

"A Historic Past"



"A Bright Future"

CITY OF DELAWARE CITY
407 Clinton Street - P.O. Box 4159
Delaware City, Delaware 19706
302-834-4573

Amendment No. 1 To Ordinance No. 12-0716-02

**TECHNICAL CORRECTIONS TO ORDINANCE ESTABLISHING
PURCHASING POLICIES AND PROCEDURES**

The City of Delaware City

WHEREAS, the Mayor and City Council introduced Ordinance No. 12-0716-02 at a regular meeting on July 16, 2012, to establish purchasing polices and procedures for The City of Delaware City (the "Ordinance"); and

WHEREAS, the Mayor and City Council desire to make technical changes to the Ordinance before it is considered for adoption into The City of Delaware City Code; and

WHEREAS, the technical changes are identified in the Ordinance by the underlined text below.

Ordinance No. 12-0716-02

ORDINANCE TO ESTABLISH PURCHASING POLICIES AND PROCEDURES

Chapter 1 – Administration and General

The City of Delaware City

WHEREAS, pursuant to Article V, Section 5-02(A) of The City of Delaware City Charter (the "Charter"), and pursuant to the "Powers of the City," outlined in Article II, § 2-1 of the Charter, the Mayor and the Council of The City of Delaware City (the "City Council") possess the authority to adopt, amend, modify, or repeal The City of Delaware City Code; and

WHEREAS, the Mayor and City Council believe that establishing purchasing policies and procedures is in the best interest of The City of Delaware City; and

WHEREAS, Article X, Section 10-04 of the Charter permits the City to adopt competitive bidding requirements by Ordinance; and

WHEREAS, the Mayor and City Council desire to adopt code provisions authorizing the adoption of purchasing and procurement policies, for, among other things, competitive bidding; and

WHEREAS, the Mayor and City Council desire to adopt an Appendix 2 of the Code of the City of Delaware City, which shall contain the purchasing policies and procedures ~~that the Mayor and City Council adopted by resolution on _____~~ (the "Policy"); and

WHEREAS, the Mayor and City Council desire to adopt the Policy by and through the adoption of this ordinance, as set forth in the attached exhibit; and

WHEREAS, pursuant to Article V, Section 5-02(B) of the Charter, the Proposed Code Sections were introduced by a member of Council at a regular meeting, duly read in full or in abstract, and prominently posted for seven (7) days in The City of Delaware City.

NOW, THEREFORE, the Mayor and the City Council of The City of Delaware City hereby ordain:

Section 1. Chapter 1, Article VI, Section 1-40, of the Delaware City Code, upon an affirmative vote of the City Council, is hereby adopted and shall read as follows:

Article VI Purchasing And Procurement Policies

Section 1-40 Purchasing Policy Authorization

The Mayor and Council shall adopt and promulgate purchasing policies that establish and provide guidelines for procurement practices and provide specific standards to Delaware City personnel that are delegated the responsibility for procurement transactions. The purchasing policy shall address standards for the purchase of materials and for the furnishing of services. The purchasing policy of the Mayor and Council shall be contained in Appendix 2 of the Code of the City of Delaware City and may be amended from time to time by resolution. Failure of any person to adhere to the purchasing policies promulgated by the Mayor and Council may result in employee discipline or any other sanctions permitted under applicable law or ordinance.

Section 2. Appendix 2 of the Delaware City Code is hereby established, and upon an affirmative vote of the Mayor and Council, the purchasing policy of the City of

Delaware City attached hereto is adopted as Appendix 2 of the Code of the City of Delaware City.

Section 3. **Inconsistent Ordinances and Resolutions Repealed.** All Ordinances or parts of Ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed.

Section 4. **Severability.** The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that City Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with City Council's intent.

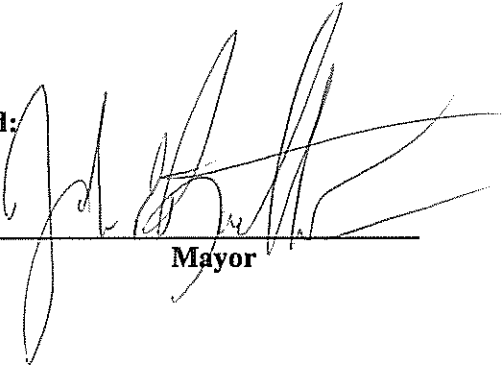
Section 5. **Effective Date.** This Ordinance shall become effective immediately upon its adoption by a majority vote of the City Council.

(Signature page follows)

Attest:

Secretary

Approved:



Mayor

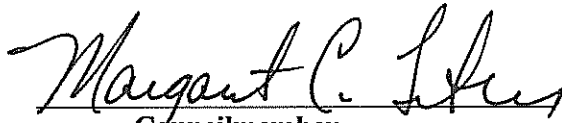
Approved:



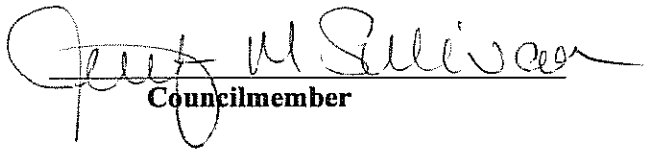
Councilmember



Councilmember



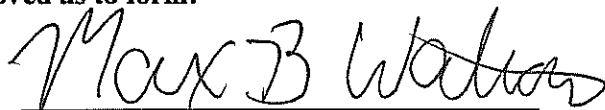
Councilmember



Councilmember

Councilmember

Approved as to form:



City Solicitor

First Reading: July 16, 2012

Second Reading and Adoption:

APPENDIX 2

CITY OF DELAWARE CITY

PURCHASING POLICIES AND PROCEDURES

PURPOSE

The purpose of this policy is to establish requirements and provide guidelines under which all procurement transactions are to take place. The primary purpose is to provide information and direction to City personnel that have been delegated purchasing authority.

SCOPE

The Purchasing Policies and Procedures shall apply to three distinct types of purchasing. These include the procurement of **Goods, Materials, Equipment and Non-Professional Services**; all **Capital Expenditures**; and the procurement of **Professional Services**. There is purposely no distinction made between the expenditure of City, State, Federal or Private funds as it relates to procurement within the categories defined above. The City shall treat the expenditure of all funds the same.

RESPONSIBILITY

It is the responsibility of all City employees to be familiar with and comply with all Policies and Procedures herein. The City Manager has the ultimate authority over all procurement decisions and responsibility for the adherence and compliance of the Policies and Procedures.

DEFINITIONS

- Purchasing:** Identification and recognition of the legitimate needs for goods and services in all areas of the city operations and the assurance of satisfaction of those needs at the lowest and most reasonable cost, consistent with the best quality of goods and services required and available.
- Policies:** Policies, as referred to in this document, are developed by the City Manager for the purpose of giving information and direction. Policies establish basic philosophies, climate and determine the major values under which the purchasing function must operate.
- Procedures:** Procedures are the prescribed means of accomplishing policy. Their intent is to provide City personnel with the guidelines and, where appropriate, the specific action sequence to ensure uniformity, compliance and control of all policy related activities.

CONTRACTS – SIGNING AUTHORITY

PURPOSE

To provide guidelines to all personnel involved in contract preparation, review and/or negotiation.

SCOPE

This policy applies to all City employees, appointed and elected officials. The policy applies to all contracts for professional and non-professional services, minor capital improvements or major capital projects, leases, bonds, deeds and contracts for goods, materials and equipment as defined herein.

AUTHORITY

The City Manager, per Section 9-04K of the City Charter, shall execute on behalf of the City, when authorized by the Council, all agreements as mention in the "Scope" above. Contracts for the purchase of professional and non-professional services, minor and major capital projects, and contracts for goods, materials and equipment, as approved in the Operating Budget and Capital budget shall require no further approval by Council. The renewal or extension of existing leases, as provided for in the terms and conditions of the original lease, shall not require further Council approval, except under the condition in which the lease payment is deduced or there is a material change to the original terms and conditions.

CONFLICT OF INTEREST

Purpose

To provide guidance to employees, appointed and elected official engaged in any aspect of the purchasing function concerning the avoidance of conflict of interest.

Scope

This policy applies to all employees, appointed and elected officials who participate or have influence in any phase of the procurement process.

GENERAL

- a. No official or employee, either on his own behalf or on behalf of any other person, shall have any financial or personal interest in any business or transaction with any public body in the municipality unless he shall first make full public disclosure of the nature and extent of such interest.
- b. Whenever the performance of his official duties shall require any official or employee to deliberate or vote on any matter involving his financial or personal interest, he shall publicly disclose the nature and extent of such interest and disqualify himself from participating in the deliberations as well as in the voting.
- c. No official or employee shall engage in private employment with, or render services for, any private person who has business transactions with any public body of the municipality unless he shall first make full public disclosure of the nature and extent of such employment or services.
- d. No official or employee shall accept any gift, whether in the form of money, thing, favor, loan or promise, that would not be offered or given to him if he were not an official or employee.
- e. No official or employee shall, without prior formal authorization of the public body having jurisdiction, disclose an information involving matters discussed in an Executive Session or give or release to anyone documents or reports concerning matters discussed in Executive Session.
- f. Whether or not it shall involve disclosure, no official or employee shall use or permit the use of any such confidential information to advance the financial or personal interest of himself or any other person.

BIDDING REQUIREMENTS

PURPOSE

To provide guidance to employees, appointed and/or elected officials that may be involved in the purchasing function and conditions under which the purchase of goods, materials, equipment, professional and non-professional services and all capital projects must comply with.

SCOPE

This policy shall apply to the procurement of all services and commodities purchased by the City as follows Purchases are classified into two distinct categories as follows:

- (1) The purchase of goods, materials, equipment and non-professional services.
- (2) Major and minor capital projects and professional services.

GENERAL

The following shall establish dollar threshold conditions under which all purchases for services or commodities must adhere to:

A. Goods, Materials, Equipment and Non-Professional Services.

<u>Annual Cost</u>	<u>Method Required</u>
\$10,001 and Above	Formal Bid
\$5,001 to \$10,000	Written Quotations
\$3,001 to \$5,000	Verbal Quotations
Up to \$3,000	Open Market

B. Minor and Major Capital Projects and Professional Services

<u>Project Cost</u>	<u>Method Required</u>
\$50,001 and Above	Formal Bid
\$25,001 to \$50,000	Written Quotations
\$15,001 to \$25,000	Verbal Quotations
Up to \$15,000	Open Market

When utilizing existing State or Federal (GSA) contracts to purchase services and or commodities, the above requirements may be waived. The above requirements are waived for sole source procurements as defined herein.

PURCHASING PROCEDURE

I. FORMAL BID PROCESS

PURPOSE

To provide the procedure concerning the solicitation of competitive bids.

SCOPE

This procedure applies to transactions for the procurement of goods, materials, equipment and non-professional services exceeding \$10,000, and the procurement of professional services and major and minor capital projects with a value exceeding \$50,000.

RESPONSIBILITY

All formal bids shall be administered and conducted by the City Manager.

AWARD PROCEDURE

The following factors in combination, not necessarily listed in their order of importance, will be considered in reviewing bids and awarding contracts:\

- Prices
- Bidder's previous history and record of performance and service.
- Ability of bidder to render satisfactory service in this instance.
- Availability of bidder's representative to call upon and consult with the City.
- Quality and conformance to the specifications.
- Other requirements as they become necessary and appropriate.

The City always reserves the right to reject any and all bids, to waive informalities, and to contract as the best interests of the City may require. This should be clearly stated and noted on all bid documents.

GENERAL

- A. Formal bid request may be in the form of an Invitation to Bid (ITB) or a Request For Proposal (RFP).

- B. Bid request shall include complete information and should provide, but not limited to, the quantity, description, delivery requirement, special conditions, drawings, specifications, date information is required, special conditions/terms, etc. If replies are to conform to a certain format, this should be spelled out. Every effort should be made to be thorough and attempt to remove all known variables.
- C. A minimum of three (3) vendors must be solicited and every reasonable effort should be made to assure this level of participation. In the case of sole source items or services, more than one price is often not possible and should be so noted on the invoice or other accounting document.
- D. All formal bid requests shall be advertised in a publication circulated in all three counties of the state as determined by the City Manager. The advertisement shall be published once per week for two consecutive weeks. Advertisement in other available resources and publications is permitted on an as required basis.
- E. If a pre-bid meeting is desired or necessary, the time, date, and location shall be clearly stated in the bid document. It shall also be clearly stated whether attendance is mandatory or optional.
- F. Specify the exact time. Date and address the bids are to be received and opened. This date should be at least fourteen (14) days after the second advertisement is published. A shorter time frame may be considered if circumstances warrant.
- G. The City may extend the time and place of the bid opening with not less than two (2) days notice by certified mail, facsimile machine, email, or telephone contact, to those firms who obtained copies of the bid forms and specifications. This statement should be included in the bid document.
- H. Answers to technical questions arising during the bidding process should be provided by the City. The City must coordinate the reply and ensure that all potential bidders is provided the same information.
- I. After all bids have been received and examined for completeness, a summary sheet is to be prepared noting all the pertinent data and discrepancies. Determination of the most responsive bidder and award will be made by the City Manager only after all aspects have been considered.
- J. The information gathered in the bid process will be maintained in a file in Town Hall.
- K. Information contained in bids received as a result of an ITB or RFP is to be kept confidential until after the bid has been awarded and a contract signed by the successful vendor has been received. Information released after such time will be restricted to prices and other information used to determine the successful bidder. Bidder information which is confidential and/or proprietary shall not be released.
- L. It is good practice to notify unsuccessful bidder that the bid has been closed and awarded.

II. Competitive Quotation Process

PUPOSE

To provide a procedure concerning the solicitation of Written and Verbal Quotations.

SCOPE

This procedure applies to transactions that require competitive quotations above the prescribed thresholds.

GENERAL

The City Manager or his/her designee is responsible for obtaining quotations on commodities and/or services that are expected to exceed the prescribed thresholds established herein.

A. Types of Quotations

1. **Written.** Written quotations shall be obtained for purchases of all commodities and non-professional services with an estimated price between \$5,001 and \$10,000 and for all professional services, major and minor capital projects with an estimated value between \$25,001 and \$50,000. All quotations are to be document in a proper written format that will serve as backup documentation after the award is made.
 2. **Verbal.** Verbal quotations shall be obtained for purchases of all commodities and non-professional services with an estimated price between \$3,001 and \$5,000 and for all professional services and major and minor capital projects with an estimated value of \$15,001 and \$25,000. All quotations are to be documented in a proper written format that will serve as backup documentation after the award is made.
- B. The City Manager or his/her designee when purchasing commodities and/or services requiring written or verbal request for quotation, will solicit pricing from three or more vendors or all available sources whichever is less.
 - C. Quotations will be solicited only from vendors whom are qualified or can qualify to meet all requirements.
 - D. The person obtaining the quotations shall not reveal to the other vendors the prices quoted by other vendors.
 - E. All vendors contacted shall be identified in the appropriate written format even if they did not respond with pricing. Non responsive vendors may be eliminated in future request for quotations if they have on more than one occasion failed to respond to a request for pricing.

SOLE SOURCE PURCHASE

PURPOSE

To establish general guidelines and procedure for sole source purchases.

SCOPE

This procedure applies to all purchases of commodities and/or services for which a sole source determination has been made.

GENERAL

Sole source purchases may arise from a number of circumstances ranging from the absolute to the feasible, practicable or advantageous. The following are examples of sole source situations.

1. The purchase of an item where compatibility is the overriding consideration, such as a computer terminal for an existing system.
2. The purchase of equipment for which there is no comparable competitive product and is available from only one supplier.
3. The purchase of component or replacement parts for which there is no commercially available substitute and which can only be obtained from the manufacturer.
4. The purchase of used items which becomes immediately available and is subject to prior sale.
5. The purchase of particular products for trial and testing and circumstances under which additional needs develop during the course of the project.

The City Manager shall make the sole source determination and document the reason such purchase qualifies as a sole source.

EMERGENCY PURCHASES

PURPOSE

To establish procedures for the emergency procurement of commodities and services.

SCOPE


This procedure establishes emergency conditions under which the procurement of commodities and services may be made without competitive bidding or securing competitive quotations.

GENERAL

The City Manager with the concurrence of the Mayor, or in the Mayor's absence, the concurrence of the Vice Mayor, may waive the bidding and competitive quotation requirements of this manual to meet the critical needs of the City as required by emergencies or other conditions where it is determined to be in the best interest of the City.

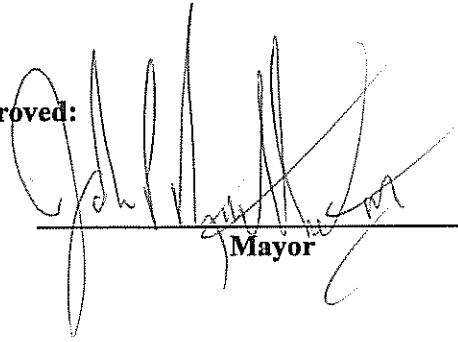
An emergency condition can be determined by reason of extraordinary conditions or contingencies that **could not** reasonably be foreseen and guarded against. An emergency condition creates an immediate and serious need for material and or professional and non-professional services that cannot be met through normal procurement procedures for the protection of public health, safety or property.

Attest:




Secretary

Approved:



Mayor

Approved:



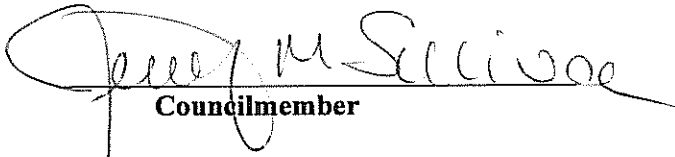
Councilmember



Councilmember



Councilmember



Councilmember

Councilmember

Approved as to form:



City Solicitor

First Reading: July 16, 2012

Second Reading and Adoption: