

Title 6 Purchasing and Contracts

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Chapter 6.04 General Provisions

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6.04.010 Definitions. A. "Contractor" means that person who contracts with the City to perform construction projects, for sale or purchase of personal property, or to perform personal services.

B. "Department head" means the chief administrative officer of a city department.

C. "Officer" or "purchasing/contracting officer" means the City Manager or his/her designee. (Ord.89-10)

D. "Project engineer" means that engineer designated by the City Manager or Council for purposes of administering and coordinating any construction project.

E. "Proprietary item" or "proprietary service" means those items or personal property or those services of any nature that can be supplied by only one contractor because of the singular characteristics of the item or service.

F. "Using agency" or "agency" or department" means any department, division, utility or agency of the City concerned with a construction project, or the procurement or sale of personal property, or acquiring personal services from any

contractor. (Ord. 78-2(part), 1978; Ord. 89-10 Sec. 1, 1989)

6.04.020 Policy statement. A. It is the declared policy of the City to discourage collusive bidding by contractors and to encourage full and open competition whenever practical between all city contractors by competitive bidding practices.

B. It is unlawful for any city officer, employee or agent to contract contrary to the provisions for this title. (Ord. 78-2(part), 1978, Ord 89-10 Sec. 1, 1989)

6.04.030 Purchasing division and Purchasing Officer established. There is established in the finance department the division of purchasing. The Purchasing Officer shall have general supervision of the division of purchasing, subject to general supervision of the Chief Fiscal Officer. (Ord. 78-2(part), 1978)

6.04.040 Purchasing Officer--Scope of authority. The Purchasing Officer shall have the power, and it shall be his duty to purchase or contract for construction, supplies and contractual services needed by the City, and to sell surplus personal property in accordance with purchasing procedures as prescribed by this title. (Ord. 78-2(part), 1978)

6.04.050 Purchasing Officer--Other powers and duties. In addition to any other powers and duties the officer shall:

B. Minimum Expenditure. Act to procure for the City the highest quality in construction, supplies and contractual services at least expense to the City;

C. Purchasing Analysis. Keep informed of current development in the field of purchasing, prices, market conditions and new products, and secure for the City the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition, and by private businesses and organizations. (Ord. 78-2(part), 1978)

Chapter 6.08 Purchase, Sale and Contract Administration

Sections:

- 6.08.010 Formal purchasing and sale procedure.
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- 6.08.040 Pre-bid conference.
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- 6.08.060 Bids--Opening procedure.

- 6.08.070 Bid bonds or deposits.
- 6.08.080 Award of contract by competitive bidding procedure.
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- 6.08.120 Bonds of contractors for public buildings or works.
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- 6.08.140 Change order--Proposal required.
- 6.08.150 Change order--By Council.
- 6.08.160 Change order--In emergency.
- 6.08.170 Emergency contracts.
- 6.08.180 Partial payments--Approval required.

6.08.010 Formal purchasing and sale procedure. A. All construction, supplies and contractual services, except for proprietary items or proprietary services, when the estimated cost thereof shall exceed five thousand dollars, shall be purchased by formal, written purchasing procedures from the most responsible bidder not less than fourteen days after invitation for bids. (Ord. 93-04; Ord. 93-09)

B. Whenever, because of the nature of the construction, supplies or contractual services required by the City, it is impractical to invite bids, the City Manager can issue requests for proposals to at least three competitive bidders, and to negotiate with those who reply. Proposers will also be required to comply with all other requirements of this title. The award, if any is made, will be made by the Council to the most responsive proposal. (Ord. 93-04; Ord. 93-09)

C. All sales of personal property which has become obsolete and unusable shall be sold by formal written contract or by auction to the highest responsive bidder not less than fourteen days after invitation for bids. (Ord. 93-04; Ord. 93-09)

D. Contracts made on behalf of the City, including emergency contracts, contracts for professional services, and waiver of informality with respect to such contracts, require Council approval, except where the estimated value of the contract does not exceed five thousand dollars. All persons submitting a bid pursuant to competitive bidding procedures shall accompany their bid with a corporate surety bond from a surety company authorized to do business in Alaska or a cash deposit, whenever and in an amount deemed necessary by the Council. Any bidder who is not awarded a contract shall have his bid bond exonerated or his cash deposit refunded. (Ord. 80-7 Sec. 2(part), 1980; Ord. 78-2(part), 1978; Ord. 93-04; Ord. 93-09; Ord. 95-01)

6.08.020 Open market procedure. A. All purchases of construction, supplies and contractual services having an estimated value of less than five thousand dollars shall be made in the open market without newspaper advertisement and without observing the procedure prescribed by this title for formal purchasing or sale procedures. (Ord. 93-04; Ord. 93-09)

B. Minimum Number of Bids. All open market purchases or sale shall be based, whenever possible, on at least three competitive bids and shall be awarded to the most responsive bidder in accordance with the standards set forth in this title or to the highest responsive bidder in the case of a sale. (Ord. 93-04; Ord. 93-09)

C. Invitation of Bids. The officer may solicit oral, fax, or written bids for open market purchases. (Ord. 93-04; Ord. 93-09)

D. Public Record. The officer shall keep a record of all open market bids submitted in competition thereon, and such records shall be open to public inspection. (Ord. 93-04; Ord. 93-09)

E. Other unit government bid process. Purchases without giving an opportunity for competitive bidding may be done for the purchase of supplies, materials or equipment which can be procured from a source selected by another unit of government within the state pursuant to competitive bidding procedures to provide the same or similar supplies, materials or equipment if:

1. The award was made by the governmental unit within the past twelve months; and

2. The item(s) can be procured at the same price plus additional freight or delivery charges if applicable. (Ord. 80-7 Sec. 2(part), 1980; Ord. 78-2(part), 1978; Ord. 93-09; Ord. 02-01)

6.08.030 Bids--Notice inviting. A. Newspaper. When the time permits and it's in the best interests of the City, notice inviting formal bids shall be published once in a newspaper of general circulation in the City at least fourteen days preceding the last day set for the receipt of bids. The newspaper notice required herein shall include: a general description of the work, materials or service; shall state where bid forms and specifications may be secured; the closing time and place for opening bids; and the amount of the bid deposits, if required. As an alternate, the City may fax or mail formal bids to three firms known to provide such products or services in lieu of advertising. (Ord. 93-04; Ord. 93-09)

B. "Bidders' List." The City shall also invite bids from all responsible prospective contractors who have requested that their names be added to a "bidders' list," which the City shall maintain, by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed contract. In any case, invitations sent to the contractors on the bidders' list shall be limited to work that is similar in character and ordinarily performed by the contractors to whom the invitations are sent. Failure of any person on the bidders' list to receive such invitation to bid shall not invalidate the bidding procedures. (Ord. 78-2(part), 1978; Ord. 93-04; Ord. 93-09)

6.08.040 Pre-bid conference. The City Manager may provide for a pre-bid

conference. Such conference shall be held at least seven days prior to the time for submission of bids. Clarifying information that may affect the bid will be used whether all bidders are present at the conference or not. (Ord. 78-2(part), 1978; Ord. 93-04; Ord. 93-09)

6.08.050 Changes and addenda in contract documents. No person shall make any oral interpretations that may affect the substance of the contract documents, nor shall any person make any oral change in the contract documents, and the bid documents shall so state. Addenda shall be issued when questions arise which might affect the bids. The City Manager shall be certain that the addenda are delivered by certified mail (return receipt requested), or by hand. When delivered by hand, written receipt of the addenda shall be obtained. When an addendum is issued less than four working days before the time for receipt of bids, the addendum shall contain a new bid date, which shall be at least four working days after the normal receipt for the addendum by the prospective bidder. Receipt of addenda shall be acknowledged as part of the bid submitted. (Ord. 78-2(part), 1978; Ord. 93-04; Ord. 93-09)

6.08.060 Bids--Opening procedure. A. Submitting. Sealed bids shall be submitted in person or by mail to the City Manager, and they shall be identified as bids on the envelope. (Ord. 93-04; Ord. 93-09)

B. Opening. Bids shall be opened in public at the place stated in the public notice immediately after the closing time for submission of bids. Bids not received by the City prior to time set for bid opening shall not be opened and considered. (Ord. 93-04; Ord. 93-09)

C. Tabulation. A tabulation of all bids received shall be forwarded to the City Manager, with appropriate recommendations for acceptance or rejection of bids. A copy of the tabulation shall be furnished to each bidder. (Ord. 78-2(part), 1978; Ord. 93-04; Ord. 93-09)

6.08.070 Bid bonds or deposits. All persons submitting a bid pursuant to competitive bidding procedures shall accompany their bid with a corporate surety bond from a surety company authorized to do business in Alaska or a cash deposit, whenever and in an amount deemed necessary by the Council. Any bidder who is not awarded a contract shall have his bid bond exonerated or his cash deposit refunded. Any bidder awarded a contract shall forfeit his bond or cash deposit if he fails to enter into a contract. The successful bidder will have his bid bond exonerated or his cash deposit refunded. (Ord. 78-2(part), 1978; Ord. 93-04; Ord. 93-09)

6.08.080 Award of contract by competitive bidding procedure. All contracts, except as otherwise provided herein, when the estimated cost hereof shall exceed five thousand dollars shall be awarded by formal written contract or purchase order to the most responsive bidder; provided, however, that the Council shall have the authority to reject all bids. (Ord. 80-7 Sec. 2(part), 1980; Ord. 93-04; Ord. 93-

09)

6.08.090 Bids—Re-advertisement. If the most responsive bid exceeds the budgeted amount, and the Council does not make additional funds available, the proposed contract may be reduced in scope to bring the cost within the limit of the money available. The contract may be re-advertised for bidding, or, with approval of the Council, the City Manager may negotiate with the previous three most responsive bidders for performance of the contract as reduced. (Ord. 78-2(part), 1978; Ord. 93-04; Ord. 93-09)

6.08.100 Bids--Waiver of irregularities. The Council, on bids of ten thousand dollars or less, shall have the authority to waive irregularities on any and all bids, except that the timelines and manual signature requirements shall not be waived. (Ord. 78-2(part), 1978; Ord. 93-04; Ord. 93-09)

6.08.110 Award of contract to lowest bidder--Exception. A. Lowest Responsible Bidder. Construction and service contracts shall be awarded to the most responsible bidder. In determining "most responsible bidder," in addition to price, the following shall be considered:

1. The ability, capacity and skill of the bidder to perform the contract;
2. Whether the bidder can perform the contract within the time specified, without delay or interference;
3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
4. The quality of performance of previous contracts;
5. The previous and existing compliance by the bidder with laws and ordinance relating to the contract.
6. The sufficiency of the financial resources and ability of the bidder to perform the contract;
7. The number and scope of conditions attached to the bid. (Ord. 93-04; Ord. 93-09)

B. Award to other than low bidder. Due to the willingness for some bidders to negotiate the services they will provide, it may be in the City's interest not to take the lowest bid. The City has the right to accept any bid. When the award is given to other than the lowest bidder, a full and complete written statement of the reasons therefore shall be delivered to the unsuccessful low bidder or bidders and filed with the other papers relating to the transaction. The minutes of the Council relating to the matter may be used as the required written statement. (Ord. 93-04; Ord. 93-09)

C. If some bids are approximately equal, some preference may be given to local bidders. (Ord. 78-2(part), 1978; Ord. 93-04; Ord. 93-09)

6.08.120 Bonds of contractors for public buildings or works. A. Before a contract exceeding \$100,000 for the construction, alteration, or repair of a public building or public work of the City is awarded to a general or specialty contractor, the

contractor shall furnish to the City the following bonds, which become binding upon the award of the contract to that contractor:

1. A performance bond with a corporate surety qualified to do business in the State, or at least two individual sureties who shall each justify in a sum equal to the amount of the bond; the amount of the performance bond shall be equivalent to the amount of the payment bond;

2. A payment bond with a corporate surety qualified to do business in the state, or at least two individual sureties who shall each justify in a sum equal to the amount of the bond for the protection of all persons who supply labor and material in the prosecution of the work provided for in the contract; when the total amount payable by the terms of the contract is not more than \$1,000,000 the payment bond shall be in a sum of one-half the total amount payable by the terms of the contract; when the total amount payable by the terms of the contract is more than \$1,000,000 and not more than \$5,000,000, the payment bond shall be in the sum of 40 percent of the total amount payable by the terms of the contract; when the total amount payable by the terms of the contract is more than \$5,000,000, the payment bond shall be in the sum of \$2,500,000. (Ord. 93-04; Ord. 93-09)

B. This section does not limit the authority of the City Manager to require a performance bond or other security in addition to those, or in cases other than the cases specified in (A) of this section. (Ord. 93-04; Ord. 93-09)

C. When no payment bond has been furnished, the contracting officer shall not approve final payments to the contractor until the contractor files a written certification that all persons who supplied labor or material in the prosecution of the work provided for in the contract have been paid. (Ord. 84-5 Sec. 3, 1984; Ord. 93-04; Ord. 93-09)

6.08.125 Optional city exemption. The City, by ordinance adopted by Council, may exempt contractors from compliance with the provisions of Section 6.08.120(A) if the estimated cost of the project does not exceed \$400,000, and

A. The contractor is, and for two years immediately preceding the award of the contract has been, a licensed contractor having its principal office in the state; (Ord. 93-04; Ord. 93-09)

B. The contractor certifies that it has not defaulted on a contract awarded to the contractor during the period of three years preceding the award of a contract for which a bid is submitted; (Ord. 93-04; Ord. 93-09)

C. The contractor submits a financial statement, prepared within a period of nine months preceding the submission of a bid for the contract and certified by a public accountant or a certified public accountant licensed under AS 08.04, demonstrating that the contractor has a net worth of not less than 20 per cent of the amount of the contract for which a bid is submitted; and (Ord. 93-04; Ord. 93-09)

D. The total amount of all contracts which the contractor anticipates performing during the term of performance of the contract for which a bid is submitted does not exceed the net worth of the contractor reported in the certified financial statement prepared and submitted under (C) of this subsection by more than seven times. (Ord. 84-5 Sec. 3, 1984; Ord. 93-04; Ord. 93-09)

6.08.130 Administration. Unless otherwise directed by the Council, all construction contracts shall be administered by the City Manager. (Ord. 78-2(part), 1978, Ord. 93-04; Ord. 93-09)

6.08.140 Change order--Proposal required. Any change required in construction contracts shall be made after receiving a written proposal from the contractor for additions to or deductions from the original contract sum for changes proposed. All changes in the contract work shall be by written change order. (Ord. 78-2(part), 1978; Ord. 93-04; Ord. 93-09)

6.08.150 Change order--By Council. A proposed change order, together with recommendations of the City Manager, shall be forwarded to the Council, which shall then determine whether the proposal shall be accepted or rejected. (Ord. 78-2(part), 1978; Ord. 93-04; Ord. 93-09)

6.08.160 Change order--In emergency. Whenever a change order in construction is required immediately upon discovery of unforeseen conditions, the City Manager shall have the authority to order such change by written order through the project engineer, providing total additional expenditure does not exceed five thousand dollars. If the change otherwise is subject to Section 6.08.160, a full report shall be made to the Council, not later than the first regular meeting following the change. The emergency nature of such change orders shall be determined by the City Manager. (Ord. 80-7 Sec. 2(part), 1980; Ord. 93-04; Ord. 93-09)

6.08.170 Emergency contracts. Whenever, because of any emergency, it is deemed necessary and in the public interest by the City Manager to enter into any contract without following the competitive bidding procedures as may be required by this title, he shall authorize such emergency contract if the estimated sum involved is less than five thousand dollars. If the estimated contract sum involved is five thousand dollars or more, the City Manager shall refer any proposed emergency contract to the Council for its approval and authorization to waive the competitive bid procedures. (Ord. 80-7 Sec. 2(part), 1980; Ord. 93-04; Ord. 93-09)

6.08.180 Partial payments--Approval required. No partial payment for work completed shall be made to a construction contractor without approval of the City Manager of the quantities and values submitted by the contractor. No reduction in retained percentage other than that called for in the contract shall be made without prior approval of the Council. (Ord. 78-2(part), 1978; Ord. 93-04; Ord. 93-09)

Chapter 6.16

Real Property--Purchase

Sections:

- 6.16.010 Acquisition and ownership.
- 6.16.020 Real property defined.
- 6.16.030 Acquisition--Form.
- 6.16.040 Acquisition--Bidding.
- 6.16.050 Acquisition and ownership--Rights and powers.
- 6.16.060 Acquisition--Procedure.
- 6.16.070 Purchase by agreement.
- 6.16.080 Industrial sites.
- 6.16.090 Acquisition--Federal and state aid.
- 6.16.100 Uniform real property acquisition policy.

6.16.010 Acquisition and ownership. The City may acquire, own and hold any real property. The City may acquire and hold real property as sole owner or as tenant in common or other lawful tenancy, with any other person or governmental body for any public purpose. The City may hold real property in trust for any public purpose. (Ord. 78-2(part), 1978)

6.16.020 Real property defined. As used in this chapter, "real property" includes any estate in land, easement, right-of-way, lease, permit, license, franchise, future interest, building, fixture, or any other right, title or interest in land or improvements. (Ord. 78-2(part), 1978)

6.16.030 Acquisition--Form. The City may acquire, own and hold real property by purchase, gift, devise, exchange, redemption, purchase of equity of redemption, operation of law, tax or lien foreclosure, adverse possession, condemnation or declaration of taking, annexation, warranty or quitclaim deed, easement, grant, permit, license, deed of trust, mortgage, contract of sale, plat dedication, lease, or any other lawful method or mode of conveyance. Real property shall be held in the name of "The City of Seldovia." Any instrument requiring execution by the City shall be signed by the Mayor and attested by the Clerk. The form of any conveyance to the City shall be approved by City the attorney. (Ord. 78-2(part), 1978)

6.16.040 Acquisition--Bidding. Because of the unique nature of real property, acquisition by a competitive bid process is not required. However, the Council may require such a procedure when more than one parcel would satisfy city requirements. (Ord. 78-2(part), 1978)

6.16.050 Acquisition and ownership--Rights and powers. The City shall have and may exercise all rights and powers in the acquisition, ownership and holding of real property as if the City were a private person. (Ord. 78-2(part), 1978)

6.16.060 Acquisition--Procedure. A. The Council shall approve all acquisitions of real property, provided acquisitions for no consideration require no such approval. Council approval shall be presumed where the acquisition is a part of a budgeted capital improvement or acquisition program or the result of tax or assessment foreclosure. Where funds are available, approval for the acquisition of real property for a cash consideration or exchange of real property shall be by resolution.

B. Where a fee interest is to be acquired, the City Manager shall establish fair value of the interest to be acquired by the use of qualified independent professional appraisers.

C. In the case of emergency and where the public interest so requires, the Mayor may authorize eminent domain proceedings. The Mayor shall inform the Council of such proceedings and the justification therefore as soon as practicable.

D. Where a fee interest is to be acquired, the City shall purchase marketable title in the real property unless otherwise provided by the Council. (Ord. 78-2(part), 1978)

6.16.070 Purchase by agreement. The Council shall approve and authorize by ordinance the purchase of real property by contract of sale, deed of trust, or mortgage. (Ord. 78-2(part), 1978)

6.16.090 Acquisition--Federal and state aid. Legislative assent to federal or state aid for the City, including aid given to the City through a department or agency of the federal or state government, is given. The City may apply for, contract and do all things necessary for the acquisition, holding, improvement, or development of real property within and outside the city boundaries. (Ord. 78-2(part), 1978)

6.16.100 Uniform real property acquisition policy. The City, in acquiring real property for any project or program, shall comply to the greatest extent practicable with the following policies:

A. Every reasonable effort shall be made expeditiously to acquire real property by negotiation.

B. Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

C. Before the initiation of negotiations for real property, an amount shall be established which is reasonably believed to be just compensation for the real property, and that amount shall be offered for the property. In no event shall the amount be less than the approved appraisal of the fair market value of the property. A decrease or increase in the fair market value of the real property before the

property is acquired or by the likelihood that the property would be acquired for the improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of, and a summary of the basis for, the amount established as just compensation.

D. No owner may be required to surrender possession of real property before the City pays the agreed purchase price or deposits with the court in accordance with applicable law, for the benefit of the owner, any amount not less than the approved appraisal of the fair market value of the property, or the amount of the award of compensation in the condemnation proceeding for the property.

E. The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property may be required to move from a dwelling (assuming a replacement dwelling will be available), or to move his business or farm operation, without at least ninety days written notice of the date by which the move is required.

F. No tenant of property to be acquired shall be contacted regarding the term of his occupancy until after execution of a purchase agreement with the owner. If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the City on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

G. In no event may the time of condemnation be advanced or negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, nor may any other coercive action be taken in order to compel an agreement on the price to be paid for the property.

H. If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted following Council approval. The City shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

I. If the acquisition of only part of the property would leave its owner with an uneconomic remnant, an offer to acquire the entire property shall be made. Such offers shall follow the same procedures as required for the original purchase offer.

J. Notwithstanding any other provision of law, if the City acquires any interest in real property, it must acquire at least an equal interest in all buildings, structures or other improvements located upon the real property which the municipality requires to be removed from the real property or which it determines will be adversely affect by the use to which the real property will be put.

K. For the purpose of determining just compensation to be paid for a building, structure or other improvement required to be acquired under subsection J of this section, the building, structure or other improvement is considered to be a part of the real property to be acquired, notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove the building, structure or improvement at the expiration of his term, and the fair market value which the building, structure or improvement contributes to the fair market value of such building, structure or improvement for removal from the real property, whichever is the greater, shall be paid to the tenant.

L. Except in cases of emergency, nothing in this section shall authorize the City to acquire or condemn any property the acquisition or condemnation of which the Council has not authorized. (Ord. 78-2(part), 1978)

Chapter 6.18 Real Property--Sale or Disposal

Sections:

- 6.18.010 Authority--City.
- 6.18.020 Charter provision.
- 6.18.030 Form.
- 6.18.040 Rights and powers.
- 6.18.050 Public and charitable conveyances.
- 6.18.060 Property exchanges.
- 6.18.070 Grants for federal and state programs.
- 6.18.080 Sale or disposal of industrial sites.
- 6.18.090 Change of use.
- 6.18.100 Real property as security.
- 6.18.120 Procedure for sale.
- 6.18.130 Rejection of bids--Subsequent actions.
- 6.18.133 Property Purchase Application.
- 6.18.135 Property Purchase Application.
- 6.18.140 Procedure for lease.
- 6.18.150 Rejection of bids--Subsequent actions.

6.18.010 Authority--City. A. The City may sell, convey, exchange, transfer, donate, dedicate, direct or assign to use, or otherwise dispose of city-owned real property by any lawful mean or conveyances or reserve the right to refuse to sell property to anyone owing the City taxes, property taxes, sales tax, assessments or any other taxes levied by the City of Seldovia. (Ord. 95-07)

B. The City Manager shall be the agent of the City for all such dispositions. (Ord. 78-2(part), 1978)

6.18.020 Charter provision. The City may sell or otherwise dispose of any interest in lands of the City only by ordinance. An ordinance conveying an interest in real property dedicated to open space or public park or recreation purposes is valid only upon approval by a majority of those voting on the question at a regular or special election. (Ord. 78-29(part), 1978)

6.18.030 Form. The City may sell or dispose of real property by warranty or quitclaim deed, easement, grant, permit, license, deed of trust, mortgage, contract of sale of real property, plan dedication, lease, certificate of redemption, or any other lawful method or mode of conveyance. Any instrument requiring execution by the City shall be signed by the Mayor and attested by the Clerk. The form of any instrument shall be approved by the City attorney. (Ord. 78-2(part), 1978)

6.18.040 Rights and powers. The City shall have and may exercise all rights and powers in the sale and disposal of real property as if the City were a private person. The City may sell or dispose of any real property, including property acquired or held for or devoted to a public use, when, in the judgment of the Council, it is no longer required for City purposes. (Ord. 78-2(part), 1978)

6.18.050 Public and charitable conveyances. The City may sell, donate or exchange with the United States, the state of Alaska, any political subdivision, or a non-profit organization, municipally owned real property without a public sale and for less than the fair market value, whenever in the judgment of the Council expressed by ordinance it is advantageous to the City to make the conveyance. (Ord. 78-2(part), 1978)

6.18.060 Property exchanges. The Council may approve after public notice the conveyance and exchange of a parcel of city property for an equivalent parcel of property owned by another person subject to such conditions as the Council may impose on the exchange, whenever in the judgment of the Council expressed by ordinance it is advantageous to the City to make the property exchange. (Ord. 78-2(part), 1978)

6.18.070 Grants for federal and state programs. The Council, by ordinance, may grant or devote real property no longer held for a public purpose to the United States, the state of Alaska, a political subdivision, or an agency of any of these governments, for a consideration agreed upon between the City and the grantee without a public sale if the grant or devotion is advantageous to the City. Any approval of a federal or state program providing for the participation or cooperation of the City by grant or devotion of the real property is a sale of that real property for the consideration stated in the program. (Ord. 78-2(part), 1978)

6.18.080 Sale or disposal of industrial sites. A. The City may sell, lease, or dispose of sites acquired for new industries benefiting the City upon the terms and conditions as the Council considers advantageous to the civic welfare of the City, to a

person who agrees to install, maintain and operate a beneficial new industry.

B. The City, in order to make sites available for new commercial developments which promote a substantial public interest, may acquire and hold real property, either inside or outside the corporate limits, and may sell, lease or dispose of it, on terms and conditions the Council considers advantageous to the City, to persons who agree to construct or operate such new commercial developments. (Ord. 78-2(part), 1978)

6.18.090 Change of use. Real property acquired or purchased for one city purpose may be appropriated, transferred, assigned or directed without public sale to another city purpose, whenever the Council determines that the purpose for which the property was acquired or purchased no longer exists, or the property is no longer used or useful for the purpose. No formal conveyance is necessary to dispose of the real property to another city purpose, and the disposition may be made to another purpose with or without legal consideration for the disposition. The City may sell, convey or otherwise dispose of real property no longer used or useful in the operation of a city-owned utility. Real property no longer needed for the purpose for which the real property was acquired or purchased, or utility property no longer used or useful in the operation of a city-owned utility, is no longer property owned, held for or devoted to a public use, and may be sold or disposed of as provided in this title if the Council determines the real property is not useful to the City for any other purpose. (Ord. 78-2(part), 1978)

6.18.100 Real property as security. The Council may pledge, mortgage, or otherwise secure city real property for the payment of city bonded or other indebtedness when required as authorized by law. (Ord. 78-2(part), 1978; Ord. 89-5 Sec. 2, 1989)

6.18.110 Procedure for sale. A. Value established. Prior to sale or disposal of real property or an interest in real property, the City Manager shall establish the fair value of the property, based on borough assessed value, subject to approval by the City Council. A parcel of real property retaining an estimated value in excess of twenty-five thousand dollars shall, in addition, be appraised by an independent professional appraiser prior to sale.

B. Notice--public sale. Notice inviting bids shall be published twice, in a newspaper of general circulation in the City with the first such publication being at least thirty days preceding the last day set for the receipt of bids, and be posted in three public places in Seldovia. The newspaper notice required herein shall name the clerk, recite the legal description of the property to be sold, and shall state:

1. Where bid forms may be secured, the closing time for submission of bids and place of submission, the time and place for opening bids, and other information which may be required for the particular item; or
2. The time and place of public auction.

C. Bids--public sale. Sealed bids, if required by the notice, shall be submitted personally or by mail to the clerk, and shall be identified as bids on the envelope. Mailed bids shall not be accepted unless postmarked prior to closing time for submission or verified by other means to closing time for submission or verified by other means of communication. The property or interest in property to be sold shall be sold to the best bidder if sealed bids are required, or to the highest bidder if the sale is conducted by public auction; no bid under the established fair value may be accepted except as provided in this chapter.

D. Terms. The purchaser at a competitive bid sale, public auction, or over the counter sale shall immediately pay to the City ten percent (10%) or more of his bid. The balance of the purchase price shall be paid within thirty (30) days or all rights to the property shall be forfeited. (Ord. 83-4, 1983; Ord. 89-5 Sec. 3, 1989)

6.18.120 Best bidder--Defined. A. "Best bidder," in Section 6.18.110(C), means that bidder whose bid and whose submitted plans for the use of the property to be sold are considered to have best met the land use plans of the City and the financial interest of the City as property owner. In evaluating the bids and plans, the City Manager shall be consulted and the following shall be considered:

1. The bid price for the property;
2. The compatibility of the proposed use with the general land use plan of the City; and
3. The ability of the bidder to meet his financial obligation and to carry out the plan.

B. If any bid other than the highest bid is accepted, there shall be submitted to the unsuccessful higher bidder or bidders a written statement setting forth the reason for refusing the bid or bids, within ten days. The minutes of the Council relating to the matter are a sufficient statement. (Ord. 78-2(part), 1978)

6.18.130 Rejection of bids--Subsequent actions. Council Powers. If the sale is by sealed bid, the Council may:

- A. Reject defective or nonresponsive bids;
- B. Reject all bids;
- C. Authorize negotiation by the City Manager with bidders whose bids and plans are substantially equal and most approximate best bids; or
- D. Reschedule the sale for bidding, after making substantial changes in the specifications for plans to give sufficient notice of the deficiencies found in the proper submitted bids.
- E. Provide for over the counter sales. (Ord .83-4, 1983; Ord. 78-2(part), 1978)

6.18.133 Property purchase application. Applications for purchase must include the following items:

- A. Land use plans;
- B. Plot plans;

- C. Building plans to include elevations;
- D. Timetable for development. (Ord. 83-4, 1983)

6.18.135 Property development plan implementation. Developer must complete development plans within two years of the date of purchase agreement. The City Council may extend the time upon formal application of the developer to the Council. (Ord. 83-4, 1983)

6.18.140 Procedure for lease. A. Value Established. Prior to leasing real property or an interest in real property the City Manager shall establish a minimum acceptable annual rental value.

B. Notice. Notice inviting bids shall be posted in three public places in Seldovia at least one week preceding the last day set for receipt of bids.

C. Bids. Sealed bids shall be submitted to the clerk by mail or in person on; or prior, to the time and date specified in the notice inviting bids and shall be identified as bids on the envelope.

D. Public Lease. The property or interest in property to be leased shall be leased to the best responsive bidder.

E. Terms. Leases shall be paid in advance and shall be nonrefundable.

F. Duration. Leases shall be for not more than one year and may be renewed by mutual consent.

G. Lack of Bids. In the event a qualifying bid is not received, the City Manager is authorized to negotiate a lease of the property. (Ord. 81-1(part), 1981)

6.18.150 Rejection of bids--Subsequent actions. The City Manager may:

A. Reject defective or nonresponsive bids;

B. Reject any or all bids;

C. Negotiate a lease with bidders who bids and plans are substantially equal and most approximate a best bid. (Ord. 81-1(part), 1981)

Chapter 6.28 Architectural, Engineering and Other Professional Services Contracts

Sections:

Title 06-16

8/28/90; 6/11/2008

- 6.28.010 Definitions.
- 6.28.020 Award of contracts without bids.
- 6.28.030 Policy.
- 6.28.040 Selection.
- 6.28.045 Projects using grant funds.
- 6.28.050 Negotiation.
- 6.28.060 Record of negotiation.
- 6.28.070 Prohibition against contingent fees.
- 6.28.080 Official not to benefit.
- 6.28.090 Truth in negotiation.

6.28.010 Definitions. A. "Agency head" means the Mayor, City Manager, or head of a department division, agency or utility of the city government.

B. "Architectural-engineering services" mean those professional services associated with research, development, design and construction, alteration or repair of real property, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, including studies, investigations, surveys, evaluations, consultations, planning, programming, conceptual designs, plans and specifications, cost estimates, inspections, shop-drawing reviews, sample recommendations, preparation of operating and maintenance manuals, and other related services.

C. "Firm" means any individual, partnership, corporation, association or other legal entity permitted by law to practice the professions of architecture or engineering. (Ord. 78-2(part), 1978)

6.28.020 Award of contracts without bids. The Council shall execute, award and approve contracts for legal, medical and other professional services for the City without competitive bidding. Architectural and engineering contracts shall be awarded according to this chapter. Any professional services contract shall not exceed one year, except for completion of work in progress under architectural or engineering contracts. The City Manager may execute and award, without prior approval of the Council, any contract for professional services having an estimated value of one thousand five hundred dollars or less, subject to the availability of funds. (Ord. 80-7 Sec. 2(part), 1980)

6.28.030 Policy. It is declared policy of the City to announce publicly all requirements for architectural and engineering services, on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices. To ensure the broadest publicity concerning the City's interest in obtaining architectural engineering services, the City Manager shall announce publicly, in a uniform and consistent manner, all announcement shall include a general description of the project, and shall indicate how interested architects and engineers can apply for consideration. (Ord. 78-2(part), 1978)

6.28.040 Selection. In the procurement of architectural and engineering services, the City Manager shall encourage firms engaged in the lawful practice of their profession annually to submit a statement of qualifications and performance data. An agency head, for each proposed project, shall evaluate current statements of qualifications and performance data on file with the City Manager, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services, and then shall recommend that the Council select from, in order of preference, based upon criteria established and published by him, no less than three of the firms deemed to be the most highly qualified to provide the services required. In addition to any criteria set forth in the public announcement, the agency head shall consider, among other factors:

A. Specialized experience and technical competence of the firm (including a joint venture or association) with the type of service required;

B. Capacity of the firm to perform the work (including any specialized services) within the time limitations;

C. Past record and performance on contracts with government agencies and private industry with respect to such factors as control of costs, quality of work, and ability to meet schedules; and

D. Familiarity with the area in which the project is located. (Ord. 78-2(part), 1978)

6.28.045 Projects using grant funds. When grant funds from the State or Federal governments are used to provide for services as described in this chapter, the regulations and requirements of the funding agency will apply when contracting for architectural, engineering and other professional services contracts. (Ord. 94-3)

6.28.050 Negotiation. A. The City Manager, by direction of the City Council, shall negotiate a contract for architectural and engineering services at compensation which the City Council determines is fair and reasonable to the City after taking into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof. If the City Manager determines he is unable to negotiate a satisfactory contract with the firm considered, upon approval of the City Council he may terminate negotiations and enter into negotiations with a Council-approved alternate.

B. Contract negotiations shall be directed toward:

1. Making certain that the architect-engineer has a clear understanding of the essential requirements;

2. Determining that the architect-engineer will make available the necessary personnel and facilities to accomplish the work within the required

time; and

3. Arriving at a contract price considered to be fair and reasonable to the City. (Ord. 78-2(part) 1978)

6.28.060 Record of negotiation. At the conclusion of each negotiation, a memorandum setting forth the principal elements of the negotiation shall be prepared for use by the Council and for inclusion in the contract file. The memorandum shall contain sufficient detail to reflect the significant considerations controlling the establishment of the price and other terms of the contract. (Ord. 78-2(part), 1978)

6.28.070 Prohibition against contingent fees. Each contract entered into by the City for architectural engineering services shall contain a prohibition against contingent fees as follows:

"The licensed architect or registered engineer (as applicable) warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the licensed architect, or professional engineer, to solicit or secure this agreement and that he has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the licensed architect or professional engineer, to solicit or secure this agreement and that he has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the licensed architect or professional engineer, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this agreement. For breach or violation of this warranty, the municipality shall have the right to annul this agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration. (Ord. 78-2(part), 1978)

6.28.080 Officials not to benefit. Any public officer or employee who offers to solicit or secure, or solicits or secures a contract for architectural-engineering services to be paid, or is paid, any fee, commission, percentage, gift, or any other consideration, contingent upon the award or making of such a contract for professional services between the agency and any individual person, company, firm, partnership or corporation shall, upon conviction by a court of competent authority, be found guilty of a misdemeanor and shall be punished as provided by law. (Ord. 78-2(part), 1978)

6.28.090 Truth in negotiation. For all lump-sum or cost-plus-affixed-fee architectural-engineering contracts over ten thousand dollars, the City shall require the firm receiving the award to certify that factual costs supporting the estimated compensation are accurate, complete and current at the time of contracting. Any architectural-engineering contract under which such a certificate is required shall contain a provision that the contract price shall be adjusted to exclude any significant sums where the agency determines the contract price was increased due to inaccurate, incomplete or noncurrent costs. (Ord. 78-2(part), 1978)