

ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: October 25, 2021
Item No.: 9.f

Department Approval



City Manager Approval



Item Description: Approve City Purchasing Policy

BACKGROUND

Best practices require that a City have various financial policies and periodically review and update those policies.

The purchasing policy went through Finance Commission review and the equity toolkit review which was conducted by the Equity and Inclusion Manager and the Assistant City Manager. This was done to ensure that the City's policies provide fair and equitable treatment and access to participate in city procurement, for those businesses that are owned and controlled by socially and economically disadvantaged individuals.

The purchasing policy includes both state and federal dollar thresholds that govern when purchases can be made on the open market, under quotes, or when sealed bids must be obtained. The City is required to have a formal purchasing policy that incorporates federal guidelines as a recipient for federal grants.

The City Council discussed the purchasing policy at the work session on October 18, 2021. Some changes in language were recommended and have been included in Attachment A which includes the requirement that all contract extensions will go to the City Council for approval prior to extension.

POLICY OBJECTIVE

The City's financial policies are consistent with governmental finance best practices as well as State and Federal requirements.

FINANCIAL IMPACTS

Not applicable.

STAFF RECOMMENDATION

Staff Recommends the Council adopt the purchasing policy as submitted.

REQUESTED COUNCIL ACTION

Motion to approve the attached resolution adopting the attached purchasing policy.

Prepared by: Michelle Pietrick, Finance Director
Attachments: A: Resolution adopting Purchasing Policy
B: Purchasing Policy.

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**EXTRACT OF MINUTES OF MEETING OF THE
CITY COUNCIL OF THE CITY OF ROSEVILLE**

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Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Roseville, County of Ramsey, Minnesota was duly held on the 25th day of October 2021 at 6:00 p.m.

The following members were present:
and the following were absent:

Member introduced the following resolution and moved its adoption:

RESOLUTION _____

**RESOLUTION ADOPTING THE PURCHASING POLICY
FOR THE CITY OF ROSEVILLE**

WHEREAS, the City Council of the City of Roseville, Minnesota desires to establish budget and financial policies that provide for the sustainability of City programs, services and infrastructure; and

WHEREAS, the City Council of the City of Roseville, Minnesota desires to maintain the City’s strong financial condition; and

WHEREAS, the City Council of the City of Roseville, Minnesota desires to provide appropriate fiscal and budgeting controls.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Roseville, Minnesota, that the Purchasing Policy included in Attachment A of this resolution be adopted and remain in effect until such time that a subsequent policy action is taken.

Purchasing Policy

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Purpose

The purpose of the Purchasing Policy is to ensure the procurement process uses established procedures that comply with all applicable legal requirements and federal and state regulations; maximizes the use of disadvantaged business whenever possible, is as efficient as possible without eliminating needed financial controls; and is understandable to all users and administratively consistent with other City policies and procedures. The City's policy is to provide a fair and equitable process by which diverse businesses can compete on the basis of their service delivery and pricing in order to purchase goods and services at the most cost effective and competitive rates, yielding the desired service, turnaround and value for the dollar. This policy has the following objectives:

1. Ensure that all purchases comply with applicable laws, in particular the Uniform Municipal Contracting Law, Minnesota State Statute Section 471.345
2. Comply with Minnesota Public Purpose Doctrine and City Policy on Public Purpose Expenditures.
3. Make the best possible use of tax dollars by purchasing goods and services with the best value to the City while considering goals and values of the City and community.
4. Provide clear and consistent guidelines for City staff to follow in making purchasing decisions.

For purchases made under Federal or State grant funded programs, additional restrictions are identified within the uniform grant guidance regulations (2 CFR 200.318).

Definitions

Best Value - is an alternative procurement method allowed under Minnesota state law for the purposes of construction, building, alteration, improvement, or repair services compared to the current low-bid system of procurement. "Best value" describes the results determined by a method that considers proposals based on price and other criteria, which may include, but are not limited to: past performance, ability to minimize cost overruns/change orders, ability to prepare appropriate plans, technical capabilities, qualifications of key personnel and subcontractors, ability to limit and minimize risk and the ability to foster the use of small and minority businesses.

"Best Overall Value" – is a City approach to procurement of professional services that is comparable to the statutory Best Value procurement method in that it also considers comparable criteria in addition to price.

Contract – refers to a written document that establishes the rights and responsibilities of two or more parties and includes the consideration for each party to enter into the contract. Contracts include all City agreements, no matter what they are called, for the procurement of commodities, materials, equipment, real or personal property, labor, work, services or construction, including an amendment to or extension of a contract. While a purchase order is a contract, it is distinguishable from other written contracts by the brevity and commercial nature of its terms and the application of Article Two of the Uniform Commercial Code to supplement its written terms.

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Cooperative Purchasing Agreement - refers to a contract for the purchase of supplies, materials, equipment and certain specified services (i) that are available through a State of Minnesota cooperative purchasing venture authorized by Minnesota Statutes 16C.11, or (ii) available through a national municipal association's purchasing alliance or cooperative created by a joint powers agreement that purchases items from more than one source on the basis of competitive bids or competitive quotations. Cooperative Purchase Agreements cannot be used for the construction or alternation of real or personal property.

Joint Powers Agreement – refers to a written contract governed by Minnesota Statutes Section 471.59 where two or more governmental units, working together by agreement to exercise any power common to them; or an agreement between governmental units where one unit performs a service or activity on behalf of another unit(s).

Open Market Purchase – refers to a purchase, usually of a limited monetary amount, from any available source.

Request for Proposals (RFP) – refers to both formal (including a public notice) and informal procurements requesting vendors, contractors or consultants to submit proposals to provide goods and/or services to the city when a quote or sealed bid is not required and is not advantageous to the City. The City is not required to select the lowest cost proposal however many take into consideration all identified relevant criteria that will result in the best overall value to the City. The City and the selected contractor often engage in detailed contract negotiations to further define the goods and/or services that will be provided and the price and obligations of each party.

Sealed Bid – refers to a bid that is sealed by the contractor prior to submission to the City and which will not be opened until the date and time for the public bid opening. Public openings are not required for Requests for Proposals.

Disadvantaged Business Enterprise: A Disadvantaged Business Enterprise (DBE) is a for-profit small business where socially and economically disadvantaged individuals own at least a 51% interest in the firm and control the management and daily business operations. A DBE may be certified with the Minnesota Unified Certification Program (MNUCP) or through other agencies.

Policy

The Minnesota Public Purpose Doctrine permits a governmental entity to expend public funds only when the primary purpose of the expenditure is public and the expenditure relates to the governmental purposes for which the entity was created. There must also be statutory authority allowing for the expenditure of such funds and there must be a benefit to the community. Proper documentation must be maintained by the City to establish that all expenditures serve a public purpose.

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All federal grant expenditures will be in compliance with OMB 2CFR200 (Uniform Guidance). All federal grant expenditures must be reasonable, necessary, and adequately documented. All federal grant expenditures must be deemed to be allowable under specific grant agreements and in accordance with 2CFR200, subpart E.

Budget and Capital Plans as Basis for Procurement

The approved operating and capital budget provides detail on goods and services that are expected in a given year. Any goods or services required that were not budgeted must be approved by the City Manager or the City Council, depending on the dollar amount of the purchase and the rationale behind the non-budgeted good or service. The Finance Director will report budget status to the City Council on a quarterly basis. Payment details for all goods and services will be listed on Accounts Payable reports and presented to the City Council for approval twice a month.

Per City Code Section 103.05, the City Manager has the authority to approve purchases and contracts of \$10,000 or less. Exceptions include:

- Expenditures where the City Council has already approved the contract for goods or services.
- Regular budget items that are based on previous decisions – examples include gas and electric payments, software maintenance support, lease or bonded debt payments, city attorney, workers comp reimbursements, payroll related items, State and local obligations, postage, etc.

Requests for Council approval of purchases over \$10,000 will be via reports presented for approval at City Council meetings.

Methods of Procurement:

The Uniform Municipal Contracting Law, Minnesota Statutes Section 471.345 outlines certain bid and quotation requirements based on the amount of the purchase. In addition, when a purchase is funded through federal dollars, there are different dollar thresholds for bids/quotations. Usual and customary purchases must have sufficient funds available within the approved department budget.

City purchases will not be divided into smaller amounts for the purpose of avoiding state, federal, or City procurement requirements that are based on purchase amounts.

Micro Purchases

Procurements valued at less than \$25,000 (\$10,000 for federally funded) will be considered *Micro Purchases*, and can be made on the open market without obtaining competitive quotations or proposals. City staff will ensure that the price is fair and reasonable.

Small Purchases

Procurements valued between \$25,000 and \$175,000 will be considered *Small Purchases*, and will be made after obtaining at least two (2) quotes or proposals from qualified sources, in accordance with City procurement procedures.

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Major Purchases

Procurements valued at greater than \$175,000 will be considered *Major Purchases*, and will be made by publicly soliciting bids or proposals in accordance with City procurement procedures and as required by Minnesota Statutes 471.345. For Federally funded projects, the value is higher than the State limit, as such the City will follow the State limit of \$175,000 for federally funded purchases as well.

Joint Purchasing/Cooperative Purchasing Agreements

The City has the authority to enter into *Joint Purchasing or Cooperative Purchasing Agreements* with other governmental units as provided for in Minnesota Statutes. Procurements made through *Joint Purchasing or Cooperative Purchasing Agreements* will satisfy the City's competitive procurement requirements.

Noncompetitive Purchases

Noncompetitive Purchases can be made under the following circumstances:

- When the City Council has declared an emergency, in accordance with State Statute, City Policies and Procedures. (See Exceptions below).
- When a sole source of the good or service exists and has been verified by City Manager
- When the procurement is for goods or services not available competitively, such as utilities, subscriptions, professional dues and memberships, insurance, conference and seminar registration, permits and licenses, advertisements in publications, taxes, required federal, state and local fees and charges, etc.

Disadvantaged Businesses

The City will utilize businesses owned and controlled by socially and economically disadvantaged individuals in the procurement of goods and services, and the award of contracts when possible. The City will, in accordance with authority granted by federal regulations, state statute, and local laws and ordinances, act affirmatively to create a "level playing field" for women-owned, minority-owned and disadvantaged business enterprises to achieve the goal of equal opportunity.

Assistance to Small and Minority Businesses

1. Required Effort. Staff must make good faith efforts to ensure small businesses, minority-owned businesses, and women's business enterprises are used when possible. Such efforts may include, but shall not be limited to:

- a. Including such firms, when qualified, on solicitation mailing lists;
- b. Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;
- c. Dividing total requirements, when economically feasible and in compliance with state law, into smaller tasks or quantities to permit maximum participation by such firms;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;

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- e. Using the services and assistance of the Small Business Administration;
 - f. Requiring prime contractors, when subcontracting is anticipated, to take the steps listed in a. through e. above.

Environmentally Preferable Purchasing

In 2019 the City Council adopted the Environmentally Preferable Purchasing Policy which establishes procedures to consider products that are generally better for the environment and which reduces the City's impact on the environment in many ways. This policy does not supersede any other provisions of the overall Purchasing Policy except that it does establish some criteria for over budget purchases with City Manager approval. The Environmentally Preferable Purchasing Policy is attached in Appendix A.

Prohibited Interest in Contracts

Minnesota State Statutes 471.87 and 471.88 prohibit the purchase of goods or services whenever a conflict of interest may exist. If any employee becomes involved in a possible conflict situation, the employee shall disclose the nature of the possible conflict to his or her supervisor and the City Manager.

The City cannot enter into any contract or purchase order for goods or services in which an employee, elected official, officer or agent, or their immediate family members, has an indirect or direct personal financial interest or will personally benefit financially from the contract or purchase. In exceptional cases and if permitted by applicable law or regulation, this policy may be waived by the City Manager for employees for good cause after consulting with the City Attorney. The City Manager shall promptly notify the employee in writing of the decision.

Substantial state and federal requirements exist pertaining to standards of conduct and conflict of interest. It is the intent of the City for all employees, officers, or agents to conduct all activities associated with procurements in compliance with the highest ethical standards, including the avoidance of any real or perceived conflict of interest. It is also the intent of the City to impose appropriate sanctions or disciplinary actions, including but not limited to termination and/or prosecution, for any employees or officers who violate any of these requirements.

Purchasing Processes

By City Code, the City Manager is the Chief Purchasing Officer of the city and has delegated purchasing and budgetary control to each department. The department head may designate other staff within their department to purchase goods and services in compliance with the annual budget. The City Council has delegated authority to staff to make usual and customary purchases as approved in the annual budget in compliance with all bidding requirements and the City's purchasing policy. Formal Council approval of budgeted, routine purchases is not necessary. Council approval is required on capital improvement projects of \$10,000 or greater.

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Purchase Orders and Contracts

The Assistant Finance Director will issue purchase orders for items over \$10,000 that are not handled via a contract. All contracts issued for goods or services are reviewed and approved by the City Council.

Contract Amendments

Contract amendments valued at greater than 25% of the original value of the contract will be considered separate procurements and the appropriate process above shall be utilized.

Credit Card Use

The use of credit cards (purchasing cards) is an authorized payment method. These purchases must follow the purchasing policy and are a more efficient method of paying vendors than the check payment process. See the purchasing card policy for detailed procedures.

Reviewing for Contractors under Suspension or Debarment

In all cases the City will review the excluded parties list (<https://www.sam.gov>), to ensure that no tentative parties, suspended and/or debarred contractors are contracted with when using federal or City dollars.

Professional Service Contracts

Professional service contracts such as those provided by engineers, lawyers, architects, accountants and other services requiring technical, scientific, or other professional training, do not require competitive bidding. Selection of firms shall be through a competitive process, using a “best overall value” approach, whenever applicable and appropriate. Contracts for professional services shall be for terms of not more than three (3) years and include provision for a one-time extension of not more than three years, based on satisfactory performance. All professional service contracts and extensions shall be approved by the City Council. The City Council should be represented in the interviews and evaluation of candidate firms for Civil Attorney services, including the determination of evaluation criteria.

Firms selected to provide professional services to the City of Roseville:

- Will avoid any conflicts of interest and commit to the principles of the Professional Code of Ethics for their profession and the City of Roseville Code of Ethics for Public Officials.
- Will conduct their business through designated Roseville City staff as approved by the City Manager.
- Will not represent any individual or corporation involved in litigation against the City of Roseville.
- Will comply with all applicable state and federal laws and local ordinances.

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Deviations

Approval to deviate from this policy must be documented and authorized by the City Manager, or by other City staff as delegated by the City Manager in accordance with City policies and procedures.

Exceptions

Minnesota State Statute 12.37 gives the City the ability to declare an emergency situation for a limited period of time. During such an emergency, the City is not required to use the typical mandated procedures for purchasing and contracting. Emergency purchases require approval by the City Manager, Finance Director and when necessary because of the dollar amount, formal City Council action. An emergency purchase is defined as one where an immediate response is required to protect the health, welfare or safety of the public or public property.

Ethics and Acceptance of Gifts

Employees shall not make any purchases for personal use utilizing City funds. Employees shall not be allowed to take advantage of special pricing offered to the City by vendors to make personal purchases. Employees may not take advantage of government discounts for non-city related purchases, including bidding on city auctions. The general rule to be applied is if a discount is not available to a member of the public, the employee should not take advantage of it. Gifts offered by vendors to staff responsible for making purchasing decisions may only be accepted if they are considered to be a trinket or memento costing \$5 or less.

Authority for Implementation and Enforcement

All employees are responsible for adhering to this policy when purchasing goods or services. Department heads are responsible for monitoring performance within their areas of jurisdiction.

Responsibility for administering established purchasing policies and procedures has been delegated to the Finance Director in conjunction with the City Manager who is the Chief Purchasing Officer of the City.

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APPENDIX A

City of Roseville Environmentally Preferable Purchasing Policy

Council Approved – May 6, 2019

Purpose and Scope

Environmentally preferable products and services, according to definitions from the United States Environmental Protection Agency, have less or reduced impact on human health and the environment than other products and services that serve the same purpose. Adopting this policy demonstrates the City of Roseville's continued commitment to sustainability, as well as its recognition of the many benefits of following these guidelines. These benefits include:

- Supporting and rewarding businesses that provide environmentally preferable products and services
- Support for recycling markets and practices
- Setting an example of sustainability for residents and local businesses
- Lower overall costs by utilizing full-cost accounting and choosing products that are durable, long-lasting, reusable, refillable, and recyclable
- Minimizing negative environmental impacts such as pollution, resource depletion, water usage, and energy waste

Policy

Recycled-Content Products

Under the advisement of Minnesota Statute 16C.073 and the Federal Environmental Protection Agency's (EPA) recommendations, the City will purchase paper products containing the highest post-consumer recycled content practicable, but no less than 30% recycled content for copy paper, the minimum standard established by the EPA Comprehensive Procurement Guidelines (www.epa.gov). The City will purchase other products made with recycled material when available, practicable, and cost-effective.

Energy Saving Products

All appliances and products purchased by the City will meet US EPA Energy Star certification, provided that such products are available and financially feasible (www.energystar.gov). Such products typically include lighting systems, exhaust fans, water heaters, computers, exit signs, and appliances such as refrigerators, dishwashers, and microwave ovens. When Energy Star certified products are not available, products in the upper 25% of energy efficiency as designated by the Federal Energy Management Program will have preferred consideration for purchase.

Water Saving Products

Water-saving products purchased by the City will meet WaterSense certification when such products are available and financially feasible (www.epa.gov). This includes, but is not limited to, high-performing fixtures such as toilets, urinals, low-slow faucets and aerators, and upgraded irrigation systems.

Cleaning Products

Cleaning products purchased by the City will meet Green Seal, EcoLogo, and/or EPA Design for the

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Environment standards whenever such products are available, practicable, and perform to an acceptable standard.

Waste Minimization

The City's purchasing practices will reflect an attempt to reduce packaging and other unnecessary waste. Such practices may include buying items in bulk whenever practicable and preferring reusable, recyclable, and compostable products and packaging when suitable products are available.

Implementation

This policy will not be construed as requiring any department, buyer, or contractor to purchase products that do not perform adequately for their intended use, exclude adequate competition, or are not available at a reasonable price in a reasonable period of time.

City staff will ensure that specifications support the use of reusable, recycled, or environmentally preferable products by following these guidelines. All city departments are responsible for implementation of this policy and ensuring their respective employees are fully aware and supportive of the City's policy to purchase environmentally preferable goods and services.

The City will accept up to a 10% increased cost for purchasing environmentally preferable products indicated in this policy, a standard that is widely used around the state. Authorization is required from the City Manager if the additional cost is greater than \$1,000.

These guidelines are subject to the requirements and preferences in the Municipal Contracting Law (MN Statute 471.345) and all other applicable laws and ordinances.

The Public Works department will assist with and monitor the efforts of implementation and report annually to the City's Green Team on the outcomes of this purchasing policy.