

PROCUREMENT

- **Sec. 2-130. - Director of procurement and contracts.**

The director of procurement and contracts, subject to the city manager, shall have administrative supervision over the department of procurement and contracts. He shall be responsible for managing, directing, facilitating and overseeing all aspects of the city's procurement and contracting process, coordinating with department and division end users to assist in identifying the most appropriate procurement delivery and source selection method for the procurement of goods, supplies, professional and non-professional services; assist in procurement negotiations; provide contract administration duties, develop model procurement strategies and best practice to ensure the timely delivery of products and services, assist in developing, implementing and evaluating city procurement policies, projects and programs to efficiently and effectively meet the needs of its customers and achieve strategic objectives necessary to support all operations of the city while maintaining the highest standards of integrity and ethical conduct.

([Ord. No. 2016-092, 12-20-16](#))

Sec. 2-201. - Statutory authority; title; definitions.

The procurement procedures in this article and regulations authorized by this article are adopted pursuant to S.C. Code 1976, § 11-35-50, and may be cited as "The City Procurement Code." Unless otherwise defined herein, terms used in this procurement code shall be defined in accordance with S.C. Code 1976, § 11-35-310.

(Code 1979, § 1-3040; Ord. No. 2014-075, 8-19-14)

Cross reference— Definitions generally, [§ 1-2](#).

Sec. 2-202. - Purchasing agent.

The city manager shall appoint a purchasing agent, who shall serve at his pleasure and subject to the finance director. The purchasing agent or a designated department head shall be responsible for procurement under the regulations promulgated by the city manager.

(Code 1979, § 1-3041)

Sec. 2-203. - Compliance with federal requirements.

Where a procurement involves the expenditure of federal assistance or contract funds, the city shall also comply with such federal law and authorized regulations as are mandatorily applicable. Notwithstanding, where federal assistance or contract funds are used in a procurement, requirements of this Code and regulations that are more restrictive than federal requirements shall be followed.

(Code 1979, § 1-3043)

Sec. 2-204. - Competitive sealed bidding required; exceptions.

All city contracts shall be awarded by competitive sealed bidding except the following as determined pursuant to definitions and standards set by regulations, or except as otherwise provided in this article:

- (1) Professional services where the person employed is customarily employed on a fee basis rather than by competitive bidding (examples: appraiser, architect-engineer, auditor, construction/program manager, legal services, physician).
- (2) Competitive sealed proposals.
- (3) Negotiations after unsuccessful competitive sealed bidding.
- (4) Small purchases.
- (5) Sole source procurements.
- (6) Emergency procurements.
- (7) Procurement of information technology.
- (8) Leasing of real property for governmental use.
- (9) When purchasing through state contracts.
- (10) When purchasing through cooperative purchasing.
- (11) When purchasing through a competitive online bidding process, including, but not limited to, reverse auctions when the purchasing agent determines that online bidding is more advantageous than other procurement methods provided herein.

(Code 1979, § 1-3044; 2009-120, 12-2-09; Ord. No. 2011-103, 1-17-12; Ord. No. 2013-050, 5-7-13; Ord. No. 2014-075, 8-19-14)

Sec. 2-205. - Procurement methods.

Regulations promulgated by the city manager shall provide for a fair and equitable procurement system for the city through one or more of the following methods:

- (1) Competitive sealed bidding.
- (2) Competitive sealed proposals.
- (3) Negotiations after unsuccessful competitive sealed bidding.
- (4) Small purchases.
- (5) Sole source procurement.
- (6) Emergency procurements.
- (7) Negotiations for contracts exempted from competitive procurement.
- (8) Competitive online bidding, including, but not limited to, reverse auctions.

(Code 1979, § 1-3045; Ord. No. 2013-050, 5-7-13)

Sec. 2-206. - Correction or withdrawal of bids; tie bids; cancellation of invitation for bids.

(a) Withdrawal of bids; cancellation of awards. Correction or withdrawal of inadvertently erroneous bids before bid opening, withdrawal of inadvertently erroneous bids after award, or cancellation of awards of contracts based on such bid mistakes may be permitted in accordance with regulations promulgated by the city manager. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the city or fair competition shall be permitted. All decisions to

permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination of appropriateness and shall be subject to approval by the city council when the amount involved exceeds \$10,000.00.

(b) Tie bids. If two or more bidders are tied in price while otherwise meeting all of the required conditions, awards are determined as follows:

(1) Should there be a city firm tied with an out-of-city firm, the award shall be made automatically to the city firm.

(2) Tie bids involving only city firms or only out-of-city firms shall be resolved by the flip of a coin in the office of the procurement officer, witnessed by all interested parties.

(c) Cancellation of invitation for bids or request for proposals. An invitation for bids, a request for proposals, or other solicitation may be cancelled, or any or all bids or proposals may be rejected in whole or part as may be specified in the solicitation, when it is in the best interest of the city.

(Code 1979, § 1-3046)

Sec. 2-207. - Award of contracts.

(a) The city manager may reject or approve bids and purchase agreements and award contracts in accordance with established procurement regulations, provided that contracts in excess of up to and including \$50,000.00 shall be approved by the city council prior to award except that city council approval for bulk purchases of fuel in excess of \$50,000.00 is not required, and the city manager is authorized to enter into agreements for the purchase of bulk fuel regardless of the amount. Any contracts signed by the city manager for \$25,000.00 to \$50,000.00 shall be reported by the city manager to council.

(b) The city manager, at his discretion, may direct the senior assistant city manager or assistant city managers to reject or approve bids and purchase agreements and award contracts in accordance with regulations up to and including \$25,000.00.

(c) The city manager, at his discretion, may direct department heads to reject or approve bids and purchase agreements and award contracts in accordance with regulations up to and including \$25,000.00.

(d) In the event that the city is under a state of emergency as declared by the mayor, Governor of the State of South Carolina, or the President of the United States, the city manager may reject or approve bids and purchase agreements and award contracts for emergency goods, supplies, equipment and services in accordance with established procurement regulations, without city council approval, for the duration of the state of emergency. After the state of emergency has ended, city council shall ratify any contracts entered into by the city manager during the state of emergency when the contract amount exceeds \$50,000.00. In addition, under an officially declared state of emergency mentioned herein, the city procurement regulation 1.15, which regulation establishes procurement threshold amount for small procurements and procurements requiring the solicitation of quotes, shall be amended to adopt the Federal Emergency Management Agency (FEMA) simplified acquisition thresholds then in effect.

(Code 1979, § 1-3047; Ord. No. 2011-024, 5-17-11; Ord. No. 2011-076, 11-1-11; Ord. No. 2016-042, 6-21-16)

Sec. 2-208. - Project delivery methods authorized for procurements relating to construction.

(1)The following project delivery methods are authorized for procurements relating to construction of any public infrastructure facility:

- (a)Design-bid-build;
- (b)Construction management at-risk;
- (c)Design-build;
- (d)Design-build-operate-maintain; and
- (e)Design-build-finance-operate-maintain.

(2)Participation in a report or study that is later used in the preparation of design requirements for a project does not disqualify a firm from participating as a member of a proposing team in a construction management at-risk, design-build, design-build-operate-maintain, or design-build-finance-operate-maintain procurement unless the participation provides the business with a substantial competitive advantage. The city manager or his designee may establish guidance by regulation for the application of this item by departments procuring construction services.

(3)Definitions:

(a)Construction management at-risk means a project delivery method in which the City of Columbia awards separate contracts, one for architectural and engineering services to design a public infrastructure facility and the second to a construction manager at-risk for both construction of the public infrastructure facility according to the design and construction management services.

(b)Design-bid-build means a project delivery method in which the City of Columbia sequentially awards separate contracts, the first for architectural and engineering services to design a public infrastructure facility and the second for construction of the public infrastructure facility according to the design.

(c)Design-build means a project delivery method in which the City of Columbia enters into a single contract for design and construction of a public infrastructure facility.

(d)Design-build-finance-operate-maintain means a project delivery method in which the City of Columbia enters into a single contract for design, construction, finance, maintenance, and operation of a public infrastructure facility over a contractually defined period. Money appropriated by the city is not used to pay for a part of the services provided by the contractor during the contract period.

(e)Design-build-operate-maintain means a project delivery method in which the City of Columbia enters into a single contract for design, construction, maintenance, and operation of a public infrastructure facility over a contractually defined period.

(f)Public infrastructure facility means any public structure, public building, or other public improvements of any kind to real property.

(4)Choice of project delivery method.

(a)Selection of method. The project delivery method used for a city construction project must be that method which is most advantageous to the city and results in the most timely, economical, and successful completion of the construction project. The city shall select the appropriate project delivery method for a particular project and shall, for all project delivery methods other than design-bid-build, state in writing the facts and considerations leading to the selection of that particular method.

(b)City manager review. The department procuring construction services shall submit its written report stating the facts and considerations leading to the selection of the particular project delivery method to the city manager or his authorized designee for his review.

(Ord. No. 2011-043, 6-21-11; Ord. No. 2014-085, 8-19-14)

Sec. 2-209. - Source selection methods assigned to project delivery methods.

(1)Scope. This section specifies the source selection methods applicable to procurements for the construction project delivery methods identified in section 2-208, except as otherwise provided by regulation for small purchases, sole source procurements, and emergency procurements.

(2)Design-bid-build:

(a)Design, architect-engineer, construction management, and land surveying services. A qualifications-based selection process must be used to procure design, architect-engineer, construction management, and land surveying services, unless those services are acquired in conjunction with construction using one of the project delivery methods provided in subsections (3) through (7) of this section.

(b)Construction. Competitive sealed bidding must be used to procure construction in design-bid-build procurements.

(3)Construction management at-risk. Contracts for construction management at-risk must be procured by either competitive sealed bidding or competitive sealed proposals.

(4)Design-build. Contracts for design-build must be procured by competitive sealed proposals.

(5)Design-build-operate-maintain. Contracts for design-build-operate-maintain must be procured by competitive sealed proposals.

(6)Design-build-finance-operate-maintain. Contracts for design-build-finance-operate-maintain must be procured by competitive sealed proposals.

(Ord. No. 2011-043, 6-21-11; Ord. No. 2014-085, 8-19-14)

Sec. 2-210. - Purchase and sale of real property, exceptions for certain utilities project and site acquisitions.

(a)When the city desires to purchase real property for public use, the following procedures shall be followed:

(1)The property shall be appraised by a licensed South Carolina certified general real estate appraiser.

(2)The city manager or a designee may commence contract negotiations to purchase real property.

(3)Contract negotiations may be discussed with city council in executive session as provided for by the South Carolina Freedom of Information Act.

(4)City council shall make the final determination to contract for the purchase of the real property.

(b)When the city desires to sell surplus real property, the following procedures shall be followed:

(1)The property shall be appraised by a licensed South Carolina certified general real estate appraiser.

(2)Contiguous real property owners shall be informed of the city's intent to sell the property and shall be afforded the opportunity to negotiate a contract to purchase the real property.

(3)If more than one of the contiguous property owners desires to purchase the real property, the city manager or a designee may commence contract negotiations for the sale of the property to the contiguous property owner making the highest offer above the appraised value.

(4)If none of the contiguous property owners desire to purchase the real property or a contract with a contiguous property owned is not successfully negotiated, the city will solicit offers to purchase by issuing a request for proposals.

(5)Based upon the responses to the request for proposals, the city manager or a designee may commence contract negotiations with the successful proposers commencing with the proposal ranked first.

(6)Contract negotiations may be discussed with city council as provided for by the South Carolina Freedom of Information Act.

(7)City council shall make the final determination to contract for the sale of the real property.

(c)The procedures for the purchase of real property shall not apply to the acquisition of real property to be used by the City for pump stations, lift stations, pressure reducing valve sites, public streets, water lines, sanitary sewer lines, storm drainage lines, monitoring sites, mitigation sites, stormwater projects and utility easements.

(Ord. No. 2011-101, 12-20-11)