

# CITY OF NIXA FINANCE DEPARTMENT

## PURCHASING POLICY AND PROCEDURES

<b>Effective:</b>	January 1, 2010
<b>Initiated by:</b>	Donna Swatzell Finance Director
<b>Approved by:</b>	City of Nixa Council
<b>Initial Approval Date:</b>	October 19, 2009
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### SECTION 1 LEGAL BASIS, POLICIES, AND ORGANIZATION OF THE PURCHASING POLICY

#### 1. Purpose

- 1.1. To establish operational policies and procedures which assures the community that goods and services required to support the operation of City government are procured in a manner consistent with the provisions of the Ordinances of the City of Nixa, and to assure the community that the procurement system of the City is committed to fair and equal opportunity with integrity and openness.

#### 2. Objectives

- 2.1. To procure supplies, materials, equipment, contractual labor, and services in a manner that insures maximum value.
- 2.2. To procure goods and services at the most appropriate cost and best quality consistent with the goods and services required.
- 2.3. To exercise positive financial accountability in the expenditure of City funds.
- 2.4. To provide an efficient means for procurement, storage, and disposal of items in an effort to minimize duplication and overstocking.
- 2.5. To ensure the fair and equitable treatment of all persons who deal with the purchasing system of the City.
- 2.6. To provide safeguards which promote quality and integrity in the procurement process.
- 2.7. To ensure that all parties involved in the negotiation, performance, or administration of City contracts act in good faith.

### 3. Definitions

- 3.1. **Contract** means a legally binding document that states provisions and obligations of a purchasing agreement entered into on behalf of the City.
- 3.2. **Department Director** means an employee of the City who is a member of management.
- 3.3. **Department Head** means an employee designated as a supervisor or superintendent of a department.
- 3.4. **Employee** means any individual earning wages paid by the City, whether elected or not; and, for purposes of this document, any non-compensated individual performing personal services for the City or one of its administrative boards.
- 3.5. **Purchasing Clerk** refers to the employee working under the direction of the Finance Director whose duties shall include all aspects of the procurement process.
- 3.6. **Purchase Order** is a City form authorizing the procurement of goods or services from a particular vendor.
- 3.7. **Purchase Requisition** is a City form providing a description of goods or services required for City operations and requesting purchase of such items.
- 3.8. **Receiving Agent** means an employee designated by Department Director to verify receipt of goods or services.
- 3.9. **Request for Bid** is a City document containing or referring to a purchase description, specifications, services, and all contractual terms and conditions applicable to a formal sealed bid purchase.
- 3.10. **Request for Proposal** refers to a document containing or referring to a purchase description, specifications, services, and all contractual terms and conditions applicable to a formal sealed bid purchase with the possibility of negotiation after the bids are opened. This method is used only when the Request for Bid is either not practical or not advantageous for the City.
- 3.11. **Requisitioning or Contracting Department** means the department requesting goods or services for the operations of that department.
- 3.12. **Bid Summary** refers to a City form used to record bids received.
- 3.13. **Vendor** means any person who does business with the City, other than as an employee, whether by purchasing, selling, constructing, providing services, or otherwise.
- 3.14. **Vendor Verification Form** is a City form used to record and to verify vendor information.
- 3.15. **Vendor Performance Form** is a City form used by employees who are involved in the procurement process to report their experiences with vendors.

### 4. Applicable Laws

- 4.1. City Ordinances – Chapter 2, Article IV, Sec. 2-150 states that the City Administrator shall be the purchasing agent for the City of Nixa and all purchases shall be made under his direction and supervision, and all such purchases shall be made in accordance with purchasing rules and procedures

approved by the City Council. Section 5.2 (i) of the City Home Rule Charter provides for the approval of contracts by the City Administrator. (4/21/14)

- 4.2. Missouri Contracting Statute – State statutes impose various requirements on the City in contracting. While a complete or comprehensive outline is not feasible, RSMo. Section 432.070 should be noted. It provides, in essence, that any contract made by the City will be valid and effective only if the contract is executed before any performance or payment; within the scope of the City’s powers or expressly authorized by law; supported by present or future consideration; in writing; dated when made; and subscribed by the parties or their agents.
- 4.3. General Law – Unless displaced by the particular provision of this policy, the principles of law and equity, including the Missouri Uniform Commercial Code, the law merchant, and law relative to capacity to contract, agency, fraud, misrepresentation, duress, coercion, mistake, or bankruptcy shall supplement the provisions of this policy.

## 5. **Duties of Purchasing Clerk**

- 5.1. The Purchasing Clerk shall be responsible for the collecting of information required for the writing of bid documents and specifications for the purchase of items as provided in this policy or as established by the City Administrator or his designee, and shall maintain such documents on file for a minimum length of time as required by state statutes. Purchasing Clerk may rely on expertise and assistance from requisitioning departments in writing specifications of a technical nature.
- 5.2. The Purchasing Clerk shall determine and establish contracts for the procurement of goods and services used regularly and on a volume basis whether by individual department, or City wide.
- 5.3. The Purchasing Clerk shall be responsible for the verification of purchasing documents and for notification of bid awards.
- 5.4. The Purchasing Clerk shall retain records of purchase orders, vendor performance forms, and other documents pertaining to the purchase process.
- 5.5. The Purchasing Clerk shall establish a relationship of mutual confidence between the City and its suppliers. Such relationship shall be based on fair and equal opportunity to compete for City business within a system with the highest standards of integrity. To accomplish this goal, each Department Head shall provide documentation to Purchasing Clerk of all transactions conducted between the City and its suppliers.

## 6. **Regulations Governing Competitive Bidding**

- 6.1. **Competitive Bids** – Any contract pursuant to this policy shall be made only after ample competition. This policy establishes the following dollar levels and method of competitive procurement.
  - A. Purchases not exceeding \$2,000.00 may be made without competitive bidding.

- B. All purchases exceeding \$2,000.00 shall be made only after competitive bidding as described elsewhere herein.
- C. Subdivision of contracts or purchases for the purpose of evading requirements of competitive bidding is prohibited.
- D. The City reserves the right to refuse any or all bids.

6.2. **Informal bids** – refers to competitive bids by telephone, facsimile, or other electronic means. Purchases made for more than \$2,000 and no more than \$20,000.00 may be made after taking bids from at least three (3) potential vendors able to provide the item(s) being purchased, or fewer number of potential vendors if there are not three (3) dealing in and able to supply in accordance with the required specifications. Written explanation shall be provided when there are fewer than three (3) potential vendors. Written confirmation of bids received from all vendors shall be attached to the purchasing documents.

Informal bids for items not exceeding \$5,000.00 may be obtained by the requisitioning department. Bid documentation, Bid Summary and the Purchase Requisition shall be forwarded to the Purchasing Clerk for approval of the purchase documents and completion of the Purchase Order. (4/21/14)

Purchase Requisition for items over \$5,000.00 shall be submitted to the Purchasing Clerk for advertisement and solicitation of bids, as required. (4/21/14)

6.3. **Formal Bids** –Purchases of goods or services or other items exceeding \$20,000.00 shall be made only after the formal advertising that bids will be received, opened, and read in public at a particular time, place, and a date which provides potential vendors adequate time to submit bids. Such bids shall be made on the bid documents and specifications prepared by the City Purchasing Clerk and shall be received in sealed container and not opened until the time established by the formal notice that bids will be received.

6.4. **Bidding Methods** – Informal or formal bids ~~exceeding \$2,000.00~~ may be made utilizing either of two methods:

6.4.1. **Request for Bid** – The bid documents and specifications are definite and specific. Awards shall be made to the bidder offering the lowest cost who is responsive to the requirements of the bid documents, without material exception, and who is responsible and capable of providing the item(s) to be purchased.

Evaluation and award are limited to cost, determination of compliance with the specifications and conditions specified in the bid documents, and the responsibility of the bidder. Negotiations are not permitted.

The Purchasing Clerk and requisitioning department may use judgmental consideration to determine if the bidder's offer complies with the specifications and conditions – if such considerations can be demonstrated to be reasonable, appropriate, and fairly applied. This method does not permit comparison of the relative specifications of competing bidders but only comparison to the specifications contained in the bid documents.

**6.4.2. Request for Proposal** – This method can be used whenever detailed specifications cannot be determined, whenever several possible methods may satisfy the City's requirements, or whenever the nature of the requirements is such that subjective evaluation of criteria, other than cost, is necessary. This method can be utilized when definite specifications cannot be determined in advance, when a scope of work is required which makes comparison of competing proposals relative to each other appropriate, or when it is in the interest of the City to have a contractor design and build the public improvement. This method permits negotiations and discussion with competing vendors to determine the best solution to the City's needs. Proposals may be revised or modified at the request of the City. Nothing contained herein shall prohibit a contractor who is selected to design and build a public improvement from contracting independently with an engineer or architect to perform engineering or architectural services.

Subjective criteria may be used in the evaluation of competing proposals. The relative value of evaluation criteria shall be established in the Request for Proposal documents published by the City. Negotiations and discussions with competing vendors will only be allowed after proposals are opened; therefore, no information taken from proposals received shall be disclosed to any competing vendor.

**6.5. Non-Responsive or Unacceptable Bids** – The City shall reject any bid or proposal which is materially non-responsive to the requirements set forth in the bid documents. The City Purchasing Clerk may re-solicit bids or proposals if, in her discretion, bids received as a result of a solicitation for bids or proposals are not acceptable for any reason. Such a re-solicitation shall not be for the purpose of directing the award to a particular bidder.

**6.6. Requirement for Bid Security** – Bid security shall be required for all competitive sealed bidding for all construction contracts and for other items as determined by the City. Bid security shall be a bond provided by a surety company authorized to do business in this state, or the equivalent in cash, or otherwise supplied in a form satisfactory to the City in an amount equal to at least 5% of the amount of the bid. Failure to provide security will result in the bid being rejected. If the bidder fails to honor his bid for any reason, then such bid security may be retained by the City and deposited to the General Fund.

- 6.7. **Withdrawal of Bids** – Bids or proposals may be revised, modified, or withdrawn by the bidder at any time prior to opening. Any such revision, modification, or withdrawal shall be in writing. After the bids are opened, they shall be irrevocable for the period specified in the bid documents. Bids or proposals may not be withdrawn or revised after opening except as permitted under 6.4.2.
- 6.8. **Receipt of Bids** – Bids or proposals shall not be received after the time set in the bid documents for receipt of proposals for opening of bids.
- 6.9. **Contract Performance and Payment Bonds** – When a construction contract is awarded, for an amount exceeding \$20,000.00, a bond shall be delivered to the City and shall become binding on the parties upon the execution of the contract; which bond shall be a performance, labor, and materials bond satisfactory to the City, executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the City, in an amount equal to 100% of the price specified in the contract. If the amount of the contract is less than \$20,000.00, such bond may be required at the recommendation of the contracting department.
- 6.10 **Certification of Appropriated Funds** – The Director of Finance is to certify that funds are appropriated and unencumbered for the expenditure of funds contemplated by any contract entered into by the City, and that such certification to be in writing on the actual contract form before such contract is valid and binding.
- A. Upon receipt of a requisition or otherwise written request to make a contract for goods and services, the Director of Finance shall certify in writing on such written request that funds are appropriated and unencumbered sufficient to pay for entire amount of funds obligated under any contract which may result from the request.
  - B. All contracts shall have certification thereon by the Director of Finance that funds are appropriated and unencumbered in sufficient amounts to discharge any obligation under the contract.
  - C. Any contract amendment, addendum, or change order which increases the amount of any contract shall be certified thereon by the Director of Finance that there are sufficient funds appropriated and unencumbered to pay for any such increase.
- 6.11 **Approval of Contract as to Form** – The City Attorney shall approve all contracts as to form. No contract shall be valid unless and until approved as to form thereon by the City Attorney. The City Attorney may establish in his discretion procedures by which contracts may be pre-approved as to form.
- 6.12. **Correction or Withdrawal of Bids** – Correction or withdrawal of erroneous bids after opening, or cancellation of awards or contracts based on such bid mistakes, shall not be permitted.

- 6.13. **When Competitive Bidding is not required** – In the following cases, competitive bidding shall not be required. Nevertheless, a contract or purchase order will be required notwithstanding any other provisions of this policy.
- A. Purchases made cooperatively with other units of government.
  - B. Services of individuals possessing a high degree of professional skill.
  - C. Contracts for printing or engraving of bonds or other evidences of indebtedness.
  - D. Magazines, books, or periodicals.
  - E. Items or services for data processing when the item or service is designed to be used in connection with an existing data processing system; and it has been determined that it is reasonable to require all such items or services to be used with the existing data processing system in an effort to be compatible so that responsibility for the operation and maintenance of the system may be determined.
  - F. Recurring payments such as utilities, postage, telephone, travel, mileage, principal and interest on debt, rents, FICA, LAGERS contributions, judgments and claims.
  - G. Sole source items as determined by the Purchasing Clerk and/or Requisitioning Department. See item 7 of this section.
  - H. Items procured utilizing funds donated or granted to the City if the terms of the grant or donation agreement require the City to procure a specific item from a specific source.
  - I. Items provided for Emergency Purchases in Section 3.
  - J. Items not requiring competitive bidding as specified in other policies.

7. **Sole Source Items** – Advertisement and competitive bidding may be waived on items greater than \$2,000.00, but less than \$20,000.00 when a single feasible source exists as follows:

- (1) Supplies are proprietary and only available from the manufacturer or a single distributor; or
- (2) Based on past procurement experience, it is determined that only one distributor services the Nixa region.

If purchase is greater than \$20,000.00, the Purchasing Clerk shall advertise for a minimum of five days the intention of the City to purchase a sole source item. Advertisement shall include a description of the purchase and the name, address, and state of the sole source vendor.

(4/21/14)

8. **Approval of Contracts**

8.12. Contracts for items which were approved by the City Council and that are equal to or less than the amount approved by the annual budget ordinance shall be reviewed by the City Administrator and the requisitioning Department Head or Department Director.

8.13. Contracts for items which were not approved in the annual budget ordinance or items which exceed the budgeted amount shall be approved by a budget amendment by the City Council.

8.14. Except as otherwise provided by the City Council, the City Administrator shall sign on behalf of the City all capital project contracts and professional services agreements, and all contracts and agreements related to the administration and management of government business.

8.15. The City Attorney shall review all contracts as to form and legality.

9. **Miscellaneous Purchasing Policies**

9.12. **Vendor Verification** – A Vendor Verification Form and W-9 Form shall be required from all vendors prior to purchase from the vendor and submitted to the Finance Department. Approval of vendor shall be made by a Finance Department employee who does not participate in the purchasing process or the accounts payable process. Also, prohibited from participation in the purchasing process shall be any employee identified as a family member of the vendor. Vendor Verification forms shall be retained by the Finance Department. Prior to payment, the Accounts Payable Clerk shall verify that both a Vendor Verification form and W-9 form have been submitted and approved.

9.13. **Vendor Performance** – A Vendor Performance Form is available to any employee involved in the purchasing process to report their experience with vendors during the procurement of goods or services. This documentation may be used in the evaluation of vendors for future purchases.

9.14. **Local Procurement** – The City shall, whenever possible and practical, solicit bids from potential vendors within the Nixa area. After consideration of the effects of time of delivery, maintenance, and repair services and other pertinent costs, it is determined that a bid received from a firm located in the Nixa area is substantially equal to or better than other bids received, award shall be made to the local firm.

9.15. **Tie Bids** – In the event two or more bids are equal in all evaluation criteria, such bids shall be awarded first to the bidder within Nixa city limits, next to bidders within Christian County, next to bidders located in the adjacent counties, then next to other Missouri bidders. If a tie bid situation still exists after the application of these criteria, then the bid shall be awarded by the drawing of lots or a flip of a coin. If it is deemed to be in the best interest of the City, the City may elect to divide the contract award between two or more vendors, unless the terms, conditions, and specifications of the Request for Bid state to the contrary.

9.16. **Unsolicited Sales** – The City prohibits purchase of goods or services from unsolicited sales calls.

10. **Professional Consulting and Project Services** – See City of Nixa’s Selection of Professional Consulting and Project Services Policy.

## SECTION 2 PURCHASING PROCEDURES

1. **Items less than \$500.00 (4/21/14)** – Requisition forms and purchase orders are not required for the procurement of items less than \$500.00. Approval of purchase shall be signified by the signature of the Department Head, Department Director, or their appointed representative.
  
2. **Routine Items** – Routine Items include recurring payments, customer refunds, and employment related costs. In most cases, such payments do not require requisition forms, purchase orders, or receiving documentation. However, verification of charges, appropriate receipting documentation, and approval by Department Head, Department Director, or their appointed representative shall be required. Routine Items include, but may not be limited to the following:
  - A. Advertising
  - B. Annual Operating Services where vendor has been selected through Annual Bid Process. (4/21/14)
  - C. Background Check Fees
  - D. Bond Payments and Fees
  - E. Cable TV Charges
  - F. Customer Refunds (for fees or deposits)
  - G. Employee Garnishments
  - H. Employee Group Insurance Payments
  - I. Employee Meetings and Trainings
  - J. Employee Reimbursements
  - K. Employee Retirement Benefits
  - L. Membership Dues
  - M. Postage and Meter Charges
  - N. Pre-employment Drug Screening and Random Drug Testing
  - O. Professional Services
  - P. Sales Tax remittances
  - Q. Subscriptions
  - R. Telephone Charges
  - S. Travel Related Expenses
  - T. Utility Bills
  
3. **Requisition Form** – This form is designed to assist departments in the initiation of the purchasing process.
  - 3.1. The requesting department prepares the form in order to request items to be purchased by the Purchasing Clerk of the Finance Department.
  - 3.2. When solicitation of bids are to be initiated by the Purchasing Clerk, the requisition should be initiated not less than 30 days prior to the date items are needed in order to allow adequate time for review and solicitation of bids by the Purchasing Clerk. The rate of consumption of the items requisitioned should be carefully reviewed in determining the quantity to be requested. This section does not preclude the requisitioning of items a lesser number of days in advance when

- the need for these could not have been foreseen; however, an explanation must accompany each request presented under this circumstance.
- 3.3. Whenever solicitation of bids under \$5,000.00 (4/21/14) are initiated by the department, this form shall be completed and all bid information attached and forwarded to the Purchasing Clerk for approval of requisition documents and processing of purchase order.
  - 3.4. After completion of the requisition by the department, the original is submitted to the Finance Department and a copy is retained in the departmental files. The Finance Department reviews the requisition to determine there are monies budgeted to cover the requested purchase, that there is sufficient cash available for payment, and that proper account numbers are identified. Requisitions not meeting these requirements will be returned to the department with the reasons indicated thereon.
  - 3.5. Acceptable requisitions will be approved by the Director of Finance and/or the Purchasing Clerk.
4. **Bid Summary** – The Bid Summary shall be for all bids. If the bids are taken by the department, this form, along with written confirmation from vendors, must be attached to the Requisition Form and forwarded to the Purchasing Clerk. The Bid Summary documents that purchasing requirements are being met and that bids have been solicited properly. The Purchasing Clerk will produce the Purchase Order from the lowest bid received, unless the requesting department specifically requests acceptance of another bid and an explanation is provided. Explanation must be in accordance to the Purchasing Policy.
  5. **Purchase Order** – A Purchase Order is required for the procurement of items greater than \$500.00. The signed Purchase Order authorizes the vendor to ship, deliver, or release to a City employee the items specified thereon. Purchase Orders should be clear and concise in order to avoid misunderstandings or confusion. All purchase orders are to be system generated prior to purchase. Vendor shall note the purchase order number on any delivery or billing documents. (4/21/14)
    - 5.1. Items \$2,000 or less – Department Heads are authorized to sign Purchase Orders for \$2,000.00 or less. Bids are not required for such purchases. (4/21/14)
    - 5.2. Items greater than \$2,000.00 – The Purchase Order will be prepared by the Purchasing Clerk.
      - A. Items amounting to \$2,000.01 to \$10,000.00 shall be signed by the Department Director.
      - B. Items greater than \$10,000.00 shall be signed by the City Administrator.
    - 5.3. Upon receipt of goods, partial orders shall be noted in the Purchasing System. (4/21/14)
  6. **Invoices** – An invoice is the vendor’s statement of its charges against the City for items provided. Invoices are normally based on information from Purchase Orders and must contain substantially the same information. Invoices should be mailed to the Finance Department. In some cases, however, the invoice may be delivered with the items at the receiving point. In such cases, the using department must attach the

invoice to the signed receiving report along with any applicable documentation and forward to the Purchasing Clerk. If invoice serves as the receiving document, authorized employees shall verify receipt of goods or services on the invoice. (See Section 4 for details on receiving of goods and services.) Payment of invoices will be managed by the Accounts Payable Clerk.

## **7. Accounts Payable Clerk Duties**

- 7.1. Accounts Payable Clerk will be responsible for verifying vendor has been approved prior to processing payment.
- 7.2. Payment of goods or services shall be processed by the Accounts Payable Clerk. Payments shall be made in a timely manner with consideration given to discounts made available by vendors.
- 7.3. Accounts Payable Clerk is responsible for research and follow-up of all unpaid invoices, credits, and verification of documents submitted for payment.
- 7.4. All accounts payable checks require two signatures. Authorized signatures include: Mayor, Mayor Pro Tempore, City Clerk, and Finance Director. Documentation for payments shall be made available to check signers.
- 7.5. Check stubs, invoice documentation, and listing of invoices selected for payment will be retained by the Accounts Payable Clerk.

## **8. Approval of Payment**

- 8.1. Approval of payment is signified by the signature of a Department Head or Department Director on the invoice or purchase order.
- 8.2. Documents providing approval of payment must identify vendor, quantities, description of items, and pricing of items.
- 8.3. Items under \$2,000.00 may be approved by Department Head or Department Director.
- 8.4. Items over \$2,000.00 and less than \$10,000.00 require the approval of the Department Director.
- 8.5. City Administrator's approval is required for items over \$10,000.00. Limit for City Administrator's approval is \$20,000.00, provided item has not been approved in the annual budget ordinance.
- 8.6. Purchase of any item over \$20,000.00 which has not been approved in the annual budget ordinance must receive approval in the form of a budget amendment by the City Council. Exception may be allowed if purchase constitutes an emergency in accordance with provisions outlined in Section 3 – Emergency Purchases 1.4.

## SECTION 3 EXCEPTIONS TO NORMAL PURCHASING PROCEDURES

1. **Emergency Purchases** – Notwithstanding any other provisions of this Policy, the City Administrator may make or authorize others to make emergency purchases when a threat exists to public health, welfare, or safety under emergency conditions. Purchases shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular vendor shall be included with the request for payment.

- 1.1. Procedures – The Director of Finance and City Administrator shall establish procedures to insure such purchases are made consistent with the nature and degree of the emergency condition; are made with such competition as is possible; that funds are or can be made available for the emergency purchase; fiscal accountability is maintained; and such purchase is a valid emergency.
- 1.2. Emergency Purchases Under \$20,000 – Upon the declaration that an emergency situation exists, the City Administrator may suspend the rules for competitive bidding and permit the user department or others to make such purchases as may be necessary because of the emergency. Verbal requests for emergency purchase may be made provided that a written purchase requisition is submitted in the manner which is established for normal purchasing within twenty-four hours or the next business day. The requisition shall clearly and prominently indicate the authorized emergency and must contain a description of the emergency circumstances. The Director of Finance may verbally certify the funds available to the Purchasing Clerk or requesting department; and, the Director of Finance may require that such certification be made prior to the purchase. The Director of Finance may require the department director or department head of the requesting department to concur and approve such emergency purchases.
- 1.3. Emergency Purchases Necessary Outside of Normal Business Hours – The Director of a department may approve emergency purchases, in his discretion, outside normal business hours whenever an emergency situation exists and the City Purchasing Clerk cannot be contacted. The Director of the department which makes such an emergency purchase shall notify the City Administrator and the Purchasing Clerk at the first opportunity and before the close of the next business day. The Purchasing Clerk may then issue a confirming purchase order to the emergency purchase supplier.
- 1.4. Emergency Purchases Over \$20,000 – All emergency purchases over \$20,000.00 must be approved by the City Administrator in writing.

### 2. **Price Agreement Purchases**

- 2.1. The Purchasing Clerk is authorized to and shall consolidate requirements for items which are continually needed by the various departments for the purpose of procurement of such items as needed and if needed during a term of up to one year and may extend such term as is appropriate in her discretion. Revisions to

- specifications for the purpose of avoiding purchases under the price agreement are not permitted.
- 2.2. All departments shall plan their needs for such items and provide the Purchasing Clerk with sufficient scheduling information, specifications, and other information as may be required to prepare bid documents and enter into the agreements. Requisitions for items under a price agreement shall reference the applicable agreement.
  - 2.3. All purchases for such items shall be made from the selected supplier unless that supplier is unable to deliver as needed by the City or as promised in its bid. If the agreement has been terminated for failure of the Supplier to perform the provisions of the agreement, the Purchasing Clerk shall seek bids from other qualified suppliers. Until such time an agreement is entered into with a new supplier, the Purchasing Clerk may purchase from whichever source is in the City's best interests.
3. **Petty Cash Purchases** – The Director of Finance is authorized to create petty cash funds where they are needed within City government. The size of all petty cash funds will be controlled by the Director of Finance. Routine purchases of items less than Fifty Dollars (\$50.00) (4/21/14) may be made from petty cash without contacting the Purchasing Clerk. The following regulations will apply to all petty cash funds:
- 3.1. Reimbursement is to be made only to personnel authorized by the department head. It shall be the responsibility of the using department to properly code or classify the item or expenditure.
  - 3.2. Reimbursement is not to be made until an invoice marked “paid”, a valid receipt, or certificate of expenditure is received by the fund custodian.
  - 3.3. No reimbursement is to be made for items over Fifty Dollars (\$50.00) (4/21/14) other than postage and freight charges without prior approval by the Director of Finance, or for separate items which total over \$50.00 where it appears that the purchasing regulations are being circumvented.
  - 3.4. Custodians of petty cash funds shall submit reimbursement documents to the Finance Department at least once a month. Finance Department will replenish petty cash upon receipt of reimbursement documents.
  - 3.5. All petty cash funds will be subject to audit at unannounced times by the Finance Department.
  - 3.6. Petty cash funds are not to be used to cash personal or payroll checks.
  - 3.7. Employees are encouraged to submit check requests for reimbursement whenever practical. (4/21/14)
  - 3.8. Additional rules and regulations regarding petty cash funds may be established by the Finance Director as deemed necessary.
4. **Disposal of Obsolete, Scrap, or Surplus Property** – Whenever a department of the City has items which have become obsolete, scrap, or surplus to their needs, these items may be disposed. After verification that no other City departments have use for these items, the items shall be disposed of in coordination with the Purchasing Clerk in any one or more of the following ways:

- 4.1. Publicly advertised auction sales.
  - 4.2. Solicitation of bids for such property. Usual practices of competitive bidding will be followed.
  - 4.3. Property that has no monetary value may be destroyed or donated to a not-for-profit organization. If more than one organization desires the property, the Purchasing Clerk shall draw lots for the purpose of making the selection.
  - 4.4. Department may trade-in obsolete or surplus items for credit against the purchase price of replacement items. If a department elects trade-in to dispose of an item, the Purchasing Clerk shall determine the actual methods to obtain the best value or credit for such items.
  - 4.5. Obsolete or surplus items with salvage value over ten-thousand dollars (\$10,000.00) shall be disposed of after approval of the City Administrator.
  - 4.6. Sale of scrap metal at Public Works Facility may be sold as approved by Public Works Director.
  - 4.7. Proceeds will be deposited as departmental revenue. (4/21/14)
5. **Disposal of Obsolete, Scrap, or Surplus Property Used for Public Safety Purposes** – Whenever the Police Department has items relating specifically to public safety functions which have become obsolete, scrap, or surplus to the needs of the department, these items may be donated to a bona fide public safety agency within the State of Missouri.
- 5.1. This section shall not apply to vehicles of any kind.
  - 5.2. Any public safety organization to which items are donated shall agree in writing to waive any liability of the City of Nixa, Missouri, and shall further agree not to sell or use as trade-in against the purchase of other items.
  - 5.3. If, after notification of available items for donation under this section, more than one qualified organization requests items, then the selection of the organization shall be made by the drawing of lots. Lots shall be drawn first for Christian County organizations, next for the counties bordering Christian County, and last, other Missouri counties.
  - 5.4. Records shall be maintained by the Finance Department of all donations made under this section.
6. **Disposal of Unclaimed Property Held by the Police Department** – Procedures and policies found in City of Nixa Ordinances, Chapter 2, Article I, Sec. 2-2 (4/21/14) deal with the disposal of unclaimed property held by the Police Department.
7. **Miscellaneous Exceptions:** Due to the nature of some purchases, separate guidelines may be required. Any such purchases shall be evaluated by the Department Director for the development of appropriate procedures. Such procedures and policies shall also be committed to fair and equal opportunity with integrity and openness. These policies shall be presented to the City Administrator for review. Approval of such policies shall be made by the City Council, as deemed necessary by the City Administrator.

## SECTION 4 RECEIPTING OF GOODS AND SERVICES

This section defines the manner in which goods and services are received by the City to assure that the quantity, quality, and price of the goods and services received are accurate, and that payment is made only for goods and services actually received by the City. This section further emphasizes the responsibility that is placed on employees in the receipting of goods and services for the City.

### **1. Merchandise Delivered to City Facilities**

- 1.1. Employees may sign for packaged products when carrier provides shipping document noting number of packages and provided packages do not exhibit any signs of damages or shortages.
- 1.2. Vendors are to provide packing documents with complete description and quantities noted.
- 1.3. Responsibilities of employees receiving merchandise include:
  - A. Inspection of shipment for completeness and condition.
  - B. Comparison of products to shipping documents and purchase orders.
  - C. Notification to purchasing clerk and accounts payable clerk of shortages, overages, damages, incorrect, or defective merchandise.
  - D. Providing verification of receipt of goods by signature on shipping documents and forwarding of such documentation to Finance Department.
  - E. All merchandise purchased with a purchase order shall be received into the Purchasing System. (4/21/14)
- 1.4. Merchandise under \$200.00 may be verified by the signature of one employee.
- 1.5. Merchandise over \$200.00 requires verification of goods by a City Receiving Agent.
- 1.6. Designated Receiving Agent shall not be allowed to verify receipt of goods if he or she has participated in the procurement process.

### **2. Services Rendered at City Locations**

- 2.1. Service vendors shall provide a description of services upon performance at a City location.
- 2.2. Services rendered at City locations shall require the signature of one employee and the approval of the Department Head.

### **3. Merchandise Obtained at Vendor's Location**

- 3.1. Merchandise picked up at a vendor's location must not total more than \$500.00 (4/21/14) without written approval by the Department Director.
- 3.2. Merchandise picked up by employee(s) requires the verification of goods by the signatures of two employees on documentation containing quantity and description of goods.

3.3. Employees are to forward documentation to Finance Department for processing of payment.

4. **Receipting of Fuel**

4.1. Fuel purchases are to be made using the purchasing card issued for the applicable vehicle. (4/21/14) Verification of fuel purchases requires only the signature of the employee making purchase.

4.2. Fuel purchases shall be noted on employee's monthly vehicle log.

5. **Return of Merchandise (4/21/14)**

5.1. Vendor shall issue credit to City for all returned merchandise. If there are no outstanding invoices, vendor shall issue check to City to clear credit.

5.2. Employees are prohibited from accepting cash from a vendor for returns.

## **SECTION 5 LEGAL AND CONTRACTUAL REMEDIES**

1. **Right of Protest** – Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation of bids or the award may protest to the City Clerk. The protest shall be presented in writing stating the basis upon which the solicitation or award is contested, and protest must be presented within thirty (30) days after the aggrieved party became aware of the solicitation or award. City Clerk shall forward protest document to City Administrator for review. Before proceeding in any court action, a person must pursue the administrative remedies set forth below.
2. **Resolution of Protest** – Whenever the City Administrator so requests, a City Purchasing Committee shall meet and resolve contested solicitation or awards. The committee shall be comprised of the City Administrator, the Director of Finance, and the City Attorney. The City Purchasing Committee shall have no authority to overturn bid awards, but may advise the City Purchasing Clerk, or the Director of the contracting department of changes or guidelines to follow in the future.
3. **Authority to Suspend or Debar** – The Purchasing Committee shall have authority to suspend or debar a person from consideration for bid awards. The length of the debarment shall be made at the discretion of the Purchasing Committee.
4. **Suspension and Debarment Procedures**
  - 4.1. Notice of suspension or debarment shall be given by certified mail at least seven (7) days prior to the effective date of the suspension or debarment.
  - 4.2. The person to be suspended or debarred has a right to a hearing, if requested within fourteen (14) days after mailing of notice. Hearing shall be requested in writing to the City Administrator.
  - 4.3. The hearing shall be held promptly thereafter before the Hearing Officer. A Hearing Officer shall be appointed by the City Administrator for this purpose. The Hearing Officer shall have all powers necessary to conduct the hearing.
  - 4.4. The City Attorney, on behalf of the City, or any party to the proceeding may request that the Hearing Officer issue subpoenas for witnesses or subpoenas duces tecum. The Hearing Officer shall cause a record of the case to be kept and copies shall be made available to any interested person upon the payment of a fee. The hearing need not be conducted according to the rules of evidence. Any relevant matter may be admitted and considered by the Hearing Officer if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs. Objections to evidence shall be noted and the Hearing Officer may rule on such objections.
  - 4.5. The decision of the Hearing Officer shall be in writing and shall be subject to appeal under Chapter 536, Revised Statutes of Missouri. All decisions of the Hearing Officer shall be final decisions thirty (30) days after the mailing or personal service of the decision.

- 4.6. Suspension or debarment will not be stayed due to any pending hearing or appeal.
5. **Causes for Suspension or Debarment** – The causes for suspension or debarment include the following:
  - 5.1. Conviction within the last ten (10) years for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
  - 5.2. Conviction within the last ten (10) years under State or Federal statutes for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a contractor.
  - 5.3. Conviction within the last ten (10) years under State or Federal statutes arising out of the submission of bids or proposals;
  - 5.4. Violation within the last two (2) years of contract provisions, as set forth below, of a character which is regarded to be so serious as to justify debarment action.
    - 5.4.1. Deliberate failure without cause to perform in accordance with the specifications or within the time limit provided in the contract; or
    - 5.4.2. A record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
  - 5.5. Violation of general ethical standards in relation to gratuities or kickbacks involving City contracts.
  - 5.6. Any other cause determined to be sufficiently serious and compelling as to affect responsibility as a contractor.
6. **Solicitations or Awards in Violation of Law** – When solicitation or award is determined to be in violation of the law, the following provisions shall apply:
  - 6.1. **Remedies Prior to Award** – If, prior to award, it is determined that a solicitation or proposed award of a contract is in violation of law, then the solicitation or proposed award shall either be cancelled or revised to comply with the law.
  - 6.2. **Remedies After Award** – If, after an award, it is determined that a solicitation or award of a contract is in violation of law, then:
    - 6.2.1. If the person awarded the contract has not acted fraudulently or in bad faith, at the option of the City,
      - A. The contract may be ratified and affirmed, provided it is determined that doing so is in the best interests of the City; or
      - B. The contract may be terminated and the person awarded the contract shall be compensated for the actual expenses reasonably incurred under the contract prior to the termination;
    - 6.2.2. If the person awarded the contract has acted fraudulently or in bad faith, at the option of the City,

- A. The contract may be declared null and void; or
- B. The contract may be ratified and affirmed if such action is in the best interests of the City, without prejudice to the City's rights to such damages as may be appropriate.

**7. Ethics and Conflict of Interest**

- 7.1. **For Employees** – See City of Nixa Conflict of Interest Policy.
- 7.2. **For Non-Employees** – Any effort to influence any public employee to breach the standards of ethical conduct set forth by the City of Nixa is also a breach of ethical standards.

**8. Gratuities and Kickbacks**

- 8.1. **Gratuities** – It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or for any employee to solicit, demand, accept, or agree to accept from another person, a gratuity or any offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a contract requirement, specification, or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any requirement, contract, subcontract, or any solicitation of proposal therefore.

An employee may not accept gifts, monetary or otherwise, from suppliers, vendors, contractors, or elected officials for performing his/her work duties.

- 8.2. **Kickbacks** – It shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a contractor or subcontractor under a contract to the City, prime contractor, or higher tier subcontractor, or any person associated therewith, as an inducement for the award of a subcontract or order.

- 9. **Confidential Information** – It shall be a breach of ethical standards for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.
- 10. **Criminal Sanctions** – To the extent that violations of the ethical standards of conduct set forth by this policy constitute violations of the state criminal statutes or the City of Nixa Ordinances, they shall be punishable as provided therein. Such sanctions shall be in addition to the remedies provided in this policy.

## 11. Remedies

- 11.1. **Against Employees** – Any employee who violates the provisions of this policy may be reprimanded, suspended, or terminated.
- 11.2. **Against Non-Employees** – Any non-employee who violates the provisions of the policy may be warned, reprimanded, suspended, or debarred in accordance with the provisions in the policy.
- 11.3. **Department Heads and Department Directors** – All supervisory personnel will be held to the same requirements and standards with regard to compliance with the provisions of the purchasing procedures as are other employees. When a department head or director becomes aware of violations of the purchasing procedures, they shall immediately take appropriate action as authorized by this section to remedy the violation. Notification of the violation shall be forwarded to the City Administrator, Finance Director, and/or the Mayor. (4/21/14)