



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
July 11, 2019

Department Finance

Director Approval Lacey Lies

AGENDA ITEM Consider approving a resolution to adopt a formal procurement policy.

SUMMARY RECOMMENDATION City Staff recommends approving a resolution to adopt the formal procurement policy as presented to the City Commission.

BACKGROUND The purpose of this policy is to ensure ethical, effective, and accountable practices are used for sourcing, procuring or other supply chain related activities. It is critical that sound management of public funds is applied for competitive bids and procurement transactions demonstrating open, fair, and transparent methodologies.

In drafting this policy, City Staff researched other municipalities to find best practices. The draft policy provided supports those findings and provides a framework for City Staff to foster effective spending and oversight. In connection with the adoption of this policy, City Staff will be implementing an electronic procedure to streamline the approval, storage, and processing of purchase orders. This will provide a means to track our compliance and help to efficiently and effectively manage our purchases. It is imperative that this policy is established with realistic dollar limits and thresholds to allow City Staff to operate efficiently with transparency as a foremost concern.

BUDGET IMPACT The adoption of this procurement policy will help facilitate transparency and provide a framework to encourage deliberate and responsible spending.

SUGGESTED MOTION I move to approve a resolution to adopt the formal procurement policy as provided to the Commission.

SUPPORTING DOCUMENTS

1. Resolution
2. Procurement Policy
3. Summary of Changes

NOTE The attached Procurement Policy has been updated to reflect the comments and considerations taken from the June 19, 2019 Special Commission Work Session.



SUMMARY OF CHANGES

Section 2 City Employee Changed to “an individual drawing a salary or wages from the City.”

Section 2 Contract Changed to “a legal binding promise enforceable by law.”

Section 3.1 Added “, avoiding nepotism” to Purchase Methods under \$1 - \$1,500 limitation.

Section 3.3 Added “Nepotism should be avoided.”

Section 3.8 Corrected Section numbering to 3.7.

Section 4.3 Removed “, but that a bid may be withdrawn up to twenty-four (24) hours prior to expiration of the deadline for submitted bids.” from item 6.

Section 4.7 Provision 1 now reads “A low bidder alleging a material mistake of fact may be permitted to correct its bid, within 48 hours of low-bidder notification, if the mistake is clearly evident on the face of the bid document and the intended correct bid is similarly evident.”

Section 4.7 Provision 2 has been removed.

Section 4.7 Added “, at the sole discretion of the City Manager”

Section 13.1 Changed “shall” to “may”.

Section 13.7 Changed minimum bond requirement amount from \$40,000 to \$100,000

Section 17.1 Added “, including the avoidance of nepotism.” to the first sentence under Ethical Standards



RESOLUTION NO. 2019-_____

**A RESOLUTION ESTABLISHING A PURCHASING POLICY FOR THE
CITY OF INDEPENDENCE, KANSAS**

BE IT RESOLVED by the Governing Body of the City of Independence, Kansas:

This resolution is establishing the Purchasing Policy, as attached, for the City of Independence, Kansas.

Adopted by the Governing Body of the City of Independence, Kansas, on the _____ day of _____, 2019.

LOUIS YSUSI, Mayor

ATTEST:

DAVID W. SCHWENKER, City Clerk



CITY OF INDEPENDENCE PURCHASING POLICY

SECTION 1. GENERAL PROVISIONS

1.1 Purpose

This is an Administrative Policy. The purpose of the policy is to define procurement and purchasing procedures for city departments and employees based upon the type of goods and services being acquired and to set forth the process for disposing of city assets.

1.2 Acquisition of Goods and Services

The acquisition of goods and services by or on behalf of the City of Independence, its agencies, departments, officials and authorized agents, should be made in a manner and method which provides for the prudent expenditure of City funds; provides for maximum protection of the taxpayer; prevents waste, conflict, and impropriety; provides for equal access and opportunity in an open and competitive environment to all suppliers, with regard to factors related to quality, cost and availability of the goods and services; and which complies with all applicable federal, state and local laws, rules and regulations.

1.3 Self-imposed Constraints

Even though the Governing Body approves a level of expenditures for any given department, that approval, in and of itself, is neither a permit nor a directive to expend funds unless the need exists at the time of purchase and the goods or services to be purchased are within the budget limits.

1.4 Familiarity with Policy

All personnel of the City responsible for purchases shall become familiar with and follow the City's policies and procedures as they relate to purchasing. Supervisors shall be cognizant of their respective budget limitations and initiate purchases accordingly. It is the responsibility of the individual departments to anticipate requirements and initiate action to purchase goods and services in advance of the time they are needed.

1.5 Application

This policy applies to all purchases and contracts entered into by the City. It shall apply to every expenditure of public funds for supplies and materials by a public department for public purchasing irrespective of the source of the funds. If City staff or resources are used in any manner, this policy shall apply. When the purchase involves the expenditure of federal or state assistance or contract funds, the purchase shall be conducted in accordance with any mandatory applicable federal and/or state laws and regulations. Nothing in this policy shall prevent any

public department from complying with the terms and conditions of any grant, gift or bequest that is otherwise consistent with law.

1.6 Public Access to Purchasing Information

Purchasing information shall be a public record to the extent provided by state statute and shall be available to the public as provided in such statute.

SECTION 2. DEFINITIONS

CITY EMPLOYEE – an individual drawing a salary or wages from the City.

CITY MANAGER – the Chief Administrative Officer of the City hired on either a permanent or interim basis by the Governing Body.

CONSTRUCTION – the process of building, altering, repairing, improving or demolishing any public structure or facility or other public improvement of any kind.

CONTRACT – a legally binding promise enforceable by law.

DEPARTMENT HEAD – the director designated by the City Manager to direct the administration of the department and is charged with certain duties and responsibilities, or his/her authorized representative.

EMERGENCY – those unforeseen circumstances that present an immediate threat to public health, welfare, or safety; or when immediate response is necessary to prevent further damage to public property, machinery or equipment; or when delay would result in significant financial impacts to the City or significant interruption to the project schedule as determined by the Department Head and City Manager.

GOVERNING BODY – the elected officials comprising the ruling body of the City that performs the legislative function for the City regarding policies and procedures; currently the city commission.

INVITATION FOR BIDS – all documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.

MODIFICATION – any written alteration to a provision of any contract accomplished by mutual agreement of the parties to the contract.

RESPONSIBLE BIDDER – a contractor, business entity or individual who is fully capable to meet all of the requirements of the solicitation and subsequent contract; who must possess the full capability, including financial and technical, to perform as contractually required; and who must be able to fully document the ability to provide good faith performance. Documented poor performance on prior contracts for goods or services may suspend a contractor from consideration for award.

REQUEST FOR PROPOSALS – all documents, whether attached or incorporated by reference, utilized for soliciting proposals when price is a factor in selection.

REQUEST FOR QUALIFICATIONS - all documents, whether attached or incorporated by reference, utilized for soliciting proposals when price is considered after selection. This is usually applicable for engineering, architectural, consulting and other specialized or technical services.

SCOPE OF SERVICES – a detailed description of the tasks to be performed by the successful bidder.

SPECIFICATIONS – a description of the physical or functional characteristics, or of the nature of a supply, service, or construction item; the requirements to be satisfied by a product, material or process indicating, if appropriate, the procedures to determine whether the requirements are satisfied, and/or the capabilities and performance characteristics that the item must satisfy.

SECTION 3. PURCHASING AUTHORITY AND LIMITS

3.1 Purchasing Authority and Approval Table

The following table shows who has the authority to make purchases for their department or division.

Amount of Purchase	Authority for Purchase	Purchase Methods	Authority for Payment
\$1 - \$1,500	Employees with Department Superintendent or Department Head authorization	Lowest cost through cost comparisons, avoiding nepotism	Department Superintendent or Department Head Finance Department
\$1,501 - \$15,000	Department Head or his/her designee	Fax quotes Email quotes Informal written quotes (3 quotes required)	Department Head Finance Department
\$15,001 – \$25,000	City Manager	Fax quotes Email quotes Informal written quotes (3 quotes required)	City Manager Finance Department Department Head
\$25,001 or more	City Manager Governing Body (awarded contracts of \$25,001 or above)	Formal written bids Advertised bid Invitation	Governing Body City Manager Finance Department Department Head

3.2 Purchase of Goods and Non-Professional Services from a Single Vendor

Any agreement for purchases, the duration of which shall exceed one year, shall be subject to annual appropriation approved by the Governing Body. The paid invoice/receipt detailing the transaction must be approved and signed by the department head or his/her designee before it is sent to the Finance Department. All purchases are reviewed by the Finance Director and City Treasurer for payment.

3.3 Purchases of less than \$1,500

Purchases up to \$1,500 can be made by employees with approval by the department superintendent or department head. Nepotism should be avoided.

3.4 Purchases of \$1,501 to \$15,000

Purchases of at least \$1,501 but less than \$15,000 may be made by the department head or his/her designee. These purchases require the department to obtain at least three (3) competitive fax, email and/or informal written quotes.

3.5 Purchases of \$15,001 to \$25,000

Purchases of at least \$15,001 but less than \$25,000 may be made by the department head or his/her designee with City Manager approval. These purchases require the department to obtain at least three (3) competitive fax, email and/or informal written quotes.

3.6 Purchases of \$25,001 or more

Purchases of at least \$25,001 or more will be awarded by advertised formal competitive sealed bid. Formal sealed bids shall not be required when a request has been submitted in writing to the City Manager stating the reasons that it is not practical or advantageous to call for a competitive bid, and the City Manager has, in writing, approved the request.

3.7 Exception

If the goods or services being purchased are such that the required number of competitive quotes cannot in good faith be obtained, despite the exercise of due diligence, then that requirement shall not preclude the purchase of the goods or services.

SECTION 4. Formal Bidding Process

4.1 Invitation for Bids

An invitation for bids shall be issued and shall include specifications and contractual terms and conditions applicable to the purchase. Criteria for evaluation shall be set forth in the Invitation for Bids.

4.2 Public Notice

Adequate public notice of the invitation for bids shall be given for a reasonable time, no less than ten calendar days prior to the date set forth therein for the opening of bids. Such notice shall include publication in the official newspaper of general circulation within the community, appropriate trade journals or publications and/or posted on the City's website to allow adequate time for bid preparation.

4.3 Bid Requirements

The bid documents shall include:

1. A description of the work to be performed or the product to be purchased.

2. The location where copies of plans, specifications, and other contract documents may be examined.
3. The time and place where bids will be received and time and place where bids will be opened.
4. A statement detailing the evaluation criteria to be used for bid acceptance and evaluation.
5. A statement that the City reserves the right to reject any or all bids and to waive any informalities or irregularities therein.
6. A statement that the City Manager may require that no bidder may withdraw a bid for a period of up to forty-five (45) days after the date and hour set for opening bids.
7. A statement setting forth requirements for bid and performance, labor, materials, bonds, product liability coverage warranty and worker's compensation insurance.

Each bid submitted to the City shall be signed, enclosed in a sealed envelope and filed as stated in the advertisement for the bid. Fax or email bids will not be accepted. The City Manager may waive technical irregularities in the bid requirements in this Purchasing Policy, or in the advertisement of the bids, if the City Manager finds that such waiver does not compromise the integrity of the bidding process.

4.4 Late Bids

Bids not submitted by the required deadline are ineligible for consideration and will not be opened.

4.5 Opening Bids

All bid openings shall be scheduled with the City Clerk prior to giving public notice of an invitation for bid. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, and such relevant information as the City Clerk deems appropriate, together with the name of each bidder, shall be recorded on the bid tab provided by the Department or Consultant. The record and each bid shall be open to public inspection. In the event of good cause, as determined by the City Clerk, bid openings may be postponed.

4.6 Bid Acceptance and Bid Evaluation

Bids shall be unconditionally accepted without alteration or correction, except as authorized in this policy. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation and delivery costs, and total or life cycle costs. The invitation for

bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluations that are not set forth in the invitation for bids.

4.7 Correction or Withdrawal of Bids; Cancellation of Awards

Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, the following provision shall apply:

1. A low bidder alleging a material mistake of fact may be permitted to correct its bid, within 48 hours of low-bidder notification, if the mistake is clearly evident on the face of the bid document and the intended correct bid is similarly evident.

No changes in bid prices or other provisions of bids prejudicial to the interests 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 made by the City Manager, at the sole discretion of the City Manager.

4.8 Award

The bid shall be awarded with reasonable promptness by written notice to the lowest responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids, subject to the right of the City to reject all bids. Award contracts of \$25,000 and above that were budgeted shall be forwarded to the Governing Body for approval and execution of the contract.

SECTION 5. CHANGES IN SCOPE OF WORK

5.1 General

Through approval of this policy, a change in scope of work is considered a modification or amendment that alters the project from what was originally envisioned. Except as noted below, any modification or amendment of an existing contract's scope of work that increases the total compensation in an amount to exceed \$25,000 must be approved by the Governing Body prior to work commencing. Changes in scope that do not cause the total contract amount to exceed \$25,000 may be executed by the City Manager.

5.2 Emergency Situations

In certain limited emergency situations, the City Manager shall be given the authority to execute an emergency change of scope. The City Manager shall only execute the emergency change of scope if the work qualifies as an "emergency" and the overall project budget is not exceeded. The emergency change of scope supplemental agreement would be submitted to the Governing Body for ratification at the next available meeting.

SECTION 6. CHANGE ORDERS

6.1 General

Through approval of this policy, a change order is considered a change in the time and/or price in a contract. A change order is an amendment to the contract. The contract amendment should contain the changes in timeframe and/or in cost and must go to the Governing Body for approval. Except as noted below, any change order that increases the total contract amount greater than \$25,000 must be approved by the Governing Body prior to work commencing. Change orders in an amount less than \$25,000 may be executed by the City Manager and submitted to the Governing Body for ratification. In the event of a series of changes orders on a single contract accumulates to an amount in excess of \$25,000, all subsequent change orders, regardless of amount, must go to the Governing Body for approval prior to work commencing.

6.2 Emergency Situations

In certain limited emergency situations or due to the state of construction in progress, to prevent a lengthy delay in a project, safety concerns, and the protection of City assets and resources, the City Manager, with notification to the Governing Body, can authorize a change order in an amount to exceed \$25,000, but not in excess of the overall project budget, whichever is less. After authorizing the change order, the change order is prepared and submitted to the Governing Body for ratification. These change orders may involve such issues as cost changes and extensions of time.

6.3 Exception

Notwithstanding the above, any change order resulting in a decrease of any amount related to any construction, reconstruction, of a project for the City may be approved by the City Manager without further action by the Governing Body.

SECTION 7. COOPERATIVE BIDDING AND STATE BID AWARDS

7.1 Introduction

It is sometimes beneficial to group the City's requirements with the like requirements of other cities, counties or agencies. This results in lower costs to all parties while maintaining the integrity of each entity's bidding requirements.

7.2 State Bids

The State of Kansas bids many common requirements and makes the award results available to any governmental agency. State bid awards enable government agencies to purchase goods and services at a reduced price due to quantity discounts and do not require the bidding process by individual agencies. State bids are considered to meet the sealed bid requirements.

7.3 Other Cooperative Bids

The City may contract directly with other governmental entities for the purchase of items. The City may also participate in, sponsor, conduct or administer a cooperative purchasing agreement whereby items are procured in accordance with a contract established by another governmental entity provided that such contract was established in accordance with the laws and regulations applicable to the establishing governmental entity. These cooperative purchasing agreements shall be authorized by the Governing Body.

7.4 Commission Approval of Cooperative Agreements

Additional Governing Body approval shall not be required for the purchase of any budgeted items from purchasing agreements established by governmental entities with which the Governing Body has previously approved participation. Governing Body approval will be required for the purchase of unbudgeted items in excess of \$25,000 regardless of whether the Governing Body has approved participation with the governmental entity. Specific unbudgeted items less than \$25,000 may be purchased through an approved cooperative purchasing program provided an alternative funding source within the respective Department's budget is identified in writing to the Finance Director and City Manager.

SECTION 8. TERM AND SUPPLY CONTRACTS

8.1 Bid Procedure

Term and supply contracts shall be bid following the same procedures established by this policy for other purchases based upon estimated value of contract. The Department Head shall prepare a recommendation of award for Governing Body for all term and supply and annual contracts over \$25,000, based upon the annual value of the contract.

8.2 Multiple Year Contracts

In the instance of multiple year contracts, Governing Body approval is not required for the renewal periods when the requested price increase does not exceed the renewal period increase established in the original contract. All multiple year contracts shall contain the non-appropriation clause shown in Section 13. This states that the Contractor understands the obligation of the City to pay for goods and/or services under the contract is limited to payment from available revenues and shall constitute a current expense of the City. It shall not in any way be construed to be a debt of the City in violation of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the City nor shall anything contained in the contract constitute a pledge of the general tax revenues, funds or moneys of the City. All provisions of the contract shall be interpreted so as to give effect to such intent.

SECTION 9. PROFESSIONAL SERVICES

9.1 Procedure

Contracts for professional services such as engineering, architectural, consulting and other specialized or technical services shall be obtained through the following process:

1. The Department Head shall prepare a scope of services to determine the format to be used, identify any special requirements, outline a timeline for the project, estimate costs, define roles, and identify potential respondents.
2. Based on the scope of services, the Department Head shall prepare a Request for Proposal or Request for Qualifications, as applicable, designed to ascertain the vendor qualifications, and obtain brochures and any other information which may be used by the selection committee during their evaluation of the proposals.
3. A selection committee shall be established by the Department Head or City Manager to review the proposals and rate each firm according to the evaluation criteria established in the Request for Proposal/Qualifications. The committee must include staff members from more than one city department. However, in the event the estimated cost of the scope of services in the Request for Proposal/Qualification exceeds \$25,000, the applicable Department Head shall serve on the selection committee for that proposal evaluation.
4. The Department Head or his/her designee shall prepare a recommendation of award for Governing Body approval.

9.2 Exception

Upon approval of the City Manager, professional services under \$5,000 may be exempt from the Request for Proposal and competitive bidding process.

Section 10. CONSTRUCTION CONTRACTS

10.1 Bid Procedure

Construction contracts shall be bid in accordance with the procedures established in Section 3 of this policy according to applicable price range.

10.2 Contracts Supervised by Outside Consulting Services

Construction contracts, supervised by outside consulting services, shall be bid in coordination with the Department Head. A bid package shall be reviewed and approved by the Department Head. Construction contracts shall be prepared by the Consultant. The Consultant or the Department Head, as determined by the Department Head, shall distribute the bid package to potential bidders. The Consultant or Department Head shall schedule a bid opening with the City Clerk where bids will be opened publicly in the presence of one or more witnesses at the time and place designated in the bid package. The amount of each bid, and such

relevant information as the City Clerk deems appropriate, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection. The final award of the bid shall be communicated to the successful bidder by the Department Head or his/her designee.

10.3 Contract Administration

A contract administration system shall be maintained by the Department or Consultant designed to ensure that a contractor is performing in accordance with the solicitation, terms and conditions under which the contract was awarded.

Section 11. SOLE SOURCE PURCHASES

11.1 Availability

A contract may be awarded, or a purchase made without competition when, after conducting a good faith review of available sources, it is determined there is only one source for the required product.

11.2 Circumstances

Circumstances that require a sole source purchase may include, but are not limited to:

1. No competitive product or availability from only one supplier;
2. The purchase of a component or replacement part for which there is no commercially available product, and which can be obtained only from the manufacturer;
3. The purchase of an item where compatibility is the overriding consideration, such as to maintain standardization or compatibility, or to match materials already in use to produce visual harmony;
4. When supplies or services are available at a discount from a single distributor for a limited period of time;
5. When a specialized consultant or technical services is needed for a project with specific circumstances requiring a unique combination of abilities or expertise to perform the services required;
6. The purchase of a used item;
7. The purchase of a product for trial or testing.

11.3 Other Criteria

Sole source can refer to the supplier, as well as a product or service. Thus the ability to meet a delivery date or to provide on-call repairs can create a sole supplier condition. Justification for a sole source purchase depends on a needed item being available from only a single supplier under the prevailing conditions. If the item may be obtained from more than one source, price competition shall be solicited.

SECTION 12. EMERGENCY PURCHASES

12.1 Conditions

An emergency condition exists when there is a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failure, etc.; when immediate response is necessary to prevent further damage to public property, machinery or equipment; or when delay would result in significant financial impacts to the City or significant interruption to the project schedule as determined by the Department Head and City Manager. The condition must create an immediate and serious need for supplies, equipment, materials, and/or services that cannot be met through normal procurement methods and the lack of which would threaten the function of the City government or its programs.

12.2 Limitations

The City Manager shall only execute an emergency purchase if the work qualifies as an "emergency" and does not exceed \$25,000.

12.3 Other Items

Any department may make emergency purchases, however with as much competition as is possible under the circumstances. Purchases shall be limited to only the quantity necessary to meet the emergency, and in no event shall the contract price exceed commercially reasonable prices.

SECTION 13. GENERAL INSTRUCTIONS

13.1 Local Business Preferences

Local vendors may receive preference in the amount up to five percent (5%) of the lowest, responsible, and responsive bid.

13.2 Geographical Priority

Local preference applies to businesses in the following order: (1) those within City of Independence corporate limits; (2) those located within Montgomery County; and (3) those located within the State of Kansas.

13.3 Other Considerations

Goods and services purchased by the City shall be purchased from local merchants and businesses, unless:

1. Such goods of like quality and services are not immediately available locally; or
2. The cost of such goods or services plus taxes, shipping and handling exceeds that allowed by the local preference limits; or
3. Federal/State funds or other funds are used that prohibit the application of the preference; or
4. The business entity has any outstanding liens, fines or violations or other debts with the City of Independence.

13.4 Product Specifications

It is the responsibility of the department to write their specification and establish the quality of the product or service required. Specifications shall be written to require competition at the manufacturer's level when possible. Use of a brand name specification shall include the designation "or an approved alternate." A "no substitute" request must be justified by the department as to why no other brand will meet the need.

13.5 Multiple Purchases

Making multiple purchases for the purpose of avoiding the bidding process shall not be permitted and shall be considered a violation of this Policy.

13.6 Unauthorized Purchases

The purchase of an item must be made in accordance with the Purchasing Policy and Procedures. Any purchase of item, which does not comply with these procedures shall be considered an unauthorized purchase. Whenever funds have been expended or payment cannot be avoided on an unauthorized purchase, anyone may report the matter in writing to the Department Head or the City Manager for action. Said action may include discipline in accordance with the City's disciplinary policies.

13.7 Minimum Insurance and Bonding Requirements for Contract Awards

Contract awards shall be made only to contractors that possess the ability to perform successfully under the terms and conditions of a proposed procurement. Contracts awarded shall include the following guarantees, except when an exemption is provided:

1. A performance bond on the part of the contractor for 100% of the contract price for any contract exceeding the sum of \$100,000.
2. All construction contractors and subcontractors are to carry Workman's Compensation Insurance for all employees who work on the premises, as well as:
 - a. Manufacturer's and Contractor's Public Liability Insurance as appropriate for the project (Minimum requirement - \$1,000,000)
 - b. Property Damage Insurance to protect them from claims for property damage. (Minimum requirement - \$1,000,000)
 - c. Any and all additional insurance required by the laws of the State of Kansas.
3. If any subcontracting is let, prime contractors will be required to ensure the subcontractors comply with the provisions of this plan and with all applicable required federal and state regulations. All subcontractors must be licensed through the City and provide evidence of insurance if applicable.

4. Any insurance requirements required for state and/or federal funds are also incorporated into this document by reference and will be adhered to on such projects.

All proof of insurance and bond documents shall be provided to the City Clerk prior to Contractor beginning work on any City project.

13.8 City Attorney Review of Agreements

All rental, lease agreements or contracts for goods and services must be reviewed by the City Attorney and be authorized by the City Manager, except where otherwise permitted under this policy. A copy of all rental, lease agreements or contract requiring payment must also be forwarded to the Finance Department for processing at least thirty (30) days prior to the due date of the first payment.

13.9 Municipal Tax Exemption

The City is tax exempt as a political subdivision under Section 4221(b) of the IRS Code and K.S.A. 79-3606, except for personal property used in a business setting. Department Heads are responsible for obtaining the latest tax-exempt certificate and for remitting it to the appropriate vendor prior to every purchase.

13.10 Non-Appropriation Clause

Kansas law (K.S.A. 10-1101 *et seq.*) requires the City to operate on a cash basis. Except as otherwise provided by law, it is unlawful for the City to create any indebtedness in excess of the amount of funds actually on hand for such purpose. Any contract that would create financial obligations to the City beyond the current, fiscal year must include provisions for non-appropriation of funds, such as the following: The City's financial obligations contained herein are subject to annual appropriations of funding in the municipal budget during each calendar year the agreement remains in effect. The City shall make a good faith effort to fund said financial obligations on an annual basis. If the City determines not to do so, the agreement shall be cancelled as of the date of non-appropriation, without penalty or additional liability to either party.

13.11 State and Federal Laws

The City will comply with all state statutes, federal laws, and regulations related to local government purchase.

SECTION 14. BUDGET

14.1 Annual Budget Approvals

The Governing Body determines expenditure levels through the formulation and approval of the annual budget. In performing this policy-making function, the Governing Body establishes a set of goals, priorities and performance standards by which the City organization directs its collective effort toward accomplishing. The adoption of the annual budget is the approval of a level of expenditures necessary to accomplish the goals and objectives that have been established for each City program. With the exception of single expenditures of more than

\$25,000 or specific Ordinances to the contrary, no further Governing Body action is required to initiate purchases within that budget. All purchases made by the City are presented for approval by the Governing Body through appropriation ordinances presented at each regular meeting of the Governing Body.

14.2 City Manager Authority

The City Manager is delegated the responsibility by the Governing Body to carry out a program of services to the community. It is the City Manager's responsibility to manage the annual budget in such a way that the goals and priorities of the Governing Body are accomplished. All regulations, as well as recommendations for changes in general procurement policy, will only be made with the approval of the City Manager. Under this system of control, the City Manager has delegated this responsibility and authority to respective Department Heads.

14.3 Department Head Authority

Department Heads are responsible for meeting the goals and objectives established by City Management and are provided budgeted funds to attain those goals. Each Department Head has the responsibility and authority to make certain that purchases are within the scope of the adopted budget.

Although City Management has established goals and levels of expenditure for each program, approved budget authority is not a permit nor a directive to expend funds, unless the need for the product continues to exist at the time of purchase and the price of the product is within the parameters of the budget as stated above. In addition, these criteria must be ultimately weighted against the availability of funds and the relationship of the department goals to overall City priorities.

SECTION 15. LEASE OF REAL PROPERTY

15.1 In General

The Governing Body may lease real property which is currently underutilized in order to maximize the return on the property to the City until such time as such properties shall be required for public usage, after following an applicable process which results in a fair market value determination which is financially most advantageous to the City. Nothing herein shall prevent the City Manager or designated representative from negotiating the lease to a Lessee of any real property that is shown to have a unique value to such Lessee due to its configuration, accessibility or size. The Governing Body shall have final approval of all such negotiations and any transaction.

SECTION 16. DISPOSAL OF CITY ASSETS

16.1 K.S.A. 12-101

K.S.A. 12-101 allows cities to "sell and convey real or personal estate owned by the city." When an item no longer is needed by a City Department, the respective Department Head should attempt to redistribute the item within City Departments.

Should there be no need for the item across City departments, such items may be given to other local governmental agencies, local not-for-profit agencies, or may be sold or traded outside of the City. If sold, departments shall determine an applicable fair market value which is financially most advantageous to the City. Unusable property or parts that have a market value will be sold "as is" through available markets approved by City Management. Usable property which cannot be relocated across City departments will be disposed of in accordance with the following procedures.

1. *Limitations.* Any asset which, at the time of purchase, was paid by City warrant in the amount of \$15,000 or more, must receive approval by the City Manager.
2. *Prohibitions.* Under no circumstances will any employee, or family-member of an employee, have access to or ownership of any asset that is being disposed of in accordance with this policy unless such asset is being offered for sale to the general public and the process for such sale is open to any individual intending to offer a bid on such asset.
3. *Documents.* All documents will be disposed of in accordance with State policies governing same. Any document which has, or appears to have, historical value will be separated for further examination by officials approved through the Kansas State Historical Society.
4. *Computing Technology.* The IT Department shall be responsible for disposing of City computing technology assets. It is the responsibility of the IT Department and their employees to see that all data residing on any type of storage device is removed from any computing technology prior to the equipment leaving their possession.
5. *Notification.* Prior to transferring or disposing of City assets, each Department Head will determine whether such asset is part of the City's ongoing fixed asset inventory. If so, a complete description of the asset being transferred or disposed of will be sent to the Finance Department.

SECTION 17. ETHICS

17.1 Ethical Standards

All City employees authorized to conduct purchasing activities on behalf of the City shall adhere to the highest degree of ethical standards, including the avoidance of nepotism. No employee shall engage in or permit any illegal or improper purchasing practice. Further, any employee having knowledge of any questionable practice shall immediately report this knowledge to their respective Department Head or the City Manager. Engaging in or permitting unethical or illegal conduct constitutes grounds for disciplinary action in accordance with the City's disciplinary policies.

SECTION 18. RESPONSIBILITY FOR ENFORCEMENT

18.1 General

The City Manager will have the responsibility for the enforcement of this administrative policy. Department Heads will be entrusted with the responsibility of enforcing the policy within their departments.