Kanab City Ordinance 5-1-13 O

An Ordinance Amending the Kanab City Procurement Ordinance

Whereas, Utah Code Annotated (UCA) 10-8-1 provides the Kanab City Council power to control the finances and property of the corporation; and,

Whereas, the Kanab City Council is desirous to update the City's ordinance related to simplify, clarify, and modernize the procurement policies of the city, ensure the fair and equitable treatment of all persons who deal with the city's procurement process, and provide increased economy in the city's procurement activities:
:

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE KANAB CITY COUNCIL the Kanab City General Ordinance Sections 7-100 et seq. are amended to state as reflected in the attachments affixed to this ordinance.

All former codes or parts thereof conflicting or inconsistent with provisions of this Ordinance or of the Code hereby adopted are hereby repealed.

The provisions of the code shall be severable, and if any provision thereof, of the application of such provision under any circumstance is held invalid, it shall not affect any other provisions of this code or the application in a different circumstance.

This ordinance shall be effective upon the required posting

Passed by the Kanab City Council this 14th day of May, 2013.

Nina Laycook, Mayor

Duane Huffman, Recorder

KANAB CITY CORPORATE SEAL

Section 7: MUNICIPAL IMPROVEMENTS AND PUBLIC SERVICE PROJECTS

Section 7-100	Procurement Policy
	~~Municipal Improvement District Act~~
~~Section 7-200~~	~~Contracts For Public Improvements~~
~~Section 7-210~~	~~Bids on public Improvements~~
~~Section 7-211~~	~~Bid Required - Lowest Responsible Bidder - Exemptions - Preferred Bidders~~
~~Section 7-222~~	~~Claims For Labor Or Materials~~
~~Section 7-223~~	~~Liability of Governing Body on Failure to Require Bond~~
~~Section 7-300~~	~~Municipal Resources~~
~~Section 7-310~~	~~Municipal Resource Development Board~~
Section 7-800	Public Improvements, Installation and Financing
Section 7-801	Definitions
Section 7-802	Installation of Public Improvements
Section 7-803	Reimbursement for Oversizing Public Improvements
Section 7-804	Financing System Improvements
Section 7-805	Impact Fee Assessment and Collection
Section 7-806	Credit for System Improvements
Section 7-807	Reimbursement for System Improvements
Section 7-808	Limits On Reimbursement
Section 7-900	Procedure For The Review of Actions By Kanab City That May Have Constitutional Taking Issues
Section 7-901	Policy Considerations
Section 7-902	Definitions
Section 7-903	Guidelines Advisory
Section 7-904	Review of Decision
Section 7-905	Reviewing Guidelines
Section 7-906	Results of Review

Section 7: MUNICIPAL IMPROVEMENTS AND PUBLIC SERVICE PROJECTS

Section 7-100 ~~Municipal Improvement District Act~~ Procurement Policy

~~See U.C.A. 10-16-1 et seq.~~

Section 7-101 Purpose and Scope

The purpose of this section is to simplify, clarify, and modernize the procurement policies of the city, ensure the fair and equitable treatment of all persons who deal with the city's procurement process, and provide increased economy in the city's procurement activities.

Section 7-102 Compliance; Exemptions

A. Grant, Gift, or Bequest: This policy shall not prevent the city from complying with the terms and conditions of any grant, gift or bequest that is otherwise consistent with law.

B. Federal Assistance Funds: When procurement involves the expenditure of federal assistance funds, the city shall comply with applicable federal laws and regulations.

Section 7-103 Purchasing Agent & Procurement Authority

A. The city manager or designee shall act as the purchasing agent, and shall be responsible to make procurement, solicit bids and proposals, enter into and administer contracts, and make written determinations for the city. Designations as purchasing agent shall be in writing and may be limited in scope, as the city manager directs.

Section 7: MUNICIPAL IMPROVEMENTS AND PUBLIC SERVICE PROJECTS

B. The city council delegates to the purchasing agent the authority to purchase supplies, services, or construction items where the dollar amount is less than twenty thousand dollars ($20,000.00), or the payment of a particular obligation as approved by the city council.

C. Where the dollar value exceeds twenty thousand dollars ($20,000.00), procurement of supplies, services or construction work or items shall require approval by the city council before being awarded.

D. For construction projects where the dollar value exceeds twenty thousand dollars ($20,000), the purchasing agent shall engage a qualified and insured engineer separately from any other contractor to review and advise on all plans, specifications, and change orders.

Section 7-104 Source Selection and Contract Formation, General Provisions

A. Purchases not requiring sealed bids:

1. Procurements with a dollar amount of one thousand dollars ($1,000.00) or less shall not require bids of any type.
2. Procurements with a dollar amount of more than one thousand dollars ($1,000.00) but less than ten thousand dollars ($10,000.00) shall require three verbal bids.
3. Procurements with a dollar amount of more than ten thousand dollars ($10,000.00) but less than twenty thousand dollars ($20,000.00) shall require three written bids.
4. Procurements made through the cooperative purchasing contacts administered by the state division of purchasing.

5. Approved alternatives to the sealed bid process.

6. Procurements required during an emergency, i.e. an eminent threat to the public's health, welfare, or safety. However, as much competition as practical should be obtained; and, such purchases should be limited to amounts necessary to the resolution of the emergency.

B. Sealed Bids

1. When Required: Except as permitted in this section, procurements exceeding twenty thousand dollars ($20,000.00) shall require competitive sealed bids and shall be awarded to the lowest responsible and responsive bidder, whose bid meets the requirements and criteria set forth in the invitation for bids.

2. Sealed Bid Process:

i. Specifications: The ordering department shall be responsible for developing complete, accurate and understandable specifications for the item or service being bid. Specifications shall be in a format acceptable to the city purchasing agent, and shall comply with all requirements of any applicable city, state or federal contract and procurement policies and regulations, including, but not limited to, bond and insurance requirements.

ii. Review And Approval: The ordering department shall prepare a bid request package. Completed packages shall be submitted to the city manager for review and approval prior to advertising.

iii. Advertisements: All sealed bid requests shall be advertised at least once in a generally and widely available medium, which may include newspapers,

business journals and websites, a minimum of two (2) weeks in advance of the bid due date. Any procurement subject to noticing requirements of state and/or federal law shall comply with those requirements.

iv. Bid Clarifications: Prior to the date specified in the bid requirements, bidders may submit challenges or requests for clarification of specifications. Responses to challenges and requests shall only be through official addenda issued by the purchasing agent.

v. Bid Opening: All sealed bids shall be received at and by the city clerk/recorder's office by the time and date specified in the request for bids, and shall be opened and tabulated by that office.

vi. Corrections or Withdrawals; Changes: Correction or withdrawal of inadvertently erroneous bids before or after award, or cancelation of awards or contracts based on such bid mistakes, shall be permitted. 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 made by the purchasing agent.

vii. Bid Review And Recommendation: Bids shall be referred by the city clerk/recorder to be reviewed by the purchasing agent and the ordering department to verify that bidders are responsible and responsive. With the concurrence of the purchasing agent, the department will prepare a recommendation for

award of bid to the city manager for review and approval, prior to submittal to the city council for final action.

viii. Notification And Appeals: The purchasing agent shall notify all bidders of the bid award within three (3) business days following the award by city council. Appeals to the award decision shall be submitted in writing to the city clerk/recorder within five (5) business days of receipt of notification.

ix. Administrative Procedures: The city manager is authorize to develop additional administrative procedures related to the sealed bid process as needed, which procedures shall not be inconsistent with this chapter. No administrative procedure shall be interpreted to circumvent or replace any part of this policy.

3. Alternatives to Sealed Bids:

i. Requests For Proposals (RFP): Proposals may be solicited in lieu of sealed bids when the city manager determines in writing, that: 1) bidding is not practicable or is not advantageous to the city; 2) waiving sealed bids would not be in contravention of applicable state law; and 3) the process will be fair, just and equitable. These solicited proposals will be evaluated based on scope, approach, experience, effectiveness, maintainability, or other reasonable criteria set forth in the request for proposals. Costs shall be submitted as part of the proposals, and considered as part of the overall evaluation.

ii. Requests For Qualifications (RFQ): When the city manager determines, based on recommendations

from department directors and the city purchasing agent, that a procurement for consulting services requires particular emphasis on the qualifications of the consultant, qualifications may be solicited and evaluated based on experience, references, qualifications, understanding of specific needs, key personnel, availability, or other reasonable criteria. Requests for qualifications may include a separate sealed cost proposal, or price may be negotiated.

iii. Sole Source Procurement: Procurement may be approved, without competition, when the city manager determines in writing, that: 1) there is only one source for the required purchase; or 2) the award is a condition of a donation or grant that will fund the full cost of the purchase. Examples of potential reasons for sole source procurements include, but are not limited to:

a) The compatibility of equipment, accessories, replacement parts or service is the paramount consideration;

b) Trial use or testing;

c) Procurement of items for resale;

d) Procurement of public utility service; or

e) Unique properties.

When a sole source procurement has been approved by the city manager, the purchasing agent shall negotiate the price and terms. Unsatisfactory results of such negotiations may prompt additional evaluation of alternatives.

iv. Government Agency Contracts: Procurement may be approved, without additional competition otherwise required in this chapter, when the city manager determines that another governmental agency has issued a procurement contract based on competitive quotes or bids and either: 1) the city is authorized to purchase under the terms of that contract; or 2) the city is offered by a vendor a price equal to or less than the bid price offered through the other agency.

v. Direct Government Agency Purchases: When the city manager determines that the city would benefit from purchases of goods or services either surplused by or manufactured by another governmental agency, procurement may be approved without additional competition otherwise required in this chapter.

C. Cancellation and Rejection of bids: An invitation for bids, request for proposals, request for quotations or other solicitation may be canceled or any or all bids or proposals may be rejected, in whole or in part, when it is in the best interests of the city, as determined by the city manager or the city council.

D. Exclusive an Nonexclusive Procurement Contracts: Exclusive and nonexclusive contracts may be awarded by the city. Unless a contract specifically states it is exclusive, it shall be deemed to be nonexclusive. "Nonexclusive" means that the city may award multiple contracts to more than one contractor for similar supplies or services, as it deems appropriate.

E. Period of Time for Procurement Contracts:

Section 7: MUNICIPAL IMPROVEMENTS AND PUBLIC SERVICE PROJECTS

1. Terms Included: A contract for supplies or services may be entered into for any period of time deemed to be in the best interest of the city, provided that the term of the contract and the conditions of renewal or extension, if any, are included in the solicitation.

2. Pay And Performance Obligations: Pay and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriations of funds by the city council.

3. Prohibited Contracts: "Open ended" (starting date only) contracts, and "evergreen" (automatically renewed) contracts, are prohibited, unless it is subject to a written provision authorization of the city to cancel without penalty or charge on not greater than thirty (30) calendar days' notice.

F. Protest of Specifications or Award of Contract

1. Any actual or prospective bidder, offer or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the mayor.

2. A protest regarding the specifications of a solicitation must be submitted in writing to the city recorder, prior to the opening of the bid, and must list the pertinent facts giving rise to the protest.

3. A protest regarding the award of a contract or purchase order must be submitted in writing to the city recorder, within five (5) working days of the award of a contract or purchase order and must list the pertinent facts giving rise to the protest.

4. In the event of a timely protest, the city shall not proceed further with the solicitation or with the award of the

contract or purchase order until the protest is sustained or rejected by the mayor, unless an immediate award of the contract is required to protect substantial interests of the city. Untimely protests will not be considered.

5. After a review of the protest, the mayor shall have final authority to sustain or reject the protest.

Section 7-105 Providing Information and Records:

A. Permitted: Information and copies of records related to procurement processes may be requested at the city clerk/recorder's office. Most records should be provided to the public; however, in limited circumstances, records may be protected from disclosure under the government record access and management act.

B. Quotations: Quotations shall remain confidential until all quotations have been received, after which they shall be available for public inspection.

C. Sealed Bids: Sealed bids shall remain confidential, until the bids are opened. After opening, they shall be available for public inspection, except for information or data that the bidder designates as proprietary or confidential, such as trade secrets, which may be classified as privileged and withheld as provided by law.

D. Sealed Proposals: Sealed proposals shall remain confidential, and withheld until an award is made. After award of a contract, the successful proposal shall be available for public inspection, except for information or data that the bidder designates as proprietary or confidential, such as trade secrets, which may be classified as privileged and withheld as provided by law.

Section 7: MUNICIPAL IMPROVEMENTS AND PUBLIC SERVICE PROJECTS

~~Section 7-200 Contracts For Public Improvements~~

~~Section 7-210 Bids on public Improvements~~

~~Section 7-211 Bid Required - Lowest Responsible Bidder - Exemptions - Preferred Bidders~~

~~See U.C.A. 10-7-20 for bids on municipal improvements. See U.C.A. 63-2-50 as to "Preferred Bidders."~~

~~Section 7-222 Claims for Labor Or Materials~~

~~See U.C.A. 14-1-6.~~

~~Section 7-223 Liability of Governing Body on Failure to Require Bond~~

~~See U.C.A. 14-1-7.~~

~~Section 7-300 Municipal Resources~~

~~Section 7-310 Municipal Resource Development Board~~

~~See U.C.A. 10-7-79 through 10-7-84.~~

Section 7-800 Public Improvements, Installation and Financing

Section 7-801 Definitions

For the purposes of this Section that words set out in this section shall have the following meanings: