a nonresponsibility and/or nonresponsiveness of the bidder.~~

3-6-070: INFORMAL BIDDING PROCEDURE: (Reserved)

~~Except as otherwise provided herein, all small expenditures of the city may be awarded to the lowest responsible bidder according to the formal bidding procedure set forth above or to the lowest responsible bidder according to the following procedure:~~

~~—A.— Invitation Of Bids: The purchasing agent shall invite bids from at least three (3) potential, responsible providers of the supplies, services or construction needed or desired. Such invitations may be made in writing or orally, including by telephone, and shall be made without unfair favoritism or bias. A record of all invitations and bids made hereunder shall be kept by the purchasing agent.~~

~~—B.— Evaluation: The purchasing agent shall evaluate the bids to determine the lowest responsible bidder based upon the criteria set forth in section 3-6-060 of this chapter.~~

~~—C.— Determination: The purchasing agent shall determine the lowest responsible bidder and award the contract to such bidder, unless otherwise directed by the city council. All information relating to the bids obtained and the selection of the lowest responsible bidder shall be retained by the city in accordance with the city government records access and management ordinance.~~

3-6-080: ADDITIONAL DATA:

Any additional relevant data pertaining to the selected bidder shall be added to the purchase requisition order or contract documents. If required by law, a written contract shall be entered into between the city and the selected bidder. Contracts involving construction work shall further provide for a bid security in the amount equal to at least five percent (5%) of the amount of the bid, which bid security shall be provided in a form specified by the purchasing agent ~~and~~/or the bid documents.

3-6-082: RETENTION OF BIDS:

Whenever the city is required by state law to receive bids for purchases, construction, repairs or any other purpose requiring the expenditure of funds, the city shall keep on file all bids received, together with proof of advertisement by publication or otherwise, in accordance with Utah Code Annotated section 10-6-122, as amended.

3-6-084: RESTRICTIONS ON ARCHITECT OR ENGINEERING SERVICES:

When the city elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process, the city may not award the contract for such services solicited to a higher education entity or any part of one, in accordance with and subject to the provisions of Utah Code Annotated section 10-7-20.5, as amended. When the city engages the services of a professional architect, engineer or surveyor and considers more than one such professional for the engagement, the city shall comply with applicable provisions of Utah Code Annotated section 10-7-86, as amended.

3-6-090: DELIVERY:

When supplies ordered are delivered, the purchasing agent, or the employee who requested the supplies, shall inspect the supplies received to assure that the correct quantity and quality have been delivered. If the supplies delivered are satisfactory, the supplies shall be accepted and a copy of the packing slip, invoice or other delivery document shall be stapled to the purchase requisition order and forwarded to the appropriate employee for review, payment and filing.

3-6-100: SURPLUS PROPERTY DEFINITIONS:

A. "Significant parcel of real property" shall mean a parcel of one acre or more in size or a parcel having a value of more than one hundred thousand dollars (\$100,000.00) as determined by the city council.

B. "Reasonable notice" shall mean publishing a notice of the proposed disposition and of a public hearing before the city council to consider such disposition ~~once in a newspaper of general circulation within the city~~ on the city's website and the Utah public notice.

3-6-110: DISPOSAL OF SURPLUS PROPERTY:

A. Authority: The city shall have the authority to sell, lease, convey and dispose of real and personal property for the benefit of the city as provided by Utah Code Annotated section 10-8-2, as amended.

B. Requirements: Before the city may dispose of a significant parcel of real property, the city shall:

1. Provide reasonable notice of the proposed disposition at least fourteen (14) days before a scheduled meeting at which the city will hear public comment; and

2. Hold a meeting at which the city council accepts public comment on the proposed disposition.

C. Conditions, Limitations: All disposal, leases or subleases of such property of the city other than a significant parcel of real property, shall be made, as nearly as possible, under the same conditions and limitations as required by city ordinances and state law for the purchase or sale of property.

D. Methods Of Sale: The city council may also authorize at its discretion and under such terms and conditions as it may deem desirable, fair and appropriate, considering intended use, property tax value and the interests of the city, the sale of any surplus property, through public auction or other method designed to best serve the interests of city residents and produce a fair return; the trade or exchange of any surplus property; and the lease or sublease of any surplus property.

3-6-120: USE OF RECYCLED GOODS:

The procurement officer or other person responsible for purchasing supplies for the city shall give recycled items consideration when inviting bids and purchasing supplies in accordance with applicable provisions of Utah Code Annotated sections 10-7-87, as amended, and 11-37-101, as amended.