

ORDINANCE NO. 2018-04-004

**AN ORDINANCE AMENDING TITLE 1, CHAPTER 10B SECTION 1-8,
PURCHASING POLICY; CONTRACTS**

WHEREAS, the City desires to streamline, clarify and improve the purchasing practices of the city; and

WHEREAS, the City desires to define and establish the roles, responsibilities, and authority of the purchasing manager and the Purchasing Division as the purchasing environment has evolved; and

WHEREAS, the City also desires to establish consistency with all purchases, including small purchases, formal bidding and change orders; and

WHEREAS, the City Council has determined that changes to the ordinances are in the best interest of the health, safety, and welfare of the citizens of the City of St. George and are justified at this time.

NOW, THEREFORE, BE IT ORDAINED, by the St. George City Council, as follows:

Section 1. Repealer. Title 1, Chapter 10B, Section 1-8 is repealed. Any provision of the St. George City Code found to be in conflict with this ordinance is hereby repealed.

Section 2. Enactment. Title 1, Chapter 10B, Section 1-8 is amended and enacted to read as follows:

1-10B-1: CONTRACT VALIDITY AND EXECUTION:

A. No Changes

B. No contract may become valid or is binding against the city until:

- 1) The contract has been reduced to writing;
- 2) The city has received notice from its department of administrative services that funds are lawfully available within budgeted appropriations to fulfill the city's financial obligations thereunder;
- 3) Where certifications of compliance with federal contract or grant assurances are required, the documents are approved as to form by the city attorney;
- 4) The contract has been administered by the purchasing manager and fully complies with the requirements of the city's purchasing requirements;

- 39 5) The contract has been reviewed and approved as to form by the city attorney and
40 executed by the mayor or, where authorized, by the city manager or a department head;
41 and
42 6) The signature of the mayor has been attested by the city recorder or if signed by the city
43 manager or department head, the signature has been countersigned by the city recorder.

44 **1-10B-2: PURCHASING ADMINISTRATION:**

45
46 The purchasing manager shall have the responsibility for the purchasing activities of the city and
47 its various departments under the supervision and control of the director of administrative
48 services. The duties and powers with regard to purchasing shall include the following:

- 49
50 A. Establish and maintain purchasing policies and processes, including the review and approval
51 of purchase requisitions, issue purchase orders, review contracts for the acquisition of
52 supplies, services, and equipment and administer the purchasing card program.
53 B. Ensure compliance with the bidding and purchase procedures, authorizing a waiver of such
54 procedures only where appropriate. Waiver of such procedures requires the city manager's
55 approval if the purchase exceeds twenty-five thousand dollars (\$25,000.00).
56 C. No Changes
57 D. Review and maintain records and forms related to all purchasing activities.
58 E. Provide for the disposal by public auction of surplus or unused supplies and equipment that
59 cannot be utilized by the city but which has residual value, except where such property has
60 either a fixed cost or a unique value, in which case disposal may be by negotiated sale.
61 F. Revise requisitions or estimates of a department's requirements for supplies and contractual
62 services as to quantity, quality, or estimated cost, whenever revision is approved by the city
63 manager and department head, and determined to be in the best interest of the city.

64 **1-10B-3: STANDARDS FOR PURCHASING:**

65 A. Specified:

66 1. Except as otherwise provided herein:

- 67 a. Purchases of supplies, equipment or contractual services of an estimated value of one
68 thousand dollars (\$1,000.00) or less may be made in the open market without
69 complying with bidding procedures and without a written agreement except as provided
70 in this section. Sufficient effort should be made on all purchases, regardless of cost, to
71 determine the best value before any purchase is initiated. All purchases are subject to
72 approval by the purchasing division. A written agreement is required for contractual
73 services or if the purchases require customization, have unique design criteria, or
74 special terms.

- 75 b. Purchases of supplies, equipment or contractual services of an estimated value greater
76 than one thousand dollars (\$1,000.00) but twenty-five thousand dollars (\$25,000.00) or
77 less requires at least three (3) written price quotes and shall be obtained prior to the
78 purchasing of supplies, equipment or contractual services. A record of all written
79 quotes shall be attached to the purchase requisition prior to submitting the requisition to
80 the purchasing division for review and approval. A written agreement is only required
81 for contractual services or if the purchases require customization, have unique design
82 criteria, or special terms.
- 83 c. Purchases of supplies, equipment or contractual services of an estimated value greater
84 than twenty-five thousand dollars (\$25,000.00) shall be awarded to the lowest
85 responsible bidder pursuant to the formal bidding procedures. A written agreement is
86 only required for contractual services or if the purchases require customization, have
87 unique design criteria, or special terms.
- 88 2. Value amounts used herein refer to both unit cost and combined multiple unit cost. The
89 estimated value shall be determined by the department authorized signer and the
90 purchasing manager, after review of the pertinent requisition and specifications, in order
91 to determine the applicable bidding procedure. The purchasing manager shall have the
92 authority to waive the requirement to obtain written price quotes in such circumstances
93 that are not cost effective or advantageous to the city.
- 94 3. All written agreements shall be reviewed and approved by the legal department in
95 conjunction with the purchasing division prior to a purchase or a project beginning.
- 96 B. Construction Projects: Except for maintenance and improvement projects performed by city
97 personnel, all construction projects estimated by the city engineer, water and power engineer,
98 or other appropriate party, to have a value in excess of twenty-five thousand dollars
99 (\$25,000.00), or where required by state law, shall be advertised for bid and awarded to the
100 lowest responsible bidder, pursuant to the procedure hereinafter prescribed. All such contract
101 awards shall be made by written contract as provided in section 1-10B-1 of this article, and
102 shall comply with the insurance and bonding provisions of this article.
- 103 C. Bids Not Required For Certain Work: It is the policy of the city to reserve to itself all legal
104 prerogatives to perform services and work with its own personnel and equipment; therefore,
105 nothing in this article shall be construed to require bids to be called for, or contracts let for:
- 106 1. Conducting or managing any department, business or property of the city;
107 2. Installing, lowering or repairing water mains or sewers, or making connections with
108 water mains or sewers;
109 3. Installing, altering, relocating or repairing electrical transmission or distribution lines,
110 transformers and related equipment; or
111 4. Grading, repairing, relocating or maintaining streets, sidewalks, bridges, culverts or
112 conduits.

113 Any portion of a public works or improvements project, not included in the above
114 description, shall be effected through bid and contract as provided in subsection B of this
115 section, if the cost exceeds twenty-five thousand dollars (\$25,000.00).

116 D. Professional Services: Contracts for professional services estimated to be in excess of fifty
117 thousand dollars (\$50,000.00) shall be awarded at the discretion of the city council,
118 including, but not limited to, auditing, banking, insurance, legal, engineering and similar
119 professional consultation. Professional services contracts do not include construction projects
120 as detailed in subsection B of this section.

121 E. Refusal To Receive Bids: The city may preclude contractors or suppliers from submitting bids
122 where said proposed bidder has not completely satisfied prior notices to comply with
123 construction documents, drawing and/or other specifications, or has otherwise failed to
124 perform any work for the city or the state in a timely or satisfactory manner. The contractor
125 or supplier may appeal the city's decision to refuse bids from a specific contractor or supplier
126 by filing a written notice of appeal within five (5) days of mailing or service of the notice of
127 refusal. The appeal shall be filed with the purchasing manager. An informal administrative
128 hearing shall be held within fifteen (15) days. The hearing shall be conducted and decided
129 by the city manager and two (2) department heads. Their decision shall be final.

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131 **1-10B-4: BIDDING PROCEDURES:**

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133 Where formal bidding is required, the lowest responsible bidder shall be determined through use
134 of the following procedures:

135 A. No Changes

136 B. No Changes

137 C. Rejection Of Bids: The city council shall have the authority to reject all bids, parts of all bids,
138 or all bids for any one (1) or more supplies or contractual services included in the proposed
139 contract, when the low responsible bid exceeds available funds as certified by the appropriate
140 city officer by more than five percent (5%), or when the public interest will be served
141 thereby, and when permitted by law. Where a bid exceeds available funds, and time or
142 economic considerations preclude resolicitation of work or purchase of a reduced scope or
143 quantity, the purchasing manager may negotiate with the lowest responsible bidder for an
144 adjustment of the bid price, including changes in the bid requirements, in order to bring the
145 low bid within the amount of available funds.

146 D. No Changes

147 E. Award Of Contracts: Contracts fifty thousand dollars (\$50,000.00) or less shall be awarded to
148 the lowest responsible bidder as provided in this article, subject to approval by the affected
149 city department and the city manager. Contracts in excess of fifty thousand dollars
150 (\$50,000.00) shall be awarded to the lowest responsible bidder by the city council after
151 appropriate review.

152 F. Change Orders:

- 153 1. All change orders must be approved by the department head, and then submitted to the
154 purchasing manager prior to any requests for payment.
- 155 2. The accumulation of change orders exceeding 10% of the original purchase order, which
156 meet the following conditions, shall be approved by the applicable department head.
157 Change orders that do not meet the following conditions must be approved by the city
158 manager:
- 159 a. The total amount resulting from the change order is less than the budget amount
160 approved by the city council; and
161 b. The change order does not significantly change the original scope of work.

162 G. Local Vendor Preference:

- 163 1. No Changes
- 164 2. All three (3) criteria must be met in order to qualify as a local vendor. If there are no
165 bidders who qualify as a local vendor, the same preference may then be extended to
166 residents of Washington County under the conditions below. If a low bid is submitted by a
167 nonpreferred bidder, the bid may be awarded to a local vendor if the local vendor's bid is
168 within five percent (5%) of the low nonpreferred bid, and if the local vendor agrees, in
169 writing, within seventy-two (72) hours after notification that it is the qualified preferred
170 bidder, to meet the low bid. Such notice shall contain the exact bid submitted by the
171 nonpreferred bidder, and the city shall not enter into a contract until seventy-two (72)
172 hours have elapsed after notification to the local vendor. The principal place of business of
173 a local vendor may be elsewhere as long as a local branch meeting the above criteria is
174 present. The domicile of one or more partners, owners, associates, directors, employees or
175 agents shall not qualify for constituting a local vendor in the absence of an actual local
176 business outlet.

177 **1-10B-5: EXCEPTIONS TO BIDDING REQUIREMENTS:**

178 A. No Changes

179 B. No Changes

180 C. Cooperative Agreements: Contracts available to municipalities that have been previously
181 solicited by state and national cooperatives may be utilized. All cooperative contracts are
182 subject to approval by the purchasing manager.

183 D. Approval Of City Council Required: An exception to bidding requirements under this section
184 shall not eliminate the necessity of city council approval of any contract in excess of fifty
185 thousand dollars (\$50,000.00). The only variation in the requirement for such approval shall
186 be in the event of urgent time constraints creating an emergency, in which event an

187 expenditure in excess of fifty thousand dollars (\$50,000.00) may be authorized upon personal
188 verbal approval of a majority of the council members after explanation of the circumstances,
189 subject to formal ratification at the first public city council meeting after authorization of the
190 expenditures.

191 **1-10B-6: LOWEST RESPONSIBLE BIDDER:**

192 A. No Changes

193 B. Award To Other Than Lowest Bidder: When the award is not given to the lowest bidder, a
194 statement of the reasons therefor shall be presented by the department head involved, sent to
195 and approved by the city manager and city attorney, and filed with the purchasing manager
196 along with any other papers related to the transaction.

197 C. Challenge To Action Of Purchasing Manager: Where a bid is protested by someone having
198 standing to do so, or an irregularity is waived by the purchasing manager, written notice of
199 such protest or waiver shall be given to each bidder immediately, advising the right of any
200 person adversely affected to file a protest with the purchasing manager. Such protest must be
201 in writing, made within seventy-two (72) hours after the bid tabulation, or after receipt of the
202 notice of protest or waiver from the purchasing manager. Failure to so file shall constitute a
203 waiver of further challenge. Upon receipt of such challenge, the contract award process must
204 cease until a decision of the hearing board, unless the purchasing manager sets forth in
205 writing particular facts and circumstances which require continuance of the contract award
206 process without delay in order to avoid an immediate and serious danger to the public health,
207 safety and welfare. An administrative hearing of the protest shall be held within fifteen (15)
208 days. The hearing shall be conducted and decided by the city manager and two (2)
209 department heads. Their decision shall be final.

210 **1-10B-7: EMERGENCY PURCHASES:**

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212 In case of an actual or apparent emergency which requires immediate procurement of supplies or
213 contractual services, the affected department head may approve acquisition at the lowest
214 attainable price without further compliance with the procedures provided herein. In such event,
215 however, a full report of the circumstances of the emergency purchase shall be filed by the
216 procuring department with the city manager. Upon approval of the city manager, the report will
217 be filed with the purchasing manager and shall be open to public inspection. An "emergency" is
218 any fact, circumstance or situation which threatens injury or damage as the result of any
219 happening or circumstance which would delay the work of the city in such manner as to vitally
220 affect life, health or convenience of the public.

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222 **1-10B-8: INSURANCE AND BONDS:**

223 A. General Requirements: When directed by the city council, city manager or purchasing
224 manager, or when required by state statute or city ordinance, insurance certificates and/or
225 bonds, whether permit, bid, performance or materialmen's, shall be provided by a party

226 contracting with the city to the purchasing manager in a form approved by the city attorney
227 and in amounts recommended by the department head affected and the city attorney, and
228 approved by the city manager. Such bonds or insurance shall: 1) name the city as an
229 additional insured; 2) where cancelable, provide that no cancellation thereof may be made
230 without first giving the city at least ten (10) days' prior written notice; and 3) be in sums
231 sufficient to fully protect the city and its interests. All corporate guarantors or sureties shall
232 be licensed to do business in the state, and shall be sound and reputable firms as determined
233 acceptable to the city attorney.

234 B. No Changes

235 C. Performance Bonds:

236 1. No Changes

237 2. The purchasing manager shall have the authority to require a performance bond before a
238 contract is entered into to purchase or acquire supplies or services, in such amount as may
239 be reasonably necessary to protect the best interest of the city.

240 Section 3. Severability. If any provision of this Ordinance is declared to be invalid by a court of
241 competent jurisdiction, the remainder shall not be affected thereby.

242 Section 4. Effective Date. This Ordinance shall take effect immediately upon posting in the
243 manner required by law.

244 APPROVED AND ADOPTED by the City Council of the City of St. George, this 5 day of
245 April, 2018.

246

247 CITY OF ST. GEORGE

248

249 
250 Jonathan T. Pike, Mayor

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252 ATTEST:

253 
254 Christina Fernandez, City Recorder

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256 Kimmberly Hansen, Deputy

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CERTIFICATION OF CITY OF ST. GEORGE
ORDINANCE NO. 2018-04-004

Pursuant to Utah Code §10-3-713, I hereby certify that on the 5th day of April, 2018, the St. George City Council passed Ordinance No. 2018-04-004 and that said ordinance was posted at the St. George City Offices, 175 E. 200 N., the Washington County Library, 88 W. 100 S., and the Washington County Administrative Offices, 197 E. Tabernacle on April 13, 2018.



Christina Fernandez
St. George City Recorder

