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**GRAND JUNCTION CITY COUNCIL  
MONDAY, MAY 3, 2021  
250 NORTH 5<sup>TH</sup> STREET  
STREAMED LIVE  
BROADCAST ON CABLE CHANNEL 191  
  
WORKSHOP, 5:30 P.M.**

**1. Discussion Topics**

- a. Procurement Process for Capital Construction Projects
- b. Future Election Options
- c. Discuss the Regulation of Marijuana Businesses as Enabled by Voter Approval of Measures 2A and 2B (April 6, 2021 Municipal Election)
  - 1) Should regulations be developed? If so, should licensing be simultaneous or staggered by type?
  - 2) By what date(s) should an ordinance be adopted and the licensing process be opened?
  - 3) Should a numerical cap be applied? If so, what type of selection process should be used?
  - 4) What type of public engagement should be sought?
  - 5) What tax rate should be adopted?
  - 6) What policy goals should be prioritized?
- d. Making City Council Less Formal

**2. City Council Communication**

An unstructured time for Councilmembers to discuss current matters, share ideas for possible future consideration by Council, and provide information from board & commission participation.

**3. Next Workshop Topics**

#### 4. Other Business

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##### *What is the purpose of a Workshop?*

The purpose of the Workshop is to facilitate City Council discussion through analyzing information, studying issues, and clarifying problems. The less formal setting of the Workshop promotes conversation regarding items and topics that may be considered at a future City Council meeting.

##### *How can I provide my input about a topic on tonight's Workshop agenda?*

Individuals wishing to provide input about Workshop topics can:

1. Send an email (addresses found here [www.gjcity.org/city-government/](http://www.gjcity.org/city-government/)) or call one or more members of City Council (970-244-1504);
  2. Provide information to the City Manager ([citymanager@gjcity.org](mailto:citymanager@gjcity.org)) for dissemination to the City Council. If your information is submitted prior to 3 p.m. on the date of the Workshop, copies will be provided to Council that evening. Information provided after 3 p.m. will be disseminated the next business day.
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## Grand Junction City Council

### Workshop Session

Item #1.a.

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**Meeting Date:** May 3, 2021

**Presented By:** Jay Valentine, General Services Director

**Department:** General Services

**Submitted By:** Jay Valentine

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### **Information**

#### **SUBJECT:**

Procurement Process for Capital Construction Projects

#### **EXECUTIVE SUMMARY:**

On November 6, 2019, City Council approved a Construction Management/General Contractor (CMGC) contract with FCI Constructors, Inc. for construction of Fire Station #6. On May 5, 2020, as a result of a design, bid, build (DBB) process, City Council will be asked to approve a contract with FCI for the construction of Fire Station #3.

Although FCI has come out on top in both solicitations, the two solicitation processes are very different from one other.

City Council requested that this item be workshopped in advance of the agenda item on the May 5 agenda.

#### **BACKGROUND OR DETAILED INFORMATION:**

The objectives of public procurement include conserving public funds and inspiring public confidence. Any erosion of honesty, integrity and openness is more injurious to public procurement than to most other public pursuits. Any appearance of favoritism or conflict of interest may be as harmful to public confidence in its government as an actual case of misconduct. For that reason, all personnel involved directly or indirectly in procurement transactions, from the original purchase to the ultimate disposal, must be guided by the highest standards of ethical conduct.

Attached to this report is the City of Grand Junction Purchasing Manual. The Purchasing Division has prepared this Manual for use by all departments and divisions of the City of Grand Junction. The purpose of this Manual is to establish policies and

serve as a reference for employees to maximize the value of public funds in procurement and to maintain an ethical, quality procurement system.

From an economic standpoint, competition in public purchasing is an indispensable means for improving the quality of commodity purchases, encouraging innovation among suppliers, increasing the City's latitude of choice and, most importantly, assuring the reasonableness of costs. Competition coupled with standardization and economies of scale will maximize the City's opportunity to obtain the greatest value for the tax dollar.

Methods and procedures for source selection play a very vital role in maximizing the opportunity to obtain the greatest value. An example of two very different methods of source selection were utilized on the recent procurements for Fire Stations 3 and 6.

For the procurement of Fire Station 6, City Council approved a Construction Management/General Contractor (CMGC) contract with FCI Constructors, Inc. for construction of the station. This method of delivery involves issuing a Request for Proposal (RFP) inviting contractors to submit a proposal based on the stated scope of the project, associated budget, special needs, experience and other required pertinent information. A project specific evaluation committee will then review and score the proposals based on pre-determined evaluation criteria. For the majority of contractors, this is the preferred procurement method.

For the procurement of Fire Station 3, we used the Design-Bid-Build (DBB) method of delivery. This method involves selecting an architect to complete the design of the building first and then putting the project out to bid. The winning firm is the lowest bid received. With the Fire Station 3 solicitation however, FCI was the lone bid received.

**FISCAL IMPACT:**

The CM/GC and the DBB can both achieve the best value depending on the complexity of the project. With more complex projects, a Fire Station for example, the DBB method may result in multiple change orders due to the bidders not being available to collaborate with the design team earlier in the process. This can result in increased costs to the owner and increased risk to the contractor.

For less complicated projects, a rest room shelter for example, the DBB method could provide the best value due to the widest-open field of bidding competition.

**SUGGESTED ACTION:**

Discussion only

**Attachments**

1. POLPROEV 188 City of Grand Junction Purchasing Manual - March 5, 2020



# PURCHASING POLICY AND PROCEDURE MANUAL

**Division of Purchasing**

250 N. 5<sup>th</sup> Street  
Grand Junction, Colorado 81501  
970-244-1533

March 5, 2020

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## ***SECTION 1: INTRODUCTION***

### **1.1 Purchasing Manual Introduction.**

- (a) All purchases made on behalf of the City of Grand Junction shall be made in accordance with and conforming to the rules and regulations as published in the revised City of Grand Junction Purchasing Manual (“Manual”) dated January 16, 2012 by Resolution 04-12, 01-16-12, updated January 10, 2020.
- (b) The forms and processes described herein can be modified with approval of the City Manager, but such changes shall not affect the competitive bidding and approval requirements.

### **1.2 Foreword.**

The Purchasing Division has prepared this Manual for use by all departments and divisions of the City of Grand Junction. The purpose of this Manual is to establish policies and serve as a reference for employees to maximize the value of public funds in procurement and to maintain an ethical, quality procurement system.

From an economic standpoint, competition in public purchasing is an indispensable means for improving the quality of commodity purchases, encouraging innovation among suppliers, increasing the City’s latitude of choice and, most importantly, assuring the reasonableness of costs. Competition coupled with standardization and economies of scale will maximize the City’s opportunity to obtain the greatest value for the tax dollar.

To develop an effective and efficient procurement program, all personnel involved must work as a cross functional team for the betterment of the City as a whole. Those individuals whose responsibilities require them to become a part of the purchasing cycle must be knowledgeable of the policies and procedures adopted herein as a general framework for ethical procurement practices. The goal is the promotion of the City’s best interest through intelligent activities and fair dealing with the vendor community.

### **1.3 Purpose of Manual.**

The purpose of this Manual is to provide for the fair and equitable treatment of all persons involved in public purchasing by the City, to maximize the purchasing value of public funds, to codify and standardize the City’s purchasing rules and regulations for orderly and efficient administration, to provide safeguards for maintaining a procurement system of quality and integrity, and foster effective, broad-based competition within the free enterprise system.

All City of Grand Junction employees shall familiarize themselves with the regulations set forth and shall adhere to the policies and practices established herewith. The City Manager reserves the right to waive regulations established in this Manual if it is determined to be in the best interest for the City of Grand Junction. The City Council shall be notified by the City Manager of any exceptions to purchasing regulations, as delineated in the procedures herein.

This Manual has been prepared to establish policy and serve as a reference for those employees delegated purchasing authority in the name of the City of Grand Junction. Detailed explanations of individual department responsibility and role in the procurement function are included within this Manual, as well as in other written purchasing procedures as they are developed.

### **1.4 Centralization of Procurement Authority.**

Except as otherwise provided herein, all rights, power, duties and authority, relating to the procurement of supplies, services and construction are vested in the Purchasing Division. The sale and disposal of supplies and equipment are also the responsibility of Purchasing Division. Authority may be delegated

only by the Purchasing Division with approval of the Purchasing Manager and the City Manager within the parameters established in this Manual.

### **1.5 Applicability.**

This purchasing policy shall apply to the procurement of all materials, equipment, construction and services required by the City. Purchases subject to contracts between the City and other governmental bodies, nonprofits, and utility providers are excluded. When any procurement involves the expenditure of Federal or State funds, the procurement shall be conducted in accordance with any mandatory/applicable Federal and State laws or regulations.

### **1.6 Procurement Contrary to this Manual.**

Except as may be otherwise provided by law, it shall be unlawful for any City officer or employee to order or purchase goods and/or services contrary to the policy of this Manual. Any procurement or contract so made shall be void and wholly without effect, and shall not be binding upon the City.

### **1.7 Policy.**

- (a) Competitive sealed bids or competitive proposals, as appropriate, shall be used to facilitate contracts with nongovernmental contractors for the purchase or lease of goods, services and/or construction in accordance with the limitations of this Manual.
- (b) The disposal of City tangible personal property shall be through an open competitive process to the extent possible. The City may donate surplus property to other governmental entities or nonprofit organizations, as is in the best interest of the City.
- (c) The policy and practices set forth herein are designed to ensure fair and equitable treatment of all persons involved in providing goods, services and/or construction to the City.
- (d) It is unlawful to disclose the identity or information derived from competing proposals to any bidder or offeror that might provide an unfair advantage over a competing bidder or offeror.
- (e) All City employees are governed by the provisions of this Manual whether directly or indirectly involved in a procurement transaction. Violation of these provisions is grounds for disciplinary action, to include termination and criminal action.

### **1.8 Responsibility.**

- (a) The City Manager is responsible for the City's purchasing system. This responsibility is delegated to the Purchasing Manager.
- (b) The Purchasing Manager is the principal public purchasing official of the City. The Purchasing Manager's responsibilities are as enumerated in this Manual (Section 2).
- (c) Department Directors are responsible for ensuring their departments' purchasing activities are in accordance with the rules and regulations set forth herein.
- (d) Any purchase or contract entered into by an elected or appointed City official, Department Director or employee that violates the rules and regulations defined in this Manual shall be the personal and financial responsibility of that individual. Violation of these policies and procedures shall be grounds for disciplinary action, to include termination and/or criminal prosecution.

### **1.9 Changes.**

Any person using this Manual is encouraged to comment on it/its use. Address comments in writing to the following:

Division of Purchasing  
City of Grand Junction  
250 N. 5<sup>th</sup> Street  
Grand Junction, CO 81501

## **SECTION 2: PURCHASING AUTHORITY**

### **2.1 City Council.**

- (a) Authority. The responsibility for all purchases made by the City of Grand Junction is held by the City Council. The City Council shall authorize the City Manager to establish procurement rules and regulations for all City personnel.

### **2.2 City Manager.**

- (a) Definition. The Council appoints the City Manager by majority vote. The City Manager is the Chief Executive Officer of the City and shall be responsible for the conduct of all City departments. In the absence of the City Manager, the Deputy City Manager shall be responsible for the conduct of all City departments.
- (b) Authority. The City Manager shall establish the rules and regulations for the procurement of all goods and services and such rules and regulations shall be applicable to all City employees. The City Manager and City Council possess the sole authority for any deviation from purchasing regulations. If improper purchasing practices occur, the City Manager may invoke disciplinary action(s) upon the individual, division and/or department. Disciplinary action may be in the form of restricted purchasing delegation, restitution, suspension, termination or any other form deemed appropriate by the City Manager.
- (c) The following goods and services must be approved by the City Manager's office:
  - (1) All capital outlay and service and maintenance contracts between the amounts of \$25,000 - \$200,000;
  - (2) Other items consistent with policy and/or practice of the City Manager.

### **2.3 Department Directors.**

- (a) Authority. By authority of the City Manager, Department Directors or their designated representative shall be delegated purchasing authority and responsibility as set forth.
- (b) Department Directors are given the responsibility of ensuring that all personnel in their department are knowledgeable of and fully understand purchasing procedures established by the City Manager. By following the requirements established within this Manual, Department Directors may be able to make better use of budgeted funds for their department. Through proper planning of purchases, so as to allow the Purchasing Division sufficient time to obtain proposals, quotations or bids (with an allowable lead time for delivery), departments shall not only be able to realize savings through competition between vendors, but shall also preclude unnecessary delays.
- (c) Department Directors may delegate purchasing authority to their employees as required to facilitate the activities within their scope of responsibility. However, the ultimate responsibility remains with the Director for the activities of their subordinate employees.
- (d) If Department Directors have any questions concerning procurement procedures, the Purchasing Manager or any member of the Purchasing Staff is prepared to offer assistance.

### **2.4 Purchasing Manager.**

- (a) Authority. By the authority of the City Manager, the Purchasing Manager shall be responsible for the daily operations of the Purchasing Division. The Purchasing Manager shall have the actual

authority and power to ensure compliance with the contents of this Manual. It shall be his responsibility to comply with the following:

- (1) Purchase or Contract. The Purchasing Manager is responsible to purchase or contract for all supplies and services required by any department, division or authority that derives its support wholly or in part from the City, all in accordance with purchasing procedures as prescribed herein and such rules, regulations and procedures as the Purchasing Manager may adopt for the internal management and operation of the Purchasing Department together with such other rules and regulations as shall be prescribed by the City Manager and/or the City Council.
- (2) Purchase Authority – Goods and Services. The Purchasing Manager is responsible for the centralized procurement system and for processing all orders amounting to \$15,000 or more. Competitive quotation activities may be delegated to the Department Director or Division Manager/Supervisor in accordance with the policies and procedures herein, provided the documentation is provided to the Purchasing Office to file with the original purchase order. Purchases under \$15,000 may be accomplished by any City fiscal process, as approved in this Manual. Competitive quotations are strongly recommended for all City of Grand Junction purchases.
- (3) Minimum Expenditure. The Purchasing Manager shall act to procure for the City the highest quality in supplies, equipment and contractual services at the least expense to the City.
- (4) Encourage Competition. The Purchasing Manager shall endeavor to obtain as full and open competition as possible on all purchases and sales.
- (5) Rules and Regulations. The Purchasing Manager may propose amendments to all City procurement rules and regulations authorized by this Manual and others necessary to its operation, for consideration and approval by the City Manager.
- (6) Purchasing Analysis. The Purchasing Manager shall keep informed on current developments in the field of purchasing, pricing, 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.
- (7) Forms. The Purchasing Manager shall prescribe and maintain such official City of Grand Junction forms as necessary for compliance with this Manual. Forms contrived by individual departments/divisions will not be honored by the Purchasing Staff. Only official City of Grand Junction purchasing forms shall be used.
- (8) Bulk Purchases. When beneficial to the City, the Purchasing Manager shall maximize the benefits and the possibilities of buying “in bulk” so as to take full advantage of the economy of scales through quantity discounts.
- (9) Federal Tax Exemptions. The Purchasing Manager shall act so as to procure for the City all federal tax exemptions to which it is entitled.
- (10) Cooperation with Accounting Division. The Purchasing Manager shall cooperate with the City’s Accounting Division so as to secure for the City the maximum efficiency in budgeting and accounting.
- (11) Stores. The Purchasing Division shall be responsible for the Central Stores to include general supervision over all inventories required to support the daily activities of the City.
- (12) Surplus Property. The Purchasing Division shall sell, trade, auction or otherwise dispose of surplus supplies belonging to the City as is in the best interest of the City.
- (13) Cooperative Purchasing. When in the best interest of the City, the Purchasing Division shall participate in, sponsor, conduct or administer cooperative purchasing agreements with the State or one or more political subdivisions of the State of Colorado.
- (14) Specifications: Compliance to the physical or functional characteristics as described in the bid documents.

## 2.5 Buyer(s).

A Buyer(s) shall perform procurement functions and miscellaneous assignments as authorized and directed by the City Purchasing Manager.

## 2.6 Division Managers.

- (a) Authority. By authority of the City Manager, Division Managers shall be granted authority and responsibility as set forth in this section.
- (b) Division Managers shall be responsible for their division expenditures and the resulting paperwork. Through prompt attention to invoices and receipts, the City may take advantage of prompt payment discounts and bills can be paid to avoid late charges. Any damage(s) or shortage(s) on received shipments should be noted on the freight receipt. Managers shall ensure that deliveries are carefully accounted for, without damage or shortages of merchandise.

## 2.7 Delegations to Other City Officials.

Notwithstanding the provisions of this chapter (Purchasing Authority), procurement authority with respect to certain supplies, services or construction may be delegated to other City officials by the City Purchasing Manager, when such delegation is deemed necessary for the effective procurement of these supplies, services or construction.

Any Department Director, Manager or authorized employee delegated the task to sample or test equipment, uniforms, chemicals, etc., for the purpose of judging suitability or fitness in advance of a purchase, shall notify the Purchasing Division upon receipt of goods to be sampled.

## 2.8 Purchasing Approval Limits Table.

The following table indicates purchasing approval limits for City expenditures. The matrix presents types and methods for expenditures on the top horizontal row; the first vertical row indicates dollars to be expended. The remaining boxes indicate the approving authority required to give expenditure approval. **Note: all purchases over \$15,000 shall be forwarded to the Purchasing Division to be assigned a Purchase Order.**

Type of Purchase	Dollar Amount	Approval
Procurement Card	Up to \$5,000	Division Representative
Department Quotes	\$5,000-\$15,000	Division Manager
Formal Quotes by Purchasing	\$15,000 - \$25,000	Department Director
Formal Solicitations	\$25,000 - \$200,000	City Manager
Formal Solicitations	\$200,000 – over	City Council

Note: Table applies to material and/or service acquisitions with adequate current year budget appropriations. Unbudgeted expenditures are prohibited except in case of actual emergency or City Manager directive.

\* Requisition with applicable supporting quote documentation is required. Refer to Section 4, Purchasing and Requisitioning Cycle.

## ***SECTION 3: ETHICS IN PUBLIC CONTRACTING***

### **3.1 General Statement.**

The objectives of public procurement include conserving public funds and inspiring public confidence. Any erosion of honesty, integrity and openness is more injurious to public procurement than to most other public pursuits. The appearance of a conflict of interest may be as harmful to public confidence in its government as an actual case of misconduct. For that reason, all personnel involved directly or indirectly in procurement transactions, from the original purchase to the ultimate disposal, must be guided by the highest standards of ethical conduct.

Further, any personal gain other than wages and benefits realized through public employment is a breach of public trust. To the extent that violations of ethical standards of conduct set forth in this chapter constitute violations of law, such shall be punishable as provided by law. Such penalties shall be in addition to the administrative sanctions set forth in this chapter and the City's Personnel Policy Manual.

### **3.2 Policy.**

No public employee having official responsibility for a procurement transaction shall represent the City in that transaction when the employee knows that:

- (a) The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction;
- (b) The employee, the employee's partner or any member of the employee's immediate family holds a position with a bidder, offeror or contractor, such as officer, director, trustee or partner, has a personal and substantial participation in the transaction or owns or controls more than five percent of the firm;
- (c) The employee, the employee's partner or any member of the employee's immediate family has a pecuniary interest in or arising from the transaction; or
- (d) The employee, the employee's partner or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment with a bidder, offeror or contractor.

### **3.3 Vendor Requirements.**

The City of Grand Junction stipulates certain ethical requirements for vendors participating in procurement transactions. Those statements are generally stated as follows:

- (a) No bidder, offeror, contractor or subcontractor shall confer upon any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services, present or promised;
- (b) All bidders, offerors, contractors or subcontractors shall complete a disclosure of interest form to inform of any personal interest of any public official with respect to any City procurement;
- (c) Failure to make the required disclosure may result in disqualification, disbarment, suspension from bidding and rescission of contracts;
- (d) No contractor or subcontractor shall give, demand or receive from any suppliers, subcontractors or competitors any bribe or kickback or anything of value in return for participation in a procurement transaction or agreeing not to compete in a transaction; and
- (e) Architects or engineers employed by the City may not furnish building materials, supplies or equipment for any structure on which they are providing professional services. The City also does not accept bids or proposals from consultants or bidders who have solely and directly prepared specifications for a specific requirement, regardless of whether the consultant/bidder was paid for the specification.



### **3.4 Gratuities and Kickbacks.**

- (a) Gratuities. It is a breach of ethical standards for any person to offer, give or agree to give any employee or public official a gratuity or offer of employment or employment in connection with any decision or recommendation concerning a possible or actual purchase by and/or on behalf of the City.
- (b) Kickbacks. It shall be unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract and solicitation thereof.

### **3.5 Confidential Information.**

It shall be a breach of ethical standards for any employee or public official to knowingly use confidential information for his or her personal gain or the personal gain of others.

### **3.6 Employee Personal Purchases.**

It is a breach of ethical standards for any employee or public official to solicit or request personal monetary discounts from vendors based on employment with the City of Grand Junction.

### **3.7 Purchases from Employees.**

No officer or employee shall solicit or receive any pay, commission, money, or thing of value, or derive any benefit, profit or advantage, directly or indirectly, from or by reason of employment by the City, except his lawful compensation or salary as such officer or employee.

### **3.8 Public Disclosure Record.**

State statutes codified at C.R.S. § 31-4-401 et seq. and § 24-18-101 et seq. allow the City to accept a bid, quotation or proposal which complies with the City's procurement policies and procedures, and is the lowest received in a competitive open process, even if the bidder is an employee or officer of the City, if the employee or officer has disclosed real or potential conflicts of interest and has abstained from voting on related issues. To qualify, an employee or officer shall file a public disclosure record (PDR) outlining the individual's financial interest. Completed forms shall constitute a public record filed in the office of the City Clerk.

### **3.9 Sanctions.**

- (a) Employees. The City Manager may impose any one or more of the following sanctions on a City employee for violations of the ethical standards set forth in this section and the Personnel Policy Manual:
  - (1) Oral or written warnings or reprimands;
  - (2) Suspension with or without pay for specified periods of time; or
  - (3) Termination of employment.
- (b) Nonemployees. The City Manager may impose any one or more of the following sanctions on a nonemployee for violation of the ethical standards:
  - (1) Written warnings or reprimands;
  - (2) Termination of contracts; or
  - (3) Disbarment or suspension for cause from consideration for award of contracts.

## **SECTION 4: PURCHASING AND REQUISITIONING CYCLE**

### **4.1 Requisition.**

The core of the central purchasing system is the purchase requisition. Requisitions are required for all procurement transactions of \$15,000 or more. The requisition authorizes the Purchasing Division to begin the research and procurement process for the fulfillment of the purchase. The Purchasing Division is not authorized to act until it receives the requisition. The appropriate authority in the department/division must approve the requisition before sending it to the Purchasing Office.

### **4.2 Anticipation of Need.**

Requesting departments should prepare the requisition far enough in advance so ordinary purchases do not become emergencies. By planning and forecasting purchases in advance, the Purchasing Division, vendors and requesting department may realize the advantages of soliciting competitive quotations, bids or proposals.

Required delivery dates on goods and services vary greatly and order requisitions should be prepared accordingly. Departments should realize unnecessary work delays could be created if order requests are not presented in a timely manner. To ensure needed delivery dates are met, proper purchasing procedures should be used.

### **4.3 When to Use a Purchase Requisition.**

Requisitions are required for all commodity purchases and service contracts of \$15,000 or more.

### **4.4 Purchasing Division Responsibility.**

Purchasing shall review all requisitions and proceed according to City purchasing rules and regulations (and other applicable professional purchasing practices) to acquire goods or services in a timely manner.

Purchasing Staff shall prepare all solicitation documents, including the final specifications. A copy shall be forwarded to the department for review prior to the solicitation being sent out. Any clarifications or changes shall be posted on the City's website on the "Bids" page.

## ***SECTION 5: PURCHASE ORDER***

### **5.1 Purpose.**

A purchase order is a document that states the terms and conditions of a proposed transaction and creates a contractual relationship between a vendor and the City. It describes the quantity and quality of the required goods and includes other information, such as shipping terms, delivery dates and location, and prices quoted in the solicitation response. The purchase order shall encumber the applicable appropriations account.

### **5.2 When to Use Purchase Order.**

Purchase orders are required for all invoiced purchases of commodities, materials or supplies and services with an expected expenditure of City funds of \$15,000 or more unless previously approved by the Purchasing Manager.

### **5.3 Process.**

Purchasing Division personnel shall complete all purchase orders in the City's Financial System and send a copy to the Vendor, the Requestor and the paying Division.

### **5.4 Subsequent Changes or Cancellations.**

Whenever a change of any kind on a purchase order is required, the originating department shall forward a Purchase Order Change Request that provides the information to be changed and a justification for Purchase Order Change. Requests shall be directed to Purchasing via e-mail or inter-office mail.

### **5.5 User Approval.**

Purchase orders must be approved for payment in accordance with final approval authority requirements set forth in Section 2.

### **5.6 Receiving Procedure.**

When the material or service is delivered to the department, the authorized agent of the department, as assigned by the Department Director, shall inventory and inspect the delivery to ensure the material(s) and/or service(s) are as listed on the shipping document and are in acceptable condition.

If all materials are received in acceptable condition, the receiving department/division shall submit the invoice for approval to their authorized department/division personnel who then process the invoice for payment. Partial payments shall be processed based on items actually received. Down payment and prepayment is acceptable on a case by case basis as approved by the Purchasing Manager.

If materials and/or services received are damaged or defective, they should not be used. If possible, notation should be made upon the receipt in the presence of the delivery agent. Departments shall notify Purchasing immediately when damaged or defective commodities are received.

## ***SECTION 6: SHIPPING AND HANDLING***

### **6.1 Required Method.**

The City's preferred shipping and handling term is FOB Destination (Grand Junction).

### **6.2 FOB Destination (Free on Board Destination).**

FOB Destination means the vendor maintains title for the goods until the purchaser receives them. The vendor pays the shipping costs and is responsible for claims against the carrier.

### **6.3 FOB Origin.**

Accepting a quote of FOB origin has consequences for the City if the shipment is lost or damaged. FOB origin means the purchaser accepts title to the goods from the moment they are picked up by the carrier. The purchaser pays shipping costs and is responsible for claims against the carrier.

## **SECTION 7: CONTRACTS**

### **7.1 General.**

“Contract” shall mean any agreement enforceable by law between the City and one or more outside parties, regardless of form or title, for the procurement of materials, services or construction. To be effective, a contract must include offer and acceptance by competent parties and the furnishing of some good or service for an agreed monetary consideration.

### **7.2 Origin of Contracts.**

Contracts may be originated in several ways before they are used by the City.

- (a) State Contracts and Price Agreements. Under a permissive State law (C.R.S. § 24-110-101 et seq.), the City may purchase from State contracts and price agreements. These contracts are entered into by the State of Colorado, Department of Administration, Division of Purchasing or other State departments with contractual authority. If these agreements have a clause acknowledged by the contractor, they may be used by other political jurisdictions, such as the City. When available and in the best interest of the City, the Purchasing Manager may forgo the bid process and purchase directly from the State award vendor(s).
- (b) Cooperative Purchase Contracts. These contracts are created by a voluntary pooling of interests by governmental units. If required by the bid documents or if the contractors agree, they may be used by other political jurisdictions, such as the City. When in the best interest of the City, the Purchasing Manager has authority to “piggyback” such agreements for the acquisition of supplies and services without going through the formal bid/proposal process. Final authorization shall adhere to Section 2 requirements.
- (c) City Contracts. These contracts are specifically procured by the Purchasing Division either for City-wide purposes or for a specific department. City contracts shall be filed with the contractor/vendor, and retained electronically through the City’s Records Management Program.

### **7.3 Contract Approval.**

- (a) Only the City Manager, his or her designated representative, Department Directors and their designated representatives and the Purchasing Manager and his or her designated representative are authorized to sign contracts which bind the City for the procurement of goods, services, insurance or construction, unless a specific delegation or exemption is made by City Council by resolution, code, regulation or letter of authority to another official or employee. Approval thresholds are as delineated in Section 2.1 through Section 2.8.

### **7.4 Contracts for Personal Services.**

- (a) Before requisitioning approval of an individual to provide personal services to the City, the Department should be certain that no violation of law, including but not limited to Internal Revenue Service (IRS) regulations, will occur. Care must be taken to make sure the personal service contract does not establish an employer-employee relationship with the City.
- (b) Generally, the following tests support a personal service contract with an individual:
  - (1) The individual has performed similar services on a contractual basis with other clients;
  - (2) The individual has paid tax withholding and social security withholding as a self-employed person and agrees to do so during its contract with the City; and

- (3) The individual shall perform the duties independently without direct detailed supervision by the City to include independence in establishing work hours and location of performance of duties.

## **7.5 Contract Administration.**

- (a) Departmental contracts shall be administered by the using agency. The Department Director is responsible for designating the contract administrator (a.k.a. project manager or project coordinator) prior to the solicitation of personal service contracts. Public works projects shall be administered by the City Engineer or designee.
- (b) The departmental contract administrator shall be responsible for assuring that the contractual relationship is completed successfully and in accordance with contract terms and conditions. The contract administrator may or may not be a City employee.
- (c) Among the activities of a contract administrator is the following:
  - (1) Inspecting, accepting and recording contractor performance;
  - (2) Communicating the City's requirements to and with contractors;
  - (3) Evaluating contractor performance;
  - (4) Notifying Purchasing promptly of any disputes, failures to perform or other problems with contractors;
  - (5) Documenting all activities of the contract and assuring copies of important documents are retained and/or forwarded to purchasing; and
  - (6) Processing payments and contract close-out documents.
- (d) It shall be the Purchasing Division's responsibility to:
  - (1) Maintain the City's record file of the contract;
  - (2) Review and approve all requests for changes in delivery, price or specification before any action is taken by the Department or contractor;
  - (3) Create purchase order(s);
  - (4) Resolve disputes with contractors;
  - (5) Issue cure notices, demand letters and contract default/termination notices to contractors.

## **7.6 Contracts for Public Improvements/Construction**

- (a) Contracts for public improvements (construction) shall be initiated by the Purchasing Division in accordance with City of Grand Junction bidding procedures. These contracts are subject to approval in accordance with the authorization limits stated herein.
- (b) When a contract for public improvements is awarded in excess of \$50,000, the following bonds or security shall be delivered to the City and shall become binding on the parties upon execution of the contract:
  - (1) A performance bond satisfactory to the City, executed by a surety company authorized to do business in the State of Colorado or otherwise secured in a manner satisfactory to the City, in an amount equal to 100 percent of the price and/or compensation specified in the contract; and
  - (2) A payment bond satisfactory to the City, executed by a surety company authorized to do business in the State of Colorado or otherwise secured in a manner satisfactory to the City, for the protection of all persons supplying labor and material to the contractor or its subcontractor for the performance of the work provided for in the contract. The bond shall be in an amount equal to 100 percent of the price and/or compensation agreed to in the contract.
- (c) Nothing in this chapter shall be construed to limit the authority of the City to require a performance bond or other security in addition to those bonds or in circumstances other than those specified.

## **7.7 Multiyear Contracts.**

In accordance with Colorado Law, the City may not enter into multiple fiscal year direct or indirect financial obligations. The City may however annually renew existing contracts if conditions of renewal or extension are included in the solicitation. Payment and performance obligations for succeeding fiscal years shall be subject to availability and appropriation of funds thereof.

When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, the contract shall be canceled and the contractor may be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the contract.

Annual service and product contracts may be renewed by the Purchasing Division and Department Director up to three additional contract periods, based on satisfactory performance of the contractor.

## **SECTION 8: CHANGE ORDERS – ACCEPTANCE - PAYMENT**

### **8.1 Change Orders.**

- (a) General. The purpose of this chapter is to delineate the authorities and procedures of the City's change order control system.
- (b) Purpose. The purpose of a change order is to recognize changes occurring on jobs that may result in amendments to the project time schedule and/or cost. Change orders that affect time schedules shall be approved by the appropriate Department Director. Change orders that result in additional costs shall comply with the authority thresholds set forth in this section; these thresholds apply to both the design phase (professional service agreements) and construction phase (construction contract).
- (c) Change Orders – Public Improvement Projects/Construction.
  - (1) Any construction change order, which authorizes an improvement under a construction contract, may be executed without competition when:
    - (i) The improvement is required for the completion of an improvement that is currently under construction pursuant to a competitive bidding or competitive proposal process;
    - (ii) The improvement results from the unforeseen physical conditions at the site of the improvement under construction and is required for the completion of the improvement under construction; or
    - (iii) A written finding has been made by the Project Manager, or his designee, that it is in the City's best interest to negotiate with a specific, generally on-site, contractor for the construction of the improvement(s).
- (d) Authority to Execute Change Orders and Dollar Thresholds.
  - (1) If the original contract allows for contract modification and the requested change shall increase the contract amount by \$200,000 or more and the aggregate of change orders, including the proposed change order, plus the original contract amount are less than the budgeted amount of that contract and/or project, the change shall be approved in advance by the City Council.
  - (2) If the original contract allows for contract modification and the requested change in contract amount is more than \$25,000 and less than \$200,000 and the aggregate of change orders, including the proposed change order, plus the original contract amount are less than the budgeted amount of that contract and/or project, the change order shall be approved in advance by the City Manager.
  - (3) If the original contract allows for contract modification and the requested change is less than \$25,000 and the aggregate of change orders, including the proposed change order, plus the original contract amount are less than the budgeted amount of that contract and/or project, the change shall be approved in advance by the requesting agency's Director or designee.
- (e) A Request for Change must be completed and approved before any change order is effective. Funds shall be encumbered after approval of the change order



## SECTION 9: PURCHASING CARD PROGRAM

### 9.1 Introduction

The City of Grand Junction purchasing card program is designed to improve the efficiency in processing small dollar purchases less than \$5,000, from any vendor that accepts the purchasing card. This program shall allow the cardholder to purchase approved commodities and services directly from our vendors. Each purchase card is issued to a named individual. Under special conditions, upon written request, a Department card may be issued in areas that do not require the employee to have a card on a daily basis. Contact the Finance office for details. The City of Grand Junction is clearly identified on the card as the “corporate” buyer of goods and services. Purchases are exempt from sales tax. All travel related expenses shall follow the travel policies as noted in the Personnel Policy Manual, Section 2.600.

The Finance Division and Accounting Division shall monitor the performance of the program. All questions or concerns shall be directed to:

Procurement Related:	Program Administrator	244-1555	mattmar@gjcity.org
Accounting Related:	Finance Supervisor	256-4025	tatianag@gjcity.org

### 9.2 Who Does What?

The following is a summation of the responsibilities of the individuals and agencies involved in the purchasing card program.

- (a) Department Director/Division Managers shall:
  - (1) Request purchasing cards for designated employees;
  - (2) Set cardholder spending limits within established guidelines;
  - (3) Designate representatives responsible for authorizing charges;
  - (4) Collect cards from cardholders that end employment;
  - (5) Evaluate the need to transfer cards when employees transfer;
  - (6) Notify the Purchasing Card Administrator of cards that must be terminated; and
  - (7) Comply with all purchasing and purchasing card policies and procedures.
- (b) Cardholder shall:
  - (1) Hold and secure purchasing card;
  - (2) Ensure availability of funds and proper account codes;
  - (3) Order/receive materials and services;
  - (4) Make sure there is no sales tax or no back-orders;
  - (5) Collect and save detailed sales receipts;
  - (6) Handle disputed items;
  - (7) Provide **detailed** receipts itemizing all items purchased to the department/division Liaison, providing only the summary receipt showing the total transaction amount is not acceptable for meals;
  - (8) Comply with all purchasing and purchasing card policies and procedures; and
  - (9) Cancel lost or stolen cards by notifying the Purchasing Card Administrator and cardholder’s Department/Division Manager.
- (c) Department Liaison (designated by Department Director) shall:
  - (1) Timely collect all monthly information for the department or division(s) to be processed for account debiting;

- (2) Review monthly statement of each assigned cardholder to ensure inclusion of necessary receipts;
  - (3) Confirm that appropriate supervisor authorizes all charges if cardholder is nonexempt employee;
  - (4) Make sure there is no sales tax or back-orders;
  - (5) Ensure availability of funds in proper account codes;
  - (6) Verify appropriateness of account codes;
  - (7) Process all cardholder statements in a timely manner;
  - (8) Forward statement(s) and supporting **detailed** receipts itemizing all items purchased to Accounts Payable Division; and
  - (9) Process journal entries as required;
  - (10) Comply with all purchasing and purchasing card policies and procedures.
- (d) Accounting Division shall:
- (1) Monitor charges for proper account codes and fund availability;
  - (2) Receive statements every month from department/division Liaison;
  - (3) Notify departmental liaisons when transactions are ready for the approval process;
  - (4) File and store statements, receipts, etc.;
  - (5) Monitor missing documentation and notify the Purchasing Card Administrator or the Department Liaison; and
  - (6) Notify the Purchasing Card Administrator of any violations or discrepancies.
- (e) Purchasing Card Administrator and Finance Division shall:
- (1) Coordinate program policy issues;
  - (2) Create and maintain cardholder hierarchy for control and reporting purposes;
  - (3) Create dollar transaction limits for cardholders and oversee any necessary and required modifications;
  - (4) Process properly authorized card requests and card strategy changes;
  - (5) Assign merchant codes to particular card strategies and change when in the City's best interest;
  - (6) Block merchant/commodity codes when appropriate;
  - (7) Initiate training program for all cardholders;
  - (8) Coordinate issuance and cancellation of cards;
  - (9) Target new cardholders and expanded use of cards;
  - (10) Maintain policy and cardholder guides/manuals;
  - (11) Maintain purchasing card software database;
  - (12) Evaluate purchasing card feedback from suppliers and from departments;
  - (13) Coordinate and maintain internal controls;
  - (14) Assist in resolving billing disputes, if required;
  - (15) Monitor/audit use of cards and selection of vendors;
  - (16) Participate in ongoing program reviews;
  - (17) Conduct annual inventory of purchasing cards; and
  - (18) Provide cardholders all relative information regarding card-use policy and procedures.

### **9.3 Limitations on Use of Purchasing Card.**

- (a) Cardholder Use Only. Only the employee whose name is embossed on the card may use the card.

No other individual is authorized to use the card.

- (b) City Purchases Only. The card is to be used for City authorized purchases only. The purchasing card cannot be used for any personal use and any such use shall require immediate reimbursement and may result in disciplinary action.
- (c) Infractions: All infractions against the policy stated in this manual are tracked. The information is reviewed by the Program Administrator every month. If it is found that an employee has multiple infractions or seems to be abusing the Purchasing Card guidelines, the information will be elevated and reviewed by the Purchasing Manager, the Department Director and the City Manager. Disciplinary action may include a decrease in spending limit, loss of Purchasing Card privileges or dismissal.

#### **9.4 Dollar Limitations.**

- (a) The Department Director approving the assignment of a purchasing card shall set single purchase limits and monthly limits. The maximum single purchase limit is \$5,000. Maximum allowable monthly limit is \$20,000. Requests for spending limit changes must be initiated by the Department Director or Division Manager and approved by the Purchasing Card Administrator.
- (b) A purchase may be made of multiple items, but the invoice cannot exceed \$5,000 or the cardholder's limit if it is less. Payment for purchases must not be split to stay within the single purchase limit.

#### **9.5 Other Conditions.**

- (a) All items purchased over-the-counter must be immediately available. No back ordering is allowed.
- (b) All items purchased during one telephone or online transaction must be delivered in a single delivery. If an item is not immediately available, no back ordering is allowed.
- (c) All items purchased by telephone, on the Internet or fax must be delivered by the vendor within 28 days (one billing cycle). An order shall not be placed without this assurance.

#### **9.6 Prohibited Use of Purchasing Cards.**

The following types of items may not be purchased with a City purchasing card, no matter the dollar amount:

- (a) Any item exceeding \$5,000;
- (b) Cash advances, cash refunds;
- (c) City Stores inventory items;
- (d) Personal items;
- (e) Local (Grand Junction) vehicle repairs;
- (f) Local (Grand Junction) gasoline and oil purchases for city-owned vehicles. The City has a separate card for fuel purchases locally;
- (g) Any merchandise, product or service normally considered to be inappropriate use of City funds.

#### **9.7 Violations.**

- (a) Making purchases which exceed the cardholder's specific dollar limit. It is the responsibility of the ordering department to ensure all "extra" charges such as freight handling, set up, etc., are considered before a purchasing card transaction is made.
- (b) Purchases from vendors that create conflicts of interest (e.g., companies owned by the City employee or relatives or where the employee has or will gain or benefit directly or indirectly from the purchase).

#### **9.8 Requests, Disputes and Forgery/Fraud.**

- (a) To initiate issuance of a new purchasing card or to change information on an existing account a written request by the Department Liaison and/or his/her immediate supervisor is required. The request shall state the employee's name (as it should appear on the card), employee number, accounting defaults, Liaison number and requested spending limits. The request shall be sent to the Purchasing Card Administrator. An email request is sufficient.
- (b) To dispute a charge, the Department Liaison can click the dispute button while reconciling the cardholder's statement and/or the cardholder can complete the "Purchasing Card Dispute Form" and return the form to the issuing bank within 60 days from the posting date statement. The form can be found on the intranet under Departments-Purchasing-Purchasing Forms.
- (c) To report a lost or missing card, or to report a forgery or unauthorized use of a card, the cardholder must complete the "Affidavit of Commercial Card Fraud" and return the form using the directions stated on the form. The form can be found on the intranet under Departments-Purchasing-Purchasing Forms.

### **9.9 Internet Purchasing Card Procurement.**

- (a) Making purchases on the Internet by use of the purchasing card requires special precaution by the using department. Individuals must be aware that the chance of fraudulent card purchases could occur as a result of the City card number being obtained by unscrupulous individuals and used to make purchases. In order to discourage any fraudulent activity, the using department is encouraged to make the actual purchase by using the e-company's toll free number and placing the order verbally. If purchases are made directly on the Internet, they should only be made on a secured Internet site. A small gold colored lock symbol will appear on the lower right corner of the screen if it is a secure site. However, secure web sites do not normally guarantee the security of their site, although they attempt to provide a safety net for the consumer.
- (b) The using department representative must be careful to monitor the electronic purchasing process. All responsibility is borne by the individual making the purchase to ensure the process is monitored and recorded. Users are responsible to maintain a log of Internet purchases to ensure that the City is not billed for goods that have not been received. The log may be a manual log or a computer log. Entries are to be contemporaneous to give up-to-date information of the activities relative to the purchase.
- (c) At the time the order is placed the individual employee making the electronic purchase is required to download a receipt or record of the order placed for future reference. Some e-companies provide you a confirmation of the order electronically and some do not. This process ensures a record of the transaction. The downloaded order documentation must be detailed with an itemized list of all items purchased and shall be submitted with the purchasing card statement for the items that have been charged for that period. Caution should be made to ensure the items that have been ordered are received, prior to authorizing the payment. If the items are not received as ordered, it is the sole responsibility of the individual ordering the merchandise to contact the vendor and rectify the situation. Erroneous billings will be charged to the appropriate budget if the protested activity is not rectified.
- (d) Additional caution must be made with regard to shipping and handling charges. Often the minimum charges for shipping and handling can exceed the savings or value the employee thinks they are obtaining on behalf of the City of Grand Junction. It is not uncommon for the shipping and handling to be a large percentage of the total expenditure, canceling out any savings that would have been realized. The most common carriers used by e-commerce companies are UPS and Federal Express, although heavier shipments may be made by freight carriers. Normally the rates are established based on the dollar value of the order placed and no documentation of the actual UPS/Federal Express/Freight Bill is provided to the purchaser.
- (e) Although the City supports this type of purchasing activity, City employees are encouraged to purchase from local trusted vendors if the goods desired are available. The element of risk is reduced considerably and the assurance of quality is enhanced, because employees can examine the goods prior to purchase.
- (f) All e-commerce purchasing is subject to promulgated City purchasing policy and procedures.

## **SECTION 10: METHODS AND PROCEDURES FOR SOURCE SELECTION**

### **10.1 Informal Solicitations for Purchases Not Exceeding \$25,000.00**

Any purchase of supplies and services less than \$25,000 may be made in accordance with the purchase procedures set forth in this chapter. Purchases shall not be artificially divided to circumvent the solicitation process. If numerous items are being purchased from one vendor on one order, the aggregate price is the determining factor with regard to solicitation procedures.

(a) Purchase Authority and Process.

- (1) The Purchasing Manager or employees with delegated purchasing authority shall have the authority to purchase without formal competition, for the purchase of any materials, professional services, services or construction amounting to more than \$5,000 and not exceeding a cost of \$25,000. If multiple purchases will be made during one fiscal year with an aggregate amount to warrant annual contracting, the Purchasing Division may require the department/division provide data for a formal competitive solicitation, as is in the best interest of the City.
- (2) Such negotiated purchases shall be made in the open market; whenever practical or advantageous, the Purchasing Division or designated representative shall attempt to obtain quotes from a minimum of three vendors. Negotiated purchases of materials, services or construction shall be awarded to the vendor supplying the lowest responsible and responsive quote. The names of the vendors submitting quotations, the amount of each quotation and the date, shall be documented and maintained as a public record.
- (3) The purchasing procedures adopted pursuant to this chapter shall authorize the purchase of materials, services or professional services in the open market by Department Directors and Division Managers or their designated representatives of other departments of the City; provided that no such purchase shall exceed the cost of \$5,000 without competition.
- (4) No contract shall be artificially divided so as to constitute a small purchase.
- (5) The Purchasing Division encourages the solicitation process to increase competition and value for the City. Upon request the Purchasing staff will help facilitate the quote process.

### **10.2 Solicitations for Purchases of \$25,000 or More.**

- Competitive Sealed Bids/Proposals Required. Expenditures for supplies, materials and equipment or any contract obligating the City of Grand Junction of \$25,000 or more and all major capital expenditures shall be purchased under formal competitive sealed bid (IFB, Invitation For Bids) or competitive proposal (RFP, Request For Proposals).
- Public Notice Required. Purchases of commodities and/or services estimated to cost \$25,000 or more shall be published in a general circulation newspaper in the City of Grand Junction and be published at least five working days preceding the last day set for the receipt of solicitations. Public notice of solicitations shall state the place, date and time of the bid opening.
- Public Records. Purchasing Division is responsible for record keeping. All submittals, except confidential or proprietary information as defined by law, are public records and must be retained as such. Documents will be retained electronically through the City's Records Management system. The electronic copy shall be considered the official document.
- Definition – Competitive Sealed Bid (Formal). A competitive sealed bid (IFB) is a method of source selection for a procurement of goods and/or commodities estimated to be \$25,000 or more. Award is generally made to the lowest responsive and responsible bidder whose bid complies with the

specifications contained in the contract (bid) documents. This means that bid price is the decisive criterion for determining the vendor who shall receive the award.

- Definition – Competitive Sealed Proposal (Formal). A competitive proposal (RFP) is a method of source selection for a procurement estimated to cost \$25,000 or more. Award is generally to the respondent whose offer is considered the best when compared and evaluated against all other offers. Cost is not the primary focus of proposal award. Competitive proposal solicitations are used for the procurement of supplies or services that require a high degree of professional skill and expertise, or when looking for the solution to a problem. The qualification based selection process shall be used for the retention of design professionals (architects and engineers).
- (a) Competitive Sealed Bid Procedure.
- (1) Invitation for Bids (IFB). An invitation for bids shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement, as well as the bid opening place, time and date. All IFB documents are posted electronically on the City's *Bids* website.
  - (2) Specifications. Specifications shall be made available to all interested parties as stated in the IFB. If for any reason whatsoever it is necessary to change the specifications or any other of the formal data and there is adequate time as determined by the Purchasing Division prior to the date of bid opening, an addendum shall be issued setting forth the changes. Specification changes must allow adequate notice and notification time and shall be coordinated between user department and Purchasing. This addendum shall be posted electronically on the City's *Bids* website. In certain cases, the bid opening may be postponed to allow adequate time for respondents to prepare their bid based on specification changes. If the opening date is changed, it shall be noted in the addendum document. If there is not adequate time, the IFB shall be canceled and a new bid process initiated.
  - (3) Bonding. Bid bonds of five percent (5%) and 100 percent (100%) performance and payment bonds are required on any City construction project of \$50,000 or more or as the Purchasing Manager and/or Department Director deems advisable to protect the City's interests. Bonding for service contracts or software shall occur at the discretion of the Purchasing Manager or the Department Director of the using agency.
  - (4) Bid Opening. The opening of sealed bids shall be a public formal procedure. Bids shall be opened by the Purchasing Division, at the time and place specified in the Invitation For Bids. The amount of each bid and such relevant information as the Purchasing Division deems appropriate, together with the name of each bidder, shall be recorded. Bids must be received prior to the specified time as established in the IFB. Bids received after the specified deadline may be immediately returned to the nonresponsive vendor unopened.
  - (5) Bid Submission and Bid Evaluation. Bids shall be evaluated based on the requirements set forth in the IFB, which may include criteria to determine acceptability, such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that shall affect the price and be considered in evaluation for award shall be objectively measurable, such as discounts, allowances, transportation costs and total or life cycle costs. The IFB shall set forth the evaluation criteria to be used.
  - (6) Correction or Withdrawal of Bids. Correction or withdrawal of inadvertently erroneous bids before and after a bid opening may be permitted in accordance with this subsection. Mistakes discovered before the bid opening may be modified or withdrawn by written email, or fax notice received in the office designated in the IFB prior to the time set for the bid opening. After the bid opening, corrections in bids shall be permitted only to the extent allowable in the bid documents and that the bidder can show by clear and convincing evidence that the mistake of a nonjudgmental character was made, the nature of the mistake and the bid price actually intended. Except for the foregoing, after the bid opening no changes in bid prices or other provisions of bids prejudicial to the interest of the City or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if: (i) the mistake is clearly evident on the face of the bid document, but intended correct bid is not similarly evident; or (ii) the bidder submits evidence which clearly

and convincingly demonstrates a mistake was made. All decisions to permit the correction or withdrawal of bids shall be supported by a written determination made by the Purchasing Division.

- (7) Award. Generally, an award shall be made by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the IFB. The City does not have a local preference policy. However, City Administration and City Council reserve the right to review and award bids at their discretion to responsive and responsible companies which may or may not be the low bidder. In the event the low responsive and responsible bid for a construction project exceeds available funds or the engineer's estimate, the Purchasing Division, when time and economic considerations preclude re-solicitation of work of a reduced scope, may negotiate an adjustment of the bid price with the low responsible and responsive bidder in order to bring the bid within the amount of available funds. In the purchase of supplies or services pursuant to this section of whatsoever nature or character, amounting in value to \$200,000 or more, the using department shall make report and transmit the bids to the next regular session of City Council with recommendation concerning acceptance or Solicitation analysis. The City Council shall thereupon approve or disapprove the recommendation.
- (b) Multi-Step Sealed Bidding. When it is considered impractical to initially prepare a purchase description to support an award based on price, a Request for Information, RFI, may be issued. An RFI can request submission of prices as part of the RFI process; or request the submission of un-priced offers to be followed by an IFB or RFP limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation. Not all RFI solicitations result in additional steps including an IFB or RFP.
- (c) Competitive Sealed Proposal/Competitive Negotiation Process. A contract for supplies or services for \$25,000 or more may be entered into by use of the competitive sealed proposal/competitive negotiations method when: (1) the Purchasing Division determines that the complex nature or technical details of a particular procurement make the use of competitive sealed bidding either not practical or not advantageous to the City; (2) specifications cannot fairly or objectively be prepared as to permit competition in the invitation for bids; (3) high technology and electronic equipment is available from a limited number of sources; or (4) specifications cannot practically be prepared except by reference to specifications of the equipment of a single source of supply.
  - (1) Requests for Proposals (RFP). Proposals shall be solicited through a request for proposals process.
  - (2) Receipt of Solicitations. No proposals shall be opened until the time designated in the proposal document or addenda. A tabulation/abstract of solicitations shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered.
  - (3) Evaluation Factors. Proposal evaluation criteria should measure how well each offeror meets the desired performance requirements established before proposals are received. Final consideration for awarding of contract may not be based solely on price. A combination of qualifications, past experience, demonstrated successes, references, fees and costs, capacity to fulfill all requirements of the contract and other qualifying considerations shall be considered for evaluation purposes.
  - (4) Discussion with Responsible Offerors and Revisions to Proposals. As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of classification to assure full understanding of, and conformance to, the solicitation requirement. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers.
  - (5) Award. Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the City, taking into consideration price and evaluation factors set forth in the request for proposals. No other factors or criteria shall be used for this evaluation. The contract file shall contain the basis on which the award was made. In the

purchase of supplies or services amounting in value to \$200,000 or more, the using department shall make report and transmit the offers to the next regular session of City Council with recommendation concerning acceptance or rejection thereof. City Council shall thereupon approve or disapprove the recommendation. If the value of the award is between \$25,000 and \$200,000, the using department shall make report and recommendation and transmit same to the City Manager to approve or disapprove the award. If the value of the award is between \$15,000, and \$25,000, the Purchasing Division shall make report and recommendation and transmit same to the appropriate Department Director, or designee to approve or disapprove the award.

### **10.3 Nonresponsive Bid Definition.**

A responsive bid is one that is in substantial conformance with the requirements of the IFB. Bidders who substitute their standard terms and conditions for that of the City's bid documents or who qualify their bids in such a manner as to nullify or limit their liability to the City may be nonresponsive bidders.

- (a) Determination of Nonresponsive. The following are examples of nonresponsive bidders:
- (1) A bidder who fails to deliver a bid prior to the specified place, time and date as shown on the IFB such is considered late and the bid shall not be opened.
  - (2) A bidder who fails to conform to required delivery schedules as set forth in the bid documents or in the permissible alternatives.
  - (3) A bidder who qualifies prices in such a manner that the firm's bid price cannot be determined ("price in effect at time of delivery").
  - (4) A bidder who fails to offer goods or services that comply with the specifications of the bid.
  - (5) A bidder who makes the purchasing authority the responsible party for determining that the bidder's products conform to the specifications.
  - (6) A bidder who fails to furnish bid surety.
  - (7) A bidder who limits the rights of the City under any contract clause.
  - (8) A bidder who fails to return or comply with the Response requirements.
- (b) Appeal. When a bid is declared nonresponsive, the City purchasing rules and regulations require that the bidder be notified and given an opportunity to appeal that determination. If he believes that the nonresponsive determination was erroneous, arbitrary or capricious, the bidder has the right to protest according to the rules and regulations for protested solicitations or awards contained herein (Section 10.9).
- (c) The City at its sole discretion may determine a bid to be nonresponsive or may waive any requirement when deemed in the City's best interest.

### **10.4 Responsible Vendor Definition.**

A "responsible vendor" is a person who has the capability in all respects to perform fully the contract requirements and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment and credit which shall assure good, full and faithful performance.

- (a) Determination of Non-responsibility. The following are reasons a bidder may be declared non-responsible:
- (1) The bidder is not a regular dealer or supplier of the goods or services offered;
  - (2) The bidder does not have the ability to comply with the required delivery or performance schedule;
  - (3) The bidder does not have a satisfactory record of performance as documented by the requesting agency's Department Director or designated representative or as referenced by other jurisdictions or customers;
  - (4) The bidder does not have a satisfactory record of integrity or the bidder is currently disbarred or suspended by the State of Colorado or other Colorado jurisdiction or political subdivision;



- (5) The bidder does not have the necessary facilities, organization, experience, technical skills or financial resources to fulfill the terms of the contract/purchase order; or
  - (6) The bidder of construction and/or maintenance services has a demonstrated record of safety violations.
  - (7) Inability to meet the required contract performance schedule.
- (b) Appeal. When a bid is declared “non-responsible,” the City purchasing rules and regulations require that the bidder be notified and given an opportunity to appeal that determination. If he believes that the non-responsible determination was erroneous, arbitrary or capricious, the bidder has the right to protest according to the rules and regulations for protested solicitations or awards contained herein (Section 10.9).
- (c) The City at its sole discretion may determine a bidder non-responsible or may waive any requirement when deemed in the City's best interest.

### **10.5 Solicitation Irregularities.**

The Purchasing Division has authority to waive irregularities if: (a) the item being waived is only a matter of form or is an immaterial variation from the exact requirements of the Solicitation; (b) the item being waived has trivial or no effect on price, quality, quantity, delivery or performance; (c) such a waiver would not affect the relative standing of bidders or be otherwise prejudicial to them; and (d) the waiver is in the City’s best interest. Examples of minor irregularities that may be waived are:

- (a) Failure to furnish with the bid certain required information regarding the vendor’s qualifications to perform the contract.
- (b) Failure to submit required descriptive information on the products offered.
- (c) Failure to return the proper number of executed bids or attachments, including certifications and affidavits.
- (d) Failure to return a bid addendum or amendment if on the face of such bid the bidder acknowledges receipt of addendum or amendment or if the addendum or amendment does not have material effect on the bidder’s liability under the terms of the contract.
- (e) Failure to sign a bid, when evidence is submitted with the bid that clearly shows that the bid was the one intended by the bidder and that failure to sign was strictly an oversight.

When such minor irregularities are discovered by the purchasing authority, the offeror is requested to remedy the problem within a reasonable timeframe by later submitting omitted data or by providing a written statement of intent.

### **10.6 Exemptions to Competitive Solicitation.**

- (a) The following items are exempted from competitive bidding:
- (1) Supplies, materials, services costing less than \$25,000;
  - (2) Purchases made cooperatively with other units of government such as the State of Colorado and government cooperative groups utilizing extended awards from other governmental agencies. The City may, when deemed appropriate, extend its award to other governmental agencies;
  - (3) Purchases/Contracts with utility providers, federal, local government and not-for-profit units;
  - (4) Purchases approved by the 21<sup>st</sup> Judicial District Law Enforcement Forfeiture Board using seized funds;
  - (5) Magazines, books and periodicals;
  - (6) Membership Dues, Postage and Insurance;
  - (7) Supplies, products or services indispensable to the City which are obtainable, for practical purposes, only from a single source, as identified by the Purchasing Manager using the procedure herein set forth;
  - (8) The material qualifies as an object of fine art;

- (9) A particular material is required to match materials currently in use by the City; or
  - (10) City Council approved non-capital items;
  - (11) Original Equipment Manufacturer (OEM) repair parts purchased from the source vendor;
  - (12) Annual maintenance and service agreements on purchases originally obtained by competitive solicitation or Sole Source when the terms of the agreement specify the original provider performs ongoing maintenance;
  - (13) Goods or services obtained as a result of a Memorandum of Understanding (MOU).
- (b) Miscellaneous Exemptions. Any procurement resulting from a formal competitive bid or proposal may be used as the basis for the negotiated purchase of additional quantities of the same materials or services at any time within a period of three years from the date of approval; provided, however, that subsequent procurements are expressly limited to the specific terms, conditions and pricing established by the original solicitation. Additional quantity negotiations must be accomplished by the Purchasing designee.
- (c) Construction change orders may be permitted without competition as described in Section 8.

### **10.7 Waiver Process to Formal Competitive Bids.**

The formal bid process may be waived by the Purchasing Manager under the following conditions:

- (a) Where the process may cause undue delay or hardship for a department, division or office of the City; and
- (b) When deemed in the best interest of the City.

### **10.8 Rejection of Bids.**

All bids may be rejected when one or more of the following occur:

- (a) All bids exceed the budgeted amount;
- (b) There are no responsible bidders;
- (c) There are no responsive bidders;
- (d) The project is abandoned; or
- (e) The specifications, scope and/or terms and conditions are revised.
- (f) Irregularities in the procurement process as determined by the Purchasing Manager and/or the City Manager.

### **10.9 Protested Solicitations or Awards.**

- (a) Protest. Any actual or prospective bidder, contractor or vendor who is aggrieved in connection with the solicitation or award of a contract and purchase order may protest to the Purchasing Manager, or City Manager as set out in this section. The protest shall be submitted in writing to the Purchasing Manager or his designated representative, within seven working days after the aggrieved person knows or should have known of the facts giving rise thereto.
  - (1) Protests in connection with a solicitation or award of a contract involving an amount less than \$50,000 shall be filed with and determined by the Purchasing Manager.
  - (2) Protests in connection with a solicitation or award of a contract involving an amount of \$50,000 or more shall be filed with and determined by the City Manager.
- (b) Authority. The City Purchasing Manager or City Manager, as set out in this section, shall have the authority to settle and resolve a protest of an aggrieved bidder, contractor or vendor, actual or prospective, concerning a solicitation or award of a contract. A written decision regarding the protest shall be rendered within 30 working days after the protest is filed. This authority shall be exercised in accordance with the City procurement rules and regulations set forth herein. The City reserves the right to make determinations that are deemed in the best interest of the City. If 30 days

have passed without a decision, the written protest shall be forwarded to the City Attorney's office for resolution.

**10.10 Confidentiality.**

After solicitations are opened and reviewed at the solicitation opening, they become confidential documents until the Purchasing Division awards the contract or the solicitation project is cancelled. Staff shall not discuss solicitations with competing vendors. Vendor questions must be referred to the Purchasing Division. Staff shall not discuss with any vendor the recommended award or the reasons for awarding or not awarding. Members of any evaluation team or committee will be kept confidential. Scores may be made public, but individual names will remain anonymous.

**10.11 Disagreements about Recommendations.**

If the Department and the Purchasing Division disagree about the award recommendation, the Department Director or designee and the Purchasing Manager or designee shall meet personally to review the reasons for the disagreement. The mutual goal of the Department and the Purchasing Division is to award to the lowest responsive and responsible bidder for goods or services that meet the Department's requirements contained in the specifications. Disagreements that cannot be resolved shall be forwarded to the City Manager's office for final determination.

## **SECTION 11: SPECIFICATIONS**

### **11.1 Specifications.**

The term “specification” or “specifications” refers to that portion of a solicitation that describes the required characteristics of a commodity or service. It is used interchangeably with the terms “purchase description”, “purchase specification”, “purchase requirement”, “commercial item description”, “scope of work” and “statement of work.” A specification may include requirements for samples, prototypes, inspection, testing, warranty and packaging. The specifications are the communication medium between the purchaser and the seller and the basis on which the bids are prepared. Specifications for each item should be definite and precise to eliminate the possibility of misunderstanding on the part of the vendor or the purchaser.

The fundamental premise of public procurement is that maximum price competition minimizes government costs. Specifications shall be prepared accordingly.

Specifications which call for only one “brand or trade name” item to be furnished shall not be issued unless prior approval is granted by the Purchasing Manager. “Brand names” may be used to establish acceptable or minimum standards that all vendors must meet or exceed.

In considering and developing specifications, it may be determined that expenditures cannot be expected to provide for excessive levels of quality.

### **11.2 Authority for Specifications.**

The Purchasing Division is responsible for and has the authority to accept or reject any specification. Since the purpose of a specification is to translate a user’s need into the delivery of a good or service, the development of specifications must be a cooperative effort between the using agency and Purchasing. However, prior to release of a specification as part of a solicitation, the Purchasing Division must be satisfied that it shall result in a fair and equitable competitive procurement.

### **11.3 Types of Specifications.**

There are several types of specifications. The development, selection and use of a particular type are dependent on the situation, time, information available and needs of the user.

- (a) Performance Specifications. Performance specifications (also known as functional specifications) are preferred since they communicate what a product is to do, rather than how it is to be built. Among the ingredients of a performance specification would be the following:
- (1) A general nomenclature or description;
  - (2) Required performance characteristics (minimum/maximum) to include speed, storage, production capacity, usage, ability to perform a specific function;
  - (3) Operational requirements, such as limitations on environment, water or air cooling, electrical requirements;
  - (4) Site preparation requirements for which the contractor shall be responsible, such as electricity, plumbing or for which the City shall be responsible;
  - (5) Compatibility requirements with existing equipment or programs;
  - (6) Conversion requirements for maintaining a current equipment or system until switching to the new equipment or system;
  - (7) Installation requirements;
  - (8) Delivery date;

- (9) Maintenance requirements;
- (10) Supplies and parts requirements;
- (11) Quantity and method of pricing;
- (12) Warranty; and
- (13) Service location and response time.

Note: Performance specifications shall be developed by City agencies unless impractical or unnecessary to fully and accurately describe agency requirements.

- (b) Design Specifications. Design specifications employ dimensional and other physical requirements and concentrate on how a product is fabricated, rather than on what it should do. Design specifications are normally prepared by architects and engineers for construction or custom manufactured products. Among the ingredients of a design specification would be the following:
  - (1) Dimensions, tolerances and specific manufacturing or construction processes;
  - (2) References to a manufacturer's brand name or model number; and
  - (3) Use of drawings and other detailed instructions to describe the product.
- (c) Brand Name Specifications.
  - (1) A brand name specification may be used only when the Purchasing Manager has determined that sufficient sources of competition exist for the procurement of the material and that the use of the brand name specification is not intended to limit or restrict competition.
  - (2) A brand name specification may also be used to describe the standard of quality, performance and other salient characteristics of a material in lieu of a description of its physical or functional characteristics. In such cases, the solicitation shall contain explanatory language that the use of the brand name is for the purpose of describing the standard desired and that the substitution of equivalent materials is permitted.
  - (3) When a specification mentions a manufacturer's brand name or model number, it shall also include the words, "or equal." In this regard, "or equal" is interpreted to mean, "substantially (real, actual and/or true, not imaginary) equal and capable of performing the essential functions of the referenced brand name or model." Identify in the requisition any specific features of the referenced brand that must be met.
- (d) Service Delivery Specifications (aka – Scope of Work/Services). The following is an outline of the types of information that should be included in a scope of work or scope of services developed for procurement of independent contractors providing services other than construction (e.g., HVAC maintenance, window washing, demolition, etc.).
  - (1) General Requirements. Describe, in general terms, the contractor's responsibility to provide a service or produce a final product.
  - (2) Specific Requirements. Next, address the specific tasks, sub-tasks, parameters and limitations which must be considered in producing the service or final project. Such factors as the following should be included:
    - (i) Details of work environment;
    - (ii) Minimum or desired qualifications;
    - (iii) Amount of service needed;
    - (iv) Expected results;
    - (v) Location of service;
    - (vi) Definition of service unit;
    - (vii) Time limitations;
    - (viii) Travel regulations or restrictions;
    - (ix) Special equipment required; and

- (x) Other factors affecting working environment.
- (3) City-Provided Materials or Services. List any plans, reports, statistics, space, personnel or other City-provided items that must be used, or are available for use, by the contractor.
- (4) Deliverables, Reports and Delivery Dates. Identify the specific delivery dates for all services and products the contractor must furnish. Be clear about the expectations of the City for the contractor's performance.

#### **11.4 Specifications "Do's and Don'ts."**

- (a) Do:
  - (1) Use the word "must" or "shall" to describe a command or mandatory requirement;
  - (2) Use the words "should" or "may" to describe an advisory or optional requirement;
  - (3) Be specific and detailed in presenting mandatory requirements; and
  - (4) State a requirement of fact once and avoid duplication.
- (b) Don't:
  - (1) Present something as mandatory if it is really only optional;
  - (2) Write specifications or scope of work that restrict response to a single bidder/offeror; and
  - (3) Place bid/proposal administrative or contractual terms in the specification portion of the document.

#### **11.5 Preparation of Specifications.**

All specifications shall be drafted so as to promote overall economy for the purpose intended to encourage competition in satisfying the City's needs and shall not be unduly restrictive. The policy enunciated in this chapter applies to all specifications including, but not limited to, those prepared for the City by independent architects, engineers, designers and draftsmen.

Departments are responsible for the first draft of specifications to be submitted to Purchasing. Lengthy and complex specifications should be submitted to Purchasing via e-mail attachment. After Purchasing has reviewed the specifications and attached its standard terms and conditions, the Department shall be forwarded a redline draft for final review and approval.

Bids and quotations should be based on concise but adequate specifications. A lengthy specification composed or designed solely for the purpose of eliminating competition, other than those able to supply a particular brand name commodity, should be avoided and the actual brand name or common description should be used when no other of its kind would be equally satisfactory. Specifications should be detailed to provide a basis for full and fair competitive bidding upon a common standard and should be free from any restrictions that would have the effect of stifling competition.

The Purchasing Manager or Buyer has authority to require modifications or alterations to a specification to permit competitive bidding. The Purchasing Manager or Buyer shall furnish the requesting department representative with a written report of any change(s) and why change(s) is desired and/or necessary. Disagreements between Purchasing Staff and agency representatives regarding final bid or proposal specifications shall be resolved by the City Manager.

#### **11.6 Changing Specifications.**

Once a solicitation has been posted, no changes in the specifications may be made unless an addendum is issued, clearly pointing out such changes. Vendors must acknowledge in a form required by the Purchasing Division receipt of each/any/all addenda. Once a decision has been reached on the specification(s), all responses must be based upon the same specifications and no vendor has a right to substitute other specifications for those contained in the solicitation.

## **SECTION 12: PROFESSIONAL, TECHNICAL AND EXPERT SERVICES PROCUREMENT**

### **12.1 Purpose.**

The City frequently requires the specialized skills, knowledge, resources and services of private contractors or consultants to complete complex studies, to develop or revise procedures, to conduct audits, to train staff, to design facilities, or to provide a specialized product. The purpose of this section is to set forth policy and procedures for procuring professional, technical and expert services.

### **12.2 Authority.**

- (a) Under \$25,000. For the purpose of procuring the service of licensed professional(s) or independent consultant(s), any using agency or department requiring such services may procure them on its own behalf when the total cost does not exceed \$25,000. Department Directors or Division Managers are responsible for selection and contract administration. Competition is not required; nevertheless, Department Directors or Division Managers are responsible for selection based on applicable and appropriate qualifications, experience, referenced successes and cost factors.
- (b) \$25,000 to \$200,000. With the approval of the City Manager, professional, technical and expert services with a total cost of \$25,000-\$200,000 can be procured without competition (see Section 2.8, Purchasing Approval Limits Table, Sole Source column). Department Directors are responsible for providing the City Manager with a written justification and recommendation for the selection.
- (c) Over \$200,000. With the approval of City Council, professional, technical and expert services can be procured without competition (see Section 2.8, Purchasing Approval Limits Table, Sole Source column). Department Directors are responsible for providing and presenting City Council with a written justification and recommendation for the selection.
- (d) Without the approvals set forth above, for the purpose of procuring the services of licensed professionals or independent consultants, all City departments are required to adhere to the selection procedures described in this chapter if the work is to cost \$25,000 or more. The City Purchasing Manager is authorized to solicit and procure professional services expected to cost \$25,000 or more. Proposals shall be requested and received by the Purchasing Division. Offerors shall be ranked and negotiations may be conducted. No contract for the services of legal counsel shall be awarded without the approval of the City Attorney or his designated representative. Contracts for professional design services shall follow the qualification-based selection process (SOQ).

### **12.3 Selection Procedures for Professional Service Contracts of \$25,000 or More.**

The selection process for professional services, to include design firms, architects, engineers, land surveying, auditors, training and other professional or technical specialized services shall be competitive whenever possible. Prior to making the decision to solicit proposals a determination must be made if the process is to be single or multi-step. In a multi-step process, the department desiring the services should determine if it would be in the best interest of the City to obtain qualification letters or statements of qualification (SOQ) from prospective providers prior to soliciting proposals. If that is the desire of the requesting department, the process will start with the SOQ. The following process shall be adhered to in varying degrees as agreed upon between the using department and the Purchasing Division.

- (a) Step 1. The first step requires the Director to designate a representative to serve as project coordinator, also known as “project manager.” Prior to preparing a requisition to issue a request for proposals (RFP), the project coordinator shall confer with the Purchasing Division to determine whether an RFP is the appropriate mechanism for the procurement or if a qualification letter/statement of interest (SOQ) is the first step of the process. If the RFP is recommended, a schedule for the selection process shall then be established.

- (b) Step 2. The project coordinator shall prepare a purchase requisition to transmit to the Purchasing Division with the scope of work (minimum requirements for services) for the project. The scope of work (SOW) shall be submitted in writing or e-mail. The SOW seeks results; it is performance, not process oriented and requires a systematic approach. It should define the mission of the RFP or answer the question ‘why’ this acquisition is being made or considered. It also discusses ‘how,’ at least in broad terms, the mission is to be accomplished. The SOW defines the logical flow of activities, specifies the expected result or outcome of each and delineates how this shall be measured. It defines who is responsible for what, i.e., it identifies the responsibilities of both parties (purchaser and supplier).
- (c) Step 3. Accompanying the SOW shall be (1) a proposed calendar of events, and (2) the recommended evaluation criteria to be incorporated into the RFP and used to rank and select the service provider. (3) The department shall also provide the names and addresses of the recommended evaluation committee members and a list of prospective offerors to be contacted.
- (d) Step 4. The Purchasing Division shall prepare a draft RFP for departmental review. Only after all revisions are made will the RFP be advertised by the Purchasing Division.
- (e) Step 5. The Purchasing Division shall receive all proposals until the deadline date, place and time specified. At that time, submittals shall be opened, recorded and reviewed to be certain the administrative requirements of the RFP have been met. Note: At this stage only the names and addresses of respondents are public record; all other information is confidential until contract negotiations are completed and award has been made or the project is cancelled.
- (f) Step 6. Electronic copies of the proposals shall be forwarded to the department for distribution to evaluation committee members for perusal prior to the formal selection meeting that follows.
- (g) Step 7. Committee members shall then meet as a team. The team reviews each proposal and determines the strengths and weaknesses of each. The team members may score each proposal using a rating form that is specifically prepared for the unique conditions of the proposed contract work. After all proposals have been evaluated, team members shall rank the proposals in order of preference. The references of the highest ranked firm are checked to support the team finding. The evaluation must be done in accordance with the criteria contained in the RFP. The information in proposals is confidential during the evaluation process. If requested, a representative of the Purchasing Division shall assist the committee to assure that evaluations are conducted as stated in the RFP. If warranted, interviews or oral presentations may be scheduled to further assess the capabilities of the proposers.

The committee recommendation does not authorize the committee or department to notify any offeror of the status of the evaluation.

Members of the evaluation team or committee will be kept confidential. Scores can be made public, but individual names will remain anonymous.

- (h) Step 8. The Purchasing Representative and/or the project coordinator may conduct negotiations with the recommended offeror until a final contract is agreed upon. If necessary, the City Attorney’s office shall be asked to review the draft contract document before award. If terms or compensation cannot be agreed upon with the best-qualified offeror, negotiations shall be terminated. If proposals were submitted by one or more other offerors determined to be qualified, negotiations may be conducted with such other offeror or offerors, in order of their respective qualification ranking and the contract may be awarded to the offeror then ranked best qualified if the amount of compensation is determined to be fair and reasonable.
- (i) Step 9. After both parties have agreed to the terms of the contract, the contract shall be presented to the proper authority for execution. Authority to award and execute contracts shall comply with purchasing authority thresholds as set forth in Section 2.8.
- (j) Step 10. All proposers shall be notified of the selection.
- (k) Step 11. The length of Professional Services is one year with three (3) additional one-year extension options. If the cost increases, the contract amendment approval should be made according to the Purchasing Approval Limits.



## **SECTION 13: EMERGENCY PURCHASES**

### **13.1 Emergency Purchase Definition.**

Emergency purchases are made to protect the public health of citizens or when immediate repair is necessary to prevent further damage to public property, machinery or equipment. In addition, a bona fide emergency purchase is when the functioning and operation of a City department would be seriously hampered or delayed through use of the normal purchasing process.

### **13.2 Authority.**

In case of an emergency affecting the public peace, health or safety, the City Manager may waive all provisions for competitive bidding. In such instances, the City Manager may direct the appropriate Department Director or Purchasing Division to procure such emergency needs by informal open market procedure, as expeditiously as possible, at not more than commercial prices. When expenditures exceed \$200,000, a full report of the circumstances necessitating the emergency action shall be presented at the next City Council meeting by the City Manager.

### **13.3 Emergency Purchase Procedures.**

- (a) Criteria. The following are the criteria for determining whether to use emergency purchase procedures:
- (1) An equipment breakdown or act of God threatens to terminate essential services; or
  - (2) A piece of equipment requires immediate repair to prevent further damage to public property, machinery or equipment; or
  - (3) A dangerous condition or immediate need for supplies, equipment or services threatens public safety, health or welfare.
- (b) Procedures. The following are procedures to be followed for emergency purchase situations:
- (1) In the event of an actual emergency during nonworking hours, the Department Director or designee may purchase directly any supplies whose immediate procurement is essential to protect the life, health or safety of the public. When expenditures exceed \$25,000, the Department Director or designee of the City agency using the emergency procedure shall submit, by close of business the next work day, a requisition with a copy of the delivery document and a written report explaining the circumstances of the emergency to the Purchasing Division.
  - (2) During normal City business hours, the Department shall notify the Purchasing Manager of the emergency situation and request verbal approval to proceed with the emergency purchase. The Department shall provide the following:
    - (i) The nature of the emergency;
    - (ii) The estimated cost of the services/goods required; and
    - (iii) The vendor recommended to receive the order.

## **SECTION 14: SOLE SOURCE DESIGNATION**

### **14.1 Authority.**

The City purchasing manual allows for exemption from the competitive procurement process when a written determination has been made by a Department Director or Division Manager, and approved by the Purchasing Manager, City Manager or City Council, that there is only one source practicably or reasonably available to supply a good or service.

When, in the opinion of the Purchasing Manager the best interests of the City shall be served, the Purchasing Manager may authorize the use of sole source procurement procedures provided the expenditure does not exceed \$25,000. Initial sole source requests up to \$25,000 must also be approved by the Department Director. Initial sole source requests from \$25,000 to \$50,000 must be approved by the City Manager. Initial requests for sole source expenditures of \$50,000 or more shall be approved by City Council. See "Purchasing Approval Limits" Section 2.8.

Approved sole source requests may remain in effect for the useful life of the product/project given that the criteria set forth in this section is still applicable. Purchases of items related to prior approved sole source requests may be procured without repetitive approval authority given that budgeted funds are available.

### **14.2 Sole Source Criteria.**

The following are the criteria used for determining sole source:

- (a) The vendor is the original equipment supplier/manufacturer with similar parts or equipment and equipment/parts are not available from another manufacturer;
- (b) The compatibility or conformity with City-owned equipment or materials in which nonconformance would require the expenditure of additional funds;
- (c) No other equipment is available that shall meet the specialized needs of the department or perform the intended function;
- (d) Detailed justification is available which reasonably establishes that the vendor is the only source practicably available to provide the item or service required; or
- (e) Written demonstration and justification is available which reasonably and practicably establishes that the selection of a sole source vendor is in the best interest of the City.
- (f) The product, equipment or service is functionally superior to all other competitive products.

### **14.3 Procedures.**

- (a) The department shall complete a Sole Source Justification Form and attach documentation and justification that establishes that the proposed vendor is the only source reasonably or practicably available to provide the item or service required. The department is responsible for conducting negotiations, as appropriate, as to price, delivery and terms. In an effort to ensure that sole source justifications forms are valid, after a period of three years, the Purchasing Staff may request the using department update the information or justify that the sole source conditions continue to be valid. The Sole Source Justification Form can be found on the intranet under Forms-Purchasing.
- (b) Authorization Thresholds: For sole source purchases follow the approval limits designated in Section 2. If a sole source is required to be approved by the City Council, the presentation to Council for final approval or disapproval must be made by the requesting department. The Purchasing Manager shall review the recommendation for compliance with the City's policies prior to the agenda being forwarded to the City Clerk to be placed on City Council's agenda. Presentation shall be made by the requesting Department.

## **SECTION 15: INFORMATION TECHNOLOGY PURCHASES**

### **15.1 Authority of Information Technology Director.**

All purchases of computer hardware and software must have prior approval of the City's Information Technology (IT) Director or his designated representative.

Any purchase request submitted directly to Purchasing shall be returned to the requesting department without further processing.

### **15.2 General Guidelines.**

The procedures set forth in this chapter shall be followed for all hardware and software purchases, usage, and installation regardless of price, including monitors, printers, plotters, scanners, memory and multi-function cards, co-processor chips, disk drives, backup units and/or any other device/component which is controlled by computer.

Each department shall be responsible for ensuring no unauthorized software or programs are installed on their machines by their assigned personnel. Should an unauthorized installation be discovered on a department machine by IT personnel, the assigned department head and the Purchasing Manager shall be notified by IT.

Only properly licensed software/hardware owned by the City of Grand Junction may be installed on City-owned machines. All City computer hardware/software classified as "infrastructure" or "City-wide" shall be under the jurisdiction of the Information Technology Division.

Any software or browser plug-ins downloaded from the Internet needed to view, hear or read web pages shall be the responsibility of the user to install and trouble shoot. Patches, minor updates and hardware drivers for approved software and hardware may be downloaded from the Internet.

### **15.3 Request and Purchase Procedure.**

- (a) The department requesting the purchase shall forward the request to the IT Director by e-mail. The request shall state the reason/need for the item, item description including system requirements, estimated costs, possible vendors and applicable accounting information.
- (b) The IT Director or his designated representative shall evaluate the request. Routine items that are department specific for which no IT support is being requested can be authorized by the IT Director.
- (c) Hardware and software items that affect more than one department, the City-wide or infrastructure systems, significant upgrades or version changes to existing software or items for which technical support is being requested must be approved by the IT Director. The IT Director can approve the request, approve an alternative purchase and/or arrange a meeting with the department involved to discuss the request.
- (d) Approved purchases under \$15,000 shall be returned to the requesting department for purchase with a recommended vendor. Purchase requests of \$15,000 or more shall be the responsibility of the IT Director who shall follow the procurement rules and regulations as set forth herein.
- (e) "Sole Source" Computer Equipment Acquisition: Purchases which would, because of dollar amount, require a bid procedure, but for which it is deemed not in the City's interest to seek bids (because of the need to standardize equipment and/or provide equipment which fits within current maintenance/service policy) shall be so marked upon forwarding to IT Director. Such purchase requests must meet City guidelines for sole source procurement (See Section 14). Sole source computer related purchases shall be justified in writing by the IT Director.

## ***SECTION 16: FLEET PURCHASES***

### **16.1 Authority of the Fleet/Facility Manager.**

The City's Fleet Manager or his designated representative and the using department must review all purchase requests for vehicles and industrial equipment.

Any purchase request submitted directly to Purchasing without input from the Fleet Manager shall be returned to the requesting department and not processed until the request complies with Purchasing policies and procedures.

### **16.2 General Guidelines.**

It is the policy of the Fleet Services Division (FSD) to provide the latest in vehicle and equipment technology to the City of Grand Junction service divisions in the most cost effective fashion possible. It is also the FSD's responsibility to plan for replacement of City of Grand Junction vehicle and equipment assets in the most practical and economical time frame.

All vehicles and industrial equipment with a purchase value of \$5,000 and above or vehicles and equipment that require registration and licensing to operate on public roads and highways shall be included in the fleet replacement accrual fund and under the direction of the FSD.

### **16.3 Overview.**

The economic life cycle of vehicles and equipment in today's industry is considerably longer than in the past. The ability of computerized fleet maintenance management systems and other technology such as oil analysis, engine analyzers, and on-board computer systems have had a positive impact on the length of service life. The change is demonstrated by the higher mileage warranties that are offered on some vehicles in fleet environments.

The most advantageous replacement frequency is not a preset, inflexible interval in usage, years, or maintenance cost, as has occurred in past years for some fleets. The most economical replacement opportunity will occur within a specified time frame or replacement window.

### **16.4 Vehicle and Equipment Specifications.**

Specifications are developed by the Fleet Supervisor or a delegated representative and reviewed by the Purchasing Division for programmed replacements and approved additions to the fleet for which FSD will inherently have asset management responsibility, in consultation with the using agency. Specifications are developed/updated on an as-needed basis as early in the fiscal year as possible (subject to known/projected needs, availability of spec information, etc.). Specifications consider the using department's needs to the maximum extent possible, while also providing for standardization of similar fleet units to promote unit assignment flexibility. Specifications attempt to maximize supplier source options, while providing for using agency and City needs for satisfactory equipment and supplier performance.

Note: It is the responsibility of the using department to request early replacement, replacement upgrades and new vehicle or equipment additions to the fleet. During the budget process by the appropriate level the annual rental rate will be included in the requesting department's operating budget by the Accounting Division. FSD will continue to use the Equipment Replacement Committee to evaluate and approve projected vehicles and equipment for replacement as established by the replacement fund.

### **16.5 Bid Evaluation.**

The FSD and the Purchasing Division with the cooperation of the using department will evaluate bids for those fleet units for which they have asset management responsibility. Bid evaluations will consider the

extent to which bids meet or exceed the minimum requirements. Bid evaluations may be based on one or more established grading scales. When deemed necessary, equipment demonstrations may be conducted to assist in the evaluation process (equipment pre-qualification process).

#### **16.6 Vehicle and Equipment Standards.**

It is the policy of FSD to apply vehicle standards to all vehicle and equipment acquisition. The standards will enable the FSD to standardize specifications, repairs, parts acquisition and training to both technicians and operators. This minimizes costs and enhances efficiency. Standards will clearly define the need for specific features to perform job duties of a specific type and definition.

Replacement units shall be equivalent to the unit being replaced, unless a more economical downgrade is appropriate. Example: downgrade a full size pick up for a compact sedan or hybrid.

The goal is to meet the using department needs while providing the lowest practical ownership costs with the least environmental impact.

To standardize fleet units, options and equipment packages whenever possible and practical, downsizing is encouraged. The following criteria will be used for the selection of appropriate vehicles:

- (a) Administrative sedans will be mid-size or smaller.
- (b) Public safety units subject to pursuit or emergency calls may be full-size sedans or SUVs.
- (c) All unmarked public safety units will be mid-size.
- (d) All units will be of the smallest practical size.
- (e) All units will be two or front wheel drive unless off-road or all-wheel drive is can be justified.
- (f) K-9 units shall be full size wagon or SUV.

Alternative fuel will be considered on all units where an alternative fuel is available. Types of alternative fuels include, but are not limited to, E85, electric, electric/gas (hybrid) and compressed natural gas (CNG).

#### **16.7 Vehicle Identification.**

Fleet units operated by the City of Grand Junction shall comply with all local and State laws, regulations, and ordinances, which prescribe the identification of City fleet units. Those fleet units for which the FSD has asset management responsibility shall be marked by the FSD.

#### **16.8 Equipment Transfer and Turn-in.**

The FSD shall manage the departmental assignment of all units for which it has asset management responsibility.

Transfer requests and/or new equipment requests shall be made to the FSD by the agency to receive the fleet unit. Fleet units, which are no longer needed by an agency, may be returned to the FSD at any time with written notice to the FSD requesting termination of the unit assignment.

#### **16.9 Disposal of Fleet Vehicles and Equipment.**

Disposal of all surplus or excess Fleet vehicles and equipment shall follow procedures found in Section 19 of this Manual.

## **SECTION 17: COOPERATIVE/OTHER GOVERNMENT ENTITIES PROCUREMENT**

### **17.1 General.**

Cooperative procurement is a process by which two or more jurisdictions cooperate to purchase items from the same vendor. This form of purchasing has the benefits of reducing administrative costs, eliminating duplication of effort, lowering prices, sharing information and taking advantage of expertise and information that may be available in only one of the jurisdictions.

Cooperative procurement transactions must be legitimate and enforceable. There must be mutuality of understanding between buyers and sellers and a commitment on the part of participants in the cooperative procurement process to purchase from the successful vendor.

“Shopping” cooperative contracts (using one jurisdiction’s contracts to bargain with other vendors) is considered an unethical purchasing practice. City employees shall not engage in this practice.

### **17.2 Authority.**

- (a) The Purchasing Division is authorized to participate in, sponsor, conduct or administer a cooperative procurement agreement with one or more other public bodies in order to combine requirements, increase efficiency or reduce administrative expenses. Participation in cooperative procurements as described in this chapter is exempted from competitive bidding and advertising requirements.
- (b) The Purchasing Division is authorized to use the Colorado Division of Purchasing or political subdivisions of the State or other governmental entities in the purchase of supplies, materials or equipment when such actions shall serve the best interest of the City.
- (c) If the Purchasing Division determines that another jurisdiction or co-op has entered into a competitive contract that allows participation by the City (“piggy-backing”), the City may make purchases from such contract(s).

### **17.3 Purchasing for Other Governmental Entities.**

At times, the City of Grand Junction Purchasing Division is requested to solicit competitively on behalf of other governmental agencies. The City Purchasing Division may help whenever approved by the Purchasing Manager; however once responses are received, they will be turned over to the requesting agency who is then responsible for the evaluation and award criteria established by that agency. In the event there is a protest or legal claim or action, the City of Grand Junction bears no responsibility in settling the dispute(s) and/or defending a legal claim or action.

## **SECTION 18: CITY PRIVATIZATION AND COMPETITIVE POLICY**

### **18.1 Purpose.**

The purpose of this chapter is to set forth and establish policy and general guidelines for a privatization and competitive City procurement policy.

### **18.2 Background.**

The following privatization and competitive procurement policy has been established as a management tool for the City to use in achieving its goal of being a model of effective, efficient and responsive municipal government, working in partnership with the private sector. Effective use of this management tool shall enhance the City's ability to ensure the most cost-effective and beneficial expenditure of taxpayer dollars by utilizing the best talents, ideas and resources from both the public and private sector.

### **18.3 Policy.**

The City of Grand Junction's policy is to utilize the most beneficial methods from the public and private sectors to provide quality services and products to its citizens. When practicable, the City shall utilize a comparative cost and benefit analysis process with the private sector. Privatization of a "core competency" service or operation (i.e., policy-making position/operation or functions required by statute to be performed by a government employee, etc.) shall not be considered.

### **18.4 Guidelines.**

When directed by the City Manager, the Department Director and/or Purchasing Manager shall prepare a written feasibility study for the privatization of a service or operation performed by City employees. The study shall be returned to the City Manager for final feasibility determination. If the City Manager determines that it is feasible, the process shall continue with the preparation of a competitive solicitation.

### **18.5 City's Cost Comparison Methodology.**

The City's cost comparison methodology is based on the avoidable costs approach and shall include in the computations only those costs that the City shall no longer incur (i.e., avoid) by contracting out.

### **18.6 Public/Private Competitive Process.**

The steps and responsibilities during the public/private competitive process are similar to the traditional purchasing process except for the fact that a bid/proposal from a City department is included. Because a City operating department is participating in the competition, two additional steps must be taken by the City to establish the credibility of the City proposal. Those steps are (a) certification of the City proposal, and (b) a post-implementation audit of the service provider.

Steps in competitive process are:

(a) Identify privatization target areas, such as:

- (1) New services that have never been provided before that shall require an increase in capital investment and/or full-time employee increases;
- (2) Services or operations that are commonly provided in the private sector marketplace;
- (3) Areas experiencing high personnel attrition/turnover;
- (4) Areas of documented poor service or a high volume of customer complaints;
- (5) Areas that have the greatest potential for cost benefits;
- (6) Pilot program(s) to measure comparative cost benefits of internal to external (privatized)

performance; and

(7) Extraneous/fringe tasks not directly related to primary mission.

(b) Identifying Service and Associated Costs.

(1) When the decision to use the competitive process is made, the operating department shall specify the service to be evaluated. That department is then responsible for notifying the parties that shall be affected by the process, including the City Council, City Manager, Financial Operations Manager, City Auditor and City Attorney. All of these City officials shall need to prepare for their roles in the process.

(2) Operating department personnel shall identify costs by determining the resources required and the method to be used for delivery of the service. The Financial Operations Manager then assists the operating department in identifying the costs of resources that shall be needed to deliver the service.

(c) Preparing Solicitation Specifications for Privatization of City Provided Service. The Purchasing Division prepares the solicitation specifications utilizing the final scope of work (services) for service delivery prepared by the Department Director and his staff.

(d) Certify City Cost Proposal. The City's Financial Operations Division receives and tests the City proposal for reasonableness of proposed costs prior to competitive submission.

(e) Solicitation Opening. At the opening date and time, the Purchasing Division opens and announces the proposals, including the City proposal. The City Manager appoints an evaluation committee that reviews all proposals. The evaluation committee assesses the cost, service level and management control issues after studying all responses and the City proposal and prepares a written recommendation that is forwarded to the City Manager and Purchasing Manager. A final recommendation is prepared by the Using Division for presentation to City Council.

(f) Award Contract. The City Manager and City Council make the final selection after reviewing the responses submitted, the City cost proposal and the recommendations of the evaluation committee. If the service shall be provided by the private sector, contracts are signed. If the service shall be provided by City staff, the City proposal and bid specifications shall serve as a performance contract.

(g) Monitoring or Supervision. The operating department is responsible for monitoring the contract if a private entity is selected or for supervising the service delivery if City staff is selected to provide the service. Contract monitoring shall involve an inspection function, a system for providing feedback to the contractor on service levels, coordination of payments to contractor and recordkeeping on contract requirements, such as insurance. In all cases, the operating department retains responsibility for providing the service to the citizen.

### **18.7 Computing the Cost of In-House Service Delivery.**

The following four cost categories together compose the total cost of in-house service delivery (see following model, subsection (e) of this section):

(a) Personnel Costs. Personnel costs are the annualized salaries, wages and fringe benefits of all full-time and part-time staff involved with the in-house delivery of the target service or activity.

(b) Non-personnel Costs. Non-personnel costs include travel, utilities, printing and reproduction, contractual services, maintenance and repair, materials and supplies and other costs associated with in-house delivery of the target service or activity.

(c) Overhead (Indirect) Costs. This category includes the support and shared costs that are not 100 percent chargeable directly to the in-house delivery of the target service or activity. The City shall use two classes of overhead costs: (1) operations overhead, and (2) general and administrative overhead.

(1) Operations overhead refers to those indirect costs incurred by the first supervisory level above and in support of the target service or activity.

(2) General and administrative overhead refers to all other indirect costs, exclusive of operations



overhead, incurred in support of the in-house delivery of the target service or activity. Examples of general and administrative overhead cost include those costs incurred in support of the target service or activity by such City departments as Finance, Personnel, Purchasing, City Attorney, Risk Management, etc.

Note: Only overhead costs and general and administrative overhead costs that will be avoided if the target service or activity is contracted out are considered.

- (d) Depreciation Costs. The depreciation of capital assets (facilities and equipment) used in significant amounts for the in-house provision of a target service or activity.
- (e) Total In-House Costs. The total avoidable personnel, non-personnel, indirect and depreciation costs; this sum constitutes the “total in-house performance costs” and is compared to “contract performance costs”.

### **18.8 Computing the Cost of Contract Service Delivery.**

- (a) The City shall use the following six cost categories that together shall constitute the total cost of contract service delivery:
  - (1) Contract Price. This is the price or cost that a prospective contractor proposes to charge to provide the target service or activity.
  - (2) Contract Administration Costs. These are the costs incurred in letting bids and proposals and in managing the resulting contract(s) until the service or activity is completed and final payment is made.
  - (3) One-time Conversion Costs. These costs are incurred when City service or activity is converted to contract service delivery. One-time conversion costs include:
    - (i) Personnel-related costs, such as unemployment compensation, accrued PTO benefits owed City employees and any other severance-type costs;
    - (ii) Material-related costs associated with the preparation and transfer to the contractor of any City-furnished facilities and equipment; and
    - (iii) Other costs, such as penalty fees for terminating leases or rental agreements and the costs of holding unused or underused facilities or equipment until other uses can be found or until they are sold or leased.
  - (4) Revenue. This includes any new revenue stream or increased revenue stream (e.g., rents, lease payments or parking facility revenues) that results from contracting out. Revenue is treated as a deduction from the cost of contracting out.
  - (5) Disposal of Assets. The net disposal value is computed by subtracting from the estimated salvage value of the cost of disposal of any assets made redundant by contracting out. If the net disposal is positive, the amount is treated as a deduction from the cost of contracting out. But if this value is negative, the amount is treated as a cost of contract service delivery.
  - (6) Local Income Tax. The new revenues to be generated by transferring a service or activity to the private sector are entered as a deduction from the cost of contracting out.
- (b) Total Contract Performance Costs. The total costs are the contract price, plus contract administration and a one-time conversion cost minus revenue and City income taxes, plus or minus disposal of assets costs. These cost data are transferred to the cost comparison form.

### **18.9 Cost Comparison.**

The major cost categories, for both in-house and contract service deliveries, employed by the City in its cost comparison methodology should include at a minimum: performance periods and cost comparison ratio.

- (a) Performance Periods. Carry out the cost analysis for up to three performance periods. A performance period is one fiscal year or contract year. Several reasons exist for extending the cost comparison beyond one performance period. First, the full cost savings may not be realized in a

single performance period. Secondly, one-year comparisons cannot account for changes in public and private wage increases preprogrammed for several years into the future.

- (b) Cost Comparison Ratio. The cost comparison ratio is designed to establish a threshold below which a change in service delivery from in-house delivery to contract may simply not be warranted. While the change in service delivery mode is theoretically justifiable on the basis of any cost savings, as a practical matter the cost savings should be sufficient to justify the organizational upheaval that also occurs. The City of Grand Junction, by this reference, establishes a cost savings threshold of 10 percent: contracting out must generate at least a 10 percent cost savings for the City to deem the change worthwhile.

## **SECTION 19: DISPOSAL OF SURPLUS PROPERTY**

### **19.1 General.**

The final step in the procurement cycle is disposition of an item or items when they are no longer useful to the City. The timely identification of surplus and obsolete material(s) is essential to an effective disposition program. Delayed identification ties up capital resulting in higher maintenance and salvage costs and further deterioration of items. Because building space is a valuable resource, the storage of surplus items (furniture, computers, equipment, documents) must be kept to an absolute minimum. Surplus furniture, computers, and equipment are only to be stored in the City Warehouse on an interim basis (not more than 6 months) or until they can be repurposed, recycled or disposal can be arranged.

### **19.2 Policy.**

The purpose of this policy is to set forth standards and guidelines designed to control storage of City's surplus items while best supporting the City's Mission. Primary responsibility for surplus storage rests with the General Services Director/Purchasing Manager. The maintenance and security for this area are within the Facilities and Purchasing Division purview.

The Stores City Warehouse will be utilized as a temporary holding facility only, pending the final disposition of designated items. Departments may request items be moved to this storage area for reuse, disposal, or recycling through the Warehouse Specialist. The procedures and forms for such requests are detailed below. Moving services are not considered a Facilities or Stores function, such services may need to be arranged by the user department.

The General Services Department is authorized to conduct and monitor the City's surplus property program. The following are the City's general policies for disposition of surplus:

- (a) The Purchasing Manager may require Division Managers to provide periodic departmental reports of all supplies which are no longer used or which have become obsolete, worn out or unusable.
- (b) The Purchasing Manager shall have authority to transfer stock or other surplus inventory items or surplus equipment that has become unsuitable for public use.
- (c) All sales shall be made to be in the best interest of the City.
- (d) The Purchasing Manager has authority to forgo an auction or sealed bid process when the surplus material(s), supply(ies) and equipment can be donated or sold to other governmental entities or nonprofit organizations as is in the best interest of the City.

### **19.3 Methods of Disposal.**

When items become excess, obsolete or surplus, the using department must report them to the Purchasing Division. Using departments are required to use the Surplus Items Form found on the intranet under Forms-Purchasing. In cases of disposal of items with an original purchase cost of \$5,000 or more, the Accounting Division shall be notified in order to update the department's fixed asset accounts. The following are the methods of disposition that may be used for the items:

- (a) Transfer. Transferring to another department with a use for the item is the best method of disposition. A department wishing to accept an item available for transfer shall notify Purchasing and receive approval for the transfer. Both the transferring and receiving departments must update their inventory records to document the disposition of the item. The Surplus Transfer Form can be found on the intranet under Forms-Purchasing. Mark in the comments section where the item is being transferred.
- (b) Sale. There are several methods of selling excess and surplus items.
  - (1) Auctions. The City contracts with auction services to sell items to the highest bidder at advertised public auction or via online auctions.

- (2) Sealed Bids. The General Services Department may determine that items shall be sold at sealed bid sale. Public notice of the sale is made and solicitations are sent to prospective bidders, if any are known. This method assures reaching a large number of prospective bidders and allows potential purchasers from outside the immediate geographic area to participate in the bidding.
- (3) Commercial Markets. The General Services Department may determine that items may be offered for sale to established commercial markets. Candidates for this method of sale include antiques, art and specialized equipment.
- (4) Sale of Scrap. Many items that are no longer usable may have a residual value. The Purchasing Division may arrange for the sale of scrap items with the money returned to City's general fund.
- (5) Posted Prices. From time to time, where there is no regular market and demand is erratic, an item may be marked with a pre-established price and sold to the public on a first-come basis.

(c) Trade-In. The General Services Department may determine that it is advantageous to the City to seek bids on replacement items with the bidders allowing/offering trade allowance and no trade allowance pricing. Award may be made in the manner that is most advantageous to the City.

(d) Cannibalization. Disassembling an item to use its components for repair or maintenance of a similar item is authorized only if cannibalization has more value and benefit than disposal or trade-in of the item. The General Services Department must grant approval before an item is cannibalized and removed from the Department's property list.

(e) Donation. Only the City Council may dispose of an item by donation to a party outside of City government if the item has a value in excess of \$50,000. Items valued at less than \$50,000 shall be approved by the City Manager.

(f) Waste Disposal Hazardous Materials. There are strict federal and State laws regarding the disposal of hazardous materials. Departments that generate hazardous materials shall use City contracts for the proper disposal of these materials. Disposal of hazardous materials shall be directed by the City's Fire Chief or environmental specialist. Departments shall contact the Fire Chief or environmental specialist before moving, transferring or selling any hazardous materials. No hazardous substances, wastes, liquids, or materials are to be stored in the Stores warehouse.

#### **19.4 Allocation of Proceeds.**

Unless otherwise directed by the City Council or required by a grant, the proceeds from the disposition of surplus or excess property shall be deposited in the City's general fund.

#### **19.5 Sales to Employees.**

To avoid any appearances of impropriety in the disposition program, employees of the City may not purchase items unless the sale is to the highest bidder at a public auction or by sealed bid after appropriate public notification of the sale.

#### **19.6 Documentation.**

The Surplus Items Form is used to report a surplus or excess item to the General Services Department. This form is required to report the transfer or disposition of an excess item. The form can be found on the intranet under Forms-Purchasing.

#### **19.7 Disposal of Grant-Funded Equipment.**

When equipment is purchased using funds from State or federal grant funds, the provisions of the grant must be followed during disposal. It is the disposing Department's responsibility to notify Purchasing at the time of the surplus property report of any grant provisions that must be followed. If required by the grant provisions, proceeds from disposal may be returned to the grant-funding agency.

## ***SECTION 20: CITY STORES (INVENTORY WAREHOUSE)***

### **20.1 Purpose.**

This policy sets forth standards and guidelines designed to provide information for stocked items and retention of documents while best supporting the City's mission. Surplus policies are found in Section 19 above.

City "Stores" Inventory Warehouse (333 West Avenue Building C) is a central warehouse in which common-use commodities, items used by more than one department, are stored and issued on an "as needed" basis to requesting divisions. The primary function of Stores is to maintain immediate availability of commonly used materials and supplies. Stores' secondary function is to warehouse emergency backup supplies and provide for the storage and retrieval of historical City records. Stores also serves as a central delivery point to receive goods and to assure appropriate inspection and delivery when required. Lastly, Stores serves as an interim storage location for surplus property.

Emergency backup supplies are those supplies critical to the continued operation of the City and have long delivery lead times. Archived documents required to be stored by policy, law or regulation for set periods of time may be stored in the City Warehouse Facility until disposal can be done in compliance with the retention schedule.

### **20.2 Stores Catalog.**

A Stores stock catalog containing the descriptive listing of items and item numbers shall be available on the City Intranet published and maintained by the Purchasing Division.

### **20.3 Stores Requisition Form.**

Departments and agencies requesting delivery from Stores inventory shall use the requisition form through New World Systems. Once this form is completed and approved, the system automatically reserves from Stores inventory the requested items.

### **20.4 Stores Window Pickup.**

Items may be picked up at Stores during the hours of 7:30 a.m. to 3:30 p.m. Monday through Friday. Stores hours will be changed to comply with summer work schedules. Recipients of over-the-counter issues are required to have departmental authorization and the account number to which the item(s) shall be charged.

### **20.5 Delivery Times.**

Departments requesting supplies from Stores shall receive their deliveries in the most expeditious timeframe possible, usually the following Tuesday or Thursday, provided Stores requisition forms are received in a timely manner.

### **20.6 Inventory Control.**

The proper functioning of an inventory accounting system demands that all materials and supplies received, issued and on hand be accounted for, both in quantities and values and that, periodically, the inventory records and accounts be verified by actual physical inventory.

The General Services Division shall be responsible for conducting periodic inventories to:

- (a) Ensure accurate record accountability;
- (b) Support the value of inventory shown in the fund balance sheet; and

(c) Disclose the possibility of fraud, theft or loss.

#### **20.7 Storage of Documents.**

Departments may store documents in the Stores warehouse. All documents must be in boxes and neatly labeled with the department's name, storage date and destruction date in compliance with the published retention schedule. Because space is limited, documents will only be kept for mandated time periods. The City Clerk will review all stored items and coordinate with the applicable department for disposal of the out of date documents.

#### **20.8 Security Access to Stores Warehouse Storage Facility.**

In order to maintain the security of this storage area, keys for this facility will be issued on an as needed basis through the Facilities Division. It will be the responsibility of the all key holders to lock the facility and to return the keys to the Facilities Manager after use. Access to the facility will only be approved to facilitate the retrieval or authorized storage of equipment and/or documents.

#### **20.9 Departmental Storage.**

Departments may have their own storage facilities for equipment or other items of value. Their storage areas are not affected by this policy. However, all departments are urged to minimize the utilization of any space for storage purposes. Administrators are urged to periodically review items being stored and to remove items no longer needed. All storage must comply with all fire life safety codes.

#### **20.10 Storage Off Site**

Departments may store items off site at commercial sites at their expense. The Purchasing Division must review and sign all contracts for the lease of space in order to ensure that the contract language meets City requirements and guidelines.

## **SECTION 21: GREEN PROCUREMENT POLICY**

### **21.1 Purpose.**

The City of Grand Junction recognizes our employees, contractors and vendors can make a positive influence in our environment. Environmental factors should be a subject of competition among vendors seeking City contracts. By including environmental considerations in our procurement decisions, along with our traditional concerns of price, performance and availability, we will remain fiscally responsible while promoting practices that improve public health and safety, conserve natural resources, support recycling ethics and minimize harmful impacts on our environment. It is understood that employees shall use their professional judgment and common sense in applying this policy.

### **21.2 Fundamentals.**

- (a) Environmentally preferable products have a lesser impact on human health and the environment.
- (b) Recycling will reduce landfill waste and provide a process to reuse materials.
- (c) Waste prevention eliminates or reduces the amount or toxicity of materials before they enter the solid waste stream.
- (d) Energy Conservation includes fuel use and electrical use, such as lighting, heating and cooling.

### **21.3 Environmentally Preferable Products.**

The objective is to purchase products that have reduced environmental impact because of the way they are made, used, transported, stored, packaged and disposed of. These products do not harm human health, are less polluting and minimize waste, maximize use of biobased or recycled materials, conserve energy and water, and reduce the consumption or disposal of hazardous materials. When determining whether a product is environmentally preferable, the following standards should be considered:

Biobased – made from renewable materials

Biodegradable – compostable

Carcinogen-free – low toxicity

Bioaccumulative toxic (PBT)-free – free of organic compounds resistant to environmental degradation

Chlorofluorocarbon (CFC)-free – non-ozone depleting substances

Heavy metal free – no lead, mercury, cadmium

Low volatile organic compound (VOC) content – energy, resource and water efficient

Energy Star and Energy-efficient Products

### **21.4 Recycle.**

Recycled items are or can be made with recovered materials. The intent of this policy is to purchase items containing the highest percentage of recovered materials practicable.

- (a) Printing and writing papers including all copy paper shall contain a minimum of 30 percent post-consumer recycled content. Imprinted letterhead paper, envelopes, and business cards will also be printed on recycled paper as long as the look and image of professionalism is maintained.
- (b) Paper products including janitorial supplies, shop towels, hand towels, facial tissue, toilet paper, seat covers, corrugated boxes, file boxes, hanging file folders and other products composed largely of paper shall be made from recycled materials whenever practical.

- (c) Toner cartridges will be purchased from manufacturers that include a program for used cartridges.
- (d) Re-refined antifreeze including on-site antifreeze recycling shall be utilized.
- (e) Used lubricating and hydraulic oils shall be sent to a recycle center.
- (f) Recycled plastic outdoor wood substitutes, including plastic lumber, benches, fencing, signs and posts will be used whenever practical.
- (g) Recycled content construction, building and maintenance products including plastic, lumber, carpet, tiles and insulation shall be used whenever practical.
- (h) Re-crushed cement, concrete aggregates and asphalt will be used whenever practical. All used concrete and asphalt will be recycled.
- (i) Cement and asphalt containing tire rubber, glass cullet, recycled fiber, plastics, fly-ash or other alternative products will be used whenever practical.
- (j) Retreaded tires shall be used on trash trucks and dump trucks on drive axles only. Steer axles will not utilize retreaded tires nor will light pickups, cars or emergency vehicles.
- (k) Products made from recycled tire rubber including rubberized asphalt playground surfaces and fatigue mats will be utilized whenever practical.
- (l) Compost, mulch and other organics including recycled bio-solid products will be used whenever practical.
- (m) Electronic items shall be recycled as needed.

#### **21.5 Conservation and Waste Reduction.**

Wherever practicable and cost-effective, departments are responsible to institute practices that reduce waste and result in the purchase of fewer products without reducing safety or workplace quality.

- (a) Consider durability and repair ability of products prior to purchase.
- (b) Conduct routine maintenance on products/equipment to increase the useful life.
- (c) Use duplex features on laser printers and copiers. Specify duplex on all print jobs. The City will also engage in the practice of two-sided copies whenever practical.
- (d) Create electronic letterhead for use by all agencies, departments or divisions.
- (e) Send and store information electronically when possible. This includes email, web site and electronic fax.
- (f) Review record retention policies and implement document imaging systems.
- (g) Use recycle containers for all discarded paper in office areas.
- (h) Use recycle bins for aluminum cans, glass and plastic in all areas.
- (i) Purchase compact fluorescent lights (CFL).
- (j) Purchase rechargeable electronics, such as radios, PDA's, cameras, etc.
- (k) Properly dispose of batteries and compact fluorescent lights (CFL).
- (l) Employ other waste prevention practices that further the goals of this policy.

#### **21.6 Responsibilities of the CORE (Conserving Our Resources Efficiently) Committee.**

- (a) Develop and maintain information about environmentally preferable products and recycled content products containing the maximum practicable amount of recycled materials to be purchased by agencies, departments and division.
- (b) Develop and implement a monitoring and tracking system as a tool to confirm compliance with this policy.



- (c) Inform other agencies, departments and divisions of their responsibilities under this policy and provide them with information about recycled products and environmental procurement opportunities.
- (d) Develop and implement an ongoing promotional program to educate and inspire City employees to implement this policy.

**21.7 Responsibilities of the Purchasing Division.**

- (a) Inform vendors of our Green Procurement Policy.
- (b) Establish contracts for recycled-content, environmentally preferable, biobased, energy- and water-efficient products (office supplies, lubricating oils, and janitorial supplies) whenever possible and practical. This also includes fuel efficient and alternate fuel vehicles and products using renewable energy and alternatives to hazardous or toxic chemicals.
- (c) Inventory fleet to match vehicle type to department needs.

**22.8 Division Responsibilities.**

- (a) Practice waste prevention.
- (b) Continue to utilize recycling programs and expand where possible.
- (c) Procure products in compliance with the Green Procurement Policy.
- (d) Evaluate each designated product to determine the extent to which agencies, departments and divisions may practicably use it.
- (e) Ensure the procurement documents issued require environmental preferred purchasing.
- (f) Reduce miles traveled whenever possible (sharing vehicles) and follow the no idling policy.
- (g) Investigate where policies and practices could be modified to encourage or require waste reduction, recycling and environmental preferable purchasing.

**21.9 Exemption.**

Nothing in this policy shall be construed as requiring the purchase of products that do not perform adequately, products that are not available within a reasonable period of time, or are not available at a reasonable price.

**21.10 Other Areas.**

- (a) The City will pursue the development of a Green Building Policy for use in all new construction, remodeling and repair projects.
- (b) The City will investigate the feasibility of modifying the Building Code to require new construction projects to accommodate recycling activities in building design.
- (c) The City will consider other products and practices that conserve energy, water and other resources.

## **SECTION 22: TERMS AND DEFINITIONS**

### **22.1 Terms and Definitions.**

Account payable: A debt owed that arises in the course of business transaction (e.g., invoices, claims and bills; for materials received but not yet paid).

Account receivable: A claim against a debtor usually arising from sales or services rendered.

Agent: One acting for another, called principal, in dealing with third parties.

Bid: A competitive price offer made by an intended seller, usually in reply to an invitation to bid. A price offer made at a public auction.

Bid bond: An insurance agreement in which a third party agrees to be liable to pay a certain amount of money in the event a specific awarded bidder fails to sign the contract as bid.

Bid deposit: A sum of money or check deposited with and at the request of the City to guarantee that the bidder (depositor) shall, if selected, sign the contract as bid. If the bidder does not sign the contract, the deposit is forfeited in the amount of the deposit.

Bid opening: The act of publicly opening the bid envelopes and making available, for public inspection, the bids received.

Blanket agreements: Contracts that establish the commitment of a vendor to furnish the purchaser's (City) requirements for items or services on an as-required, over-the-counter basis.

Blanket order: Generally specifies prices, terms, conditions and the period covered, but does not specify the quantity. Shipments/deliveries are made against the purchase order.

Brand name description: A description that identifies a single item or source for a product or service on a proprietary basis. Products are usually referenced by model or part number.

Centralized purchasing: A system of purchasing in which all purchasing authority, responsibility and control of purchasing activities is concentrated in one administrative unit.

Change order: Purchaser's written modification or addition to a purchase order.

City: City of Grand Junction, State of Colorado.

Collusion: A secret agreement or cooperation between two or more persons to accomplish a fraudulent, deceitful or unlawful purpose.

Commodity: A transportable article of trade or commerce that can be bartered or sold.

Competitive sealed bid: The offer of set bids by individuals or firms competing for a contract, privilege or right to supply specified services or merchandise. Bids are submitted in sealed envelopes to prevent dissemination of the contents before the deadline for the submission of all bids; required on major procurements expected to cost at least \$25,000 to ensure fair competition among bidders.

Conflict of interest: The actual or potential conflict in which a person may gain from (or holds interest in) a company doing business with his employer.

Contract: An agreement, enforceable by law, between two or more competent parties, to do or not to do something not prohibited by law, for a consideration; any type of City agreement, regardless of what it may be called, for the procurement or disposal of supplies, services or construction.

Contract administration: The management of all actions, after the award of a contract, that must be taken to assure compliance with the contract; e.g., timely delivery, acceptance, payment, closing contract, etc.

Contractor: Contractor means any person having a contract with the City.

Delivery: The formal handing over of property; the transfer of possession, as by carrier to purchaser.

Department Director: Shall include the following positions: City Attorney, Deputy City Manager, Public Works and Planning Director, Financial Operations Director, Human Resources Director, Parks and Recreation Director, Police Chief, Fire Chief, Utilities & Streets Systems Director and Economic, Convention and Visitor Services (ECVS) Director, or their designated representatives.

Division Managers: May include exempt City employees with position titles, including but not limited to, Deputy Director, Information Technology Director, Manager, Superintendent and exempt officers of the Police and Fire Departments.

Emergency purchase: An *emergency purchase* is a purchase made in an exigency, made under special procedures, designed to meet the emergency. Bona fide emergency purchases are made to protect the public health of citizens or when immediate repair is necessary to prevent further damage to public property, machinery or equipment. In addition, a bona fide emergency purchase is when the functioning and operation of a City department would be seriously hampered or delayed through use of the normal requisitioning/purchasing process.

Evaluation of bids and proposals: The process of examining a bid or proposal after opening to determine the respondent's responsibility, responsiveness to requirements and other characteristics of the solicitation relating to the selection of the award.

Formal advertising: The placement of a notice in a newspaper or other media according to legal requirements to inform and solicit the public that the City is requesting bids on specific purchases it intends to make.

Formal solicitation: A solicitation response which must be submitted in a sealed envelope and in conformance with a prescribed format to be received and opened publicly at a specified time, place and date.

Formal contract: An agreement, enforceable by law, between two or more competent parties, to do or not to do something not prohibited by law, for a consideration.

Immediate family: A spouse, children, parents, brothers and sisters and any other person living in the same household as the employee.

Informal solicitation: A request for price quotation for a commodity or service that does not require advertising, a sealed response, public opening or reading of responses. Appropriate method for purchases costing between \$5,000 and \$15,000. Competitive informal quotes are strongly recommended for all purchases.

Invitation for bids (IFB): Means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

Invoice: Seller's itemized document stating prices and quantities of goods and/or services delivered and sent to buyer for payment.

Lease purchase agreement: An acquisition contract in which the lease's periodic payments or parts thereof are applied both to fulfill the lease obligation and as installments for equity and eventual ownership of the commodity upon completion of the agreement.

Net price: Price after all discounts, rebates, etc. have been allowed.

Non-budgeted purchase: Purchase of materials or services of benefit to the City even though the particular performance has not been budgeted for within a department so long as the expenditure shall not cause the program or division of the budget to be over expended.

Nonresponsive bid: A bid that does not conform to the mandatory or essential requirements of the invitation for bid.

Not low bidder: Award of a bid to a supplier that did not submit the low responsive bid.

Obsolete: No longer in use, discarded, out of date.

Official responsibility: Administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction or any claim resulting there from.

Open market purchase: A purchase in an amount less than \$5,000 which is made by buying from any available source, as opposed to buying from a vendor who has responded to an invitation to bid.

Payment Bond: A bond which assures payments, as required by law, to all persons supplying labor or material for the completion of work under the contract.

Pecuniary interest in or arising from the procurement: A personal financial interest, generally a monetary gain.

Performance bond: A contract of guarantee executed subsequent to award by a successful bidder to protect the City from loss due to his inability to complete the contract as agreed.

Performance specification: A specification setting forth performance requirements that have been determined to be necessary for the item involved to perform and last as required.

Pre-bid conference: Meeting held with prospective bidders prior to solicitation of bids or proposals, to recognize state of the art limits, technical aspects, specifications and standards relative to the subject and elicit expertise and bidder's interest in pursuing the task.

Prequalification of bidder: The screening of potential vendors in which a City considers such factors as finances, reputation, management, etc., in order to develop a list of vendors qualified to bid on City contracts.

Privatization: Privatization/outsourcing is a contractual relationship with an outside vendor to assume responsibility for one or more government processes, functions and/or services.

Procurement: Means buying, purchasing, renting, leasing or otherwise acquiring any supplies, services or construction. "Procurement" includes all the functions that pertain to the obtaining of any supply, service or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.

Procurement transaction: All functions that pertain to the obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.

Proprietary information: Defined as any information which is not generally known to competitors and which provides a competitive advantage. Unrestricted disclosure of proprietary information places it in the public domain.

Proprietary article: An item made and marketed by a person or persons having the exclusive right to manufacture and sell it.

Protest: A complaint about a City administrative action or decision brought by a bidder or vendor to the appropriate administrative section with the intention of receiving a remedial result.

Public employee: Any person employed by the City, including elected officials and appointed members of boards and commissions.

Purchase order: A purchaser's written document to a supplier formally stating all terms and conditions of a proposed transaction.

Purchasing: Purchasing Division, a division of the Financial Operations Division of the Administration Department.

Purchasing manual: Documents which set forth the City's rules and regulations for the Purchasing Division's relations with suppliers and with other departments and prescribes the procedures to follow.

Quotation: Generally a sales proposal including price, sales terms and conditions; a price statement as an offer; a bid.

Recycled paper: Paper made from waste paper products.

Request for proposal (RFP): A request for an offer by one party to another of terms and conditions with references to some work or undertaking. “RFP” means all documents, whether attached or incorporated by reference, utilized for soliciting proposals. Also known as competitive negotiation.

Request for quotation (RFQ): A type of formal solicitation including written quotes from vendors. Used for purchases from \$15,000 to \$25,000. Formal RFQ responses are due at a specified date and time.

Requirements contracts: An indefinite-quantity agreement in which the purchaser is obligated to order and the vendor is obligated to supply all of the purchaser’s normal requirements for a specified price during a specified period.

Requisition: An internal document by which a functional department such as stores, maintenance, production, sends to the Purchasing Division details of materials to meet their needs, replenish stocks or obtain materials for specific jobs or contracts.

Responsible bidder: A person who has the capability in all respects to perform fully the contract requirements and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment and credit which shall assure good faith performance.

Responsive bidder: A bidder whose bid does not vary from the specifications and terms set out by the City in the bid documents.

Scrap: Material that is damaged, defective or deteriorated to the extent that it has no value except for its basic material content.

Sealed bid: A bid submitted in a sealed envelope to prevent dissemination of its contents before the deadline for the submission of all bids; usually required by the purchasing authority on major procurements to ensure fair competition among bidders.

Service contract: A contract that calls for a contractor’s time and effort rather than for a concrete end product.

Services: Services means the furnishing of labor, time or effort.

Software: A set of programs, procedures and possibly associated documentation concerned with the operation of a data processing system.

Sole source purchase: The purchase of a commodity which can only be purchased from one supplier, usually because of its technological, specialized or unique character.

Solicitation: The process of notifying prospective vendors that the City wishes to receive bids or proposals to provide goods or services. The process might consist of public advertising, the mailing of invitations for bid or requests for proposal, the posting of notices, telephone calls to prospective vendors, etc.

State: State of Colorado.

Statement of Qualifications (SOQ): Letters or statements of qualification from prospective providers.

Tabulation of bids: The recording of bids and bidding data that was submitted in response to a specific invitation for the purposes of comparison, analysis and recordkeeping.

Term contracts: Contracts which establish a source of supply for a good or service for a specified period of time.

Transaction: Any matter under consideration or considered by a public employee on which official action is taken or contemplated.

User agency: Any department, commission, board or public agency requiring supplies, services or construction procured pursuant to the City’s purchasing rules and regulations.

Vendor: Any firm, individual, corporation, agent or company who provides the City with goods or services; a supplier.



**Grand Junction City Council**

**Workshop Session**

**Item #1.b.**

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**Meeting Date:** May 3, 2021

**Presented By:** Wanda Winkelmann, City Clerk

**Department:** City Clerk

**Submitted By:** Wanda Winkelmann

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**Information**

**SUBJECT:**

Future Election Options

**EXECUTIVE SUMMARY:**

The purpose of this item is for a City Council discussion regarding two options for future elections: 1) move April elections to November or 2) the City conduct its own election.

**BACKGROUND OR DETAILED INFORMATION:**

The City of Grand Junction has contracted with Mesa County Elections (MCE) for many years to conduct the City's elections. Council may recall that in 2020, MCE declined to conduct the April elections for Fruita, Palisade, and Collbran citing as the reason the workload required for the Presidential Election in November. Near the same time, County Clerk Peters contacted the City Clerk about the possibility of Grand Junction switching from April elections to November elections; the County Clerk's position is that it is atypical for counties to run "off-cycle" (e.g. non- November) elections. A representative from the Secretary of State's office (SoS) was included in those conversations and expressed that the SoS's recommendation is that counties do not participate in off-cycle elections. As we worked through the Intergovernmental Agreement (IGA) for the April 2021 election, Mesa County Clerk Peters renewed the request that all City elections be conducted in November.

In the event MCE declines to conduct April City of Grand Junction elections, the following are available options. Additionally, the possible next steps if the Council determines to change the City elections from April to November are outlined.

*1) The City conduct its own election in April.*

**Advantages:**

- Ballot contains only City of Grand Junction races and issues.
- No change in timeframe for the Council candidate nomination process.
- Maintain two election cycle options for TABOR questions in odd years.
- Predictability.
- No Charter change required for this option (respects the long-standing Charter provision of April elections).
- City elections are non-partisan; November elections can contain partisan races/issues.

**Disadvantages:**

- Voter confusion by requiring them to appear at a new location (City Hall instead of Mesa County) to resolve issues, such as receive a replacement ballot, etc.
- Perception that voters are paying twice for election equipment that has already been purchased by the County.
- Costs to purchase equipment, rent ballot processing space (office space) for three months, equip the processing space with cameras, hire and train election judges to process ballots manually (receive, date, scan, conduct signature verification, open envelope, remove ballot stub, unfold the ballot, run ballot through voting equipment), contract with a vendor to design, print, and mail the ballots, and contract with a different vendor to rent ballot equipment to count the ballots and pay vendor consultant fees on Election Day to tabulate the results.
- Extensive amount of staff time for developing and implementing procedures and coordinating services with vendors.
- Staffing costs for an Election Manager (full-time employee salary + benefits) and fees for an Election Consultant (\$8,000 - \$10,000), which would include three onsite visits.
- Extensive amount of staff time every two years to prepare for odd-year elections.

*2) Move City elections from April of odd-numbered years to November of odd-numbered years.*

**Advantages:**

- Voter convenience by receiving one ballot that encapsulates local and state issues.
- Voter confidence by having one point of contact for ballots, questions, etc.
- Voter turnout is typically higher during November elections.
- MCE has hundreds of thousands of dollars invested in equipment that scans incoming ballot envelopes and performs signature verification, open envelopes, removes ballots, and utilizes the same tabulator for multiple ballot styles.
- The Secretary of State's Office recommends this option, which is consistent with its recommendation that Colorado counties not conduct off-year municipal elections.
- MCE conducts an election every year and our election would be enfolded into their

process.

- The County has a pool of election judges that it draws from to process ballots.
- The Home Rule municipalities that hold November elections and coordinate with the county include Arvada, Aurora, Boulder, Brighton, Commerce City, Englewood, Golden, Greeley, Greenwood Village, Gunnison, Lakewood, Louisville, Loveland, Northglenn, Parker, Pueblo, and Wheat Ridge. Additionally, the Colorado Municipal League (CML) has reported that thirteen municipalities have switched to a November election since 2017: Haxtun, Monument, Yuma, Eagle, Keenesburg, Mead, Holyoke, Craig, Rifle, Granby, Hot Sulphur Springs, Gunnison, and Palmer Lake.
- Lower cost to the City as the entire election’s expenses would be divided among participating entities.

**Disadvantages:**

- Charter amendments required and must be voter approved: 1) to change the date of the election (Section 3), 2) to change the date of the canvass (Section 25), 3) to amend the start of the term for City Councilmembers (Section 35), 4) to extend the term of the President of the Council and Councilmembers from April to November for those elected in 2017 and 2019. Code amendment to amend/repeal section 2.20.010 and 020 of the Code of Ordinances (GJMC) to adopt the Uniform Election Code (the State law under which counties run elections).
- One annual opportunity for TABOR question(s).
- Possible perception that sharing ballot space with county and state issues minimizes City issues. Local issues are placed at the end of the ballot and voters may skip them if the ballot is too long. Historically municipal elections do not have the same concerns with “ballot clutter.”
- By Charter (section 6) the City’s elections are non-partisan. Having City Council races on the November ballot may result in increased blurring of that prohibition.
- Candidate nomination period would be changed from January to August.

The next steps are outlined below if Council expresses support to move forward with Charter amendments.

<b>Timeframe</b>	<b>Action</b>
May - June	Possible tours of Mesa County Elections to view equipment and processes
June	City Council consideration of an ordinance amending the Charter; ballot language considered
July	City notifies County Clerk of intent to participate in November 2021 election
August	Agreement with Mesa County approved and signed



September	Ballot language certified to Mesa County
November	Eection

**FISCAL IMPACT:**

As noted above, if the City chooses to run its own elections in April, there will costs associated with 1) hiring personnel and consultants, 2) printing, mailing, and tabulating ballots, 3) additional equipment for the processing center, and 4) renting processing space.

If the City moves elections to November, the City will share election expenses with all participating entities.

Attached is a chart outlining the costs for elections from 2017 - current.

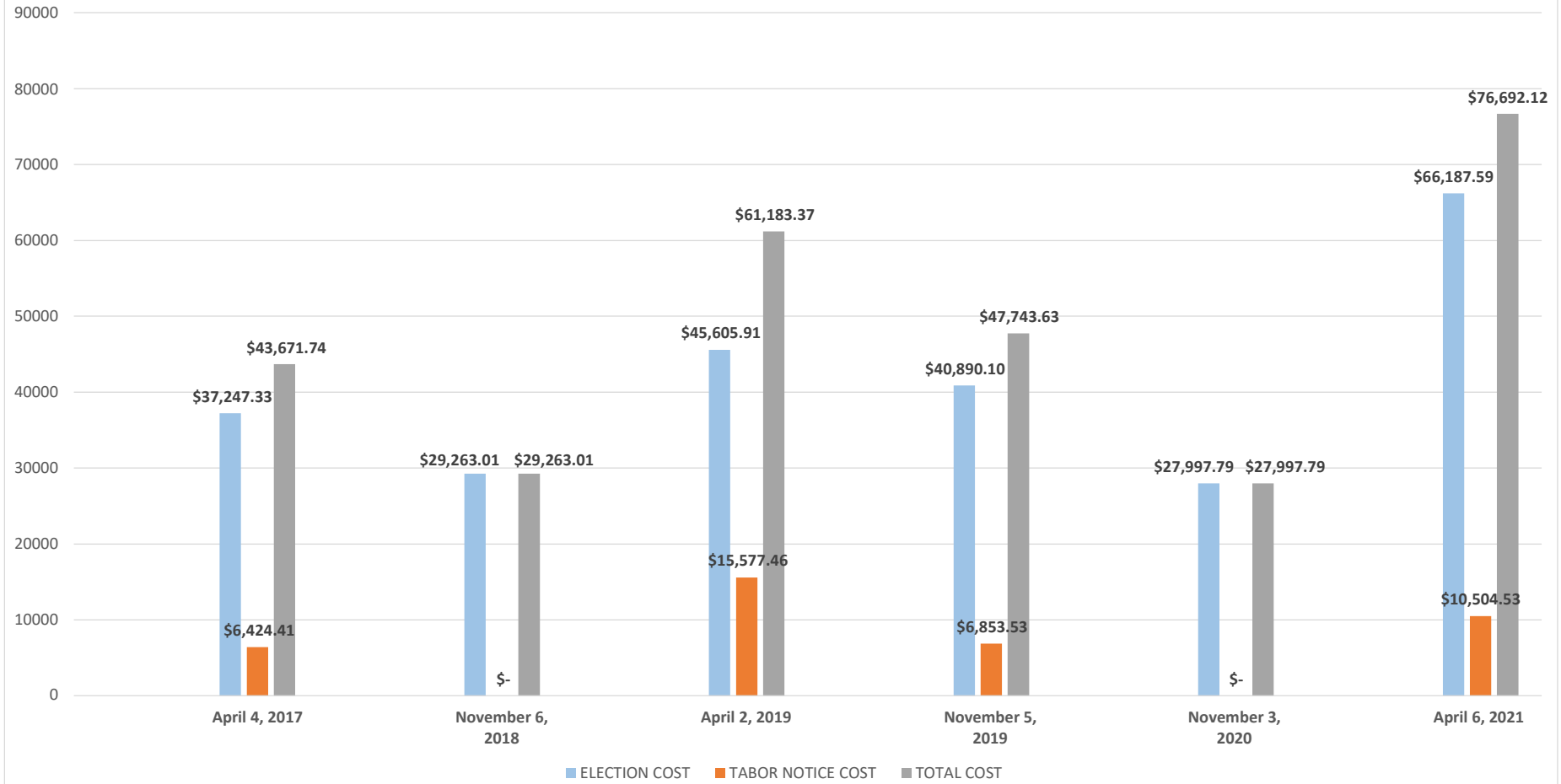
**SUGGESTED ACTION:**

For City Council discussion and possible direction to staff.

**Attachments**

1. Election Costs

City of Grand Junction Election Costs





## Grand Junction City Council

### Workshop Session

Item #1.c.

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**Meeting Date:** May 3, 2021

**Presented By:** Lance Gloss, Senior Planner

**Department:** Community Development

**Submitted By:** Lance Gloss, Senior Planner

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### **Information**

#### **SUBJECT:**

Discuss the Regulation of Marijuana Businesses as Enabled by Voter Approval of Measures 2A and 2B (April 6, 2021 Municipal Election)

- 1) Should regulations be developed? If so, should licensing be simultaneous or staggered by type?
- 2) By what date(s) should an ordinance be adopted and the licensing process be opened?
- 3) Should a numerical cap be applied? If so, what type of selection process should be used?
- 4) What type of public engagement should be sought?
- 5) What tax rate should be adopted?
- 6) What policy goals should be prioritized?

#### **EXECUTIVE SUMMARY:**

Referred measures 2A and 2B were passed on April 6, 2021 in the municipal election, providing Council with the opportunity to consider establishing tax rates and regulations for marijuana businesses. This staff report identifies seven questions that staff considers to be of highest priority related to the regulation of marijuana businesses, because each of these questions significantly determines the next steps to be taken in the development of regulations.

#### **BACKGROUND OR DETAILED INFORMATION:**

The City has actively investigated approaches to regulating marijuana businesses for the better part of a year. Preliminary conversations on this topic by the City Council began on July 13, 2020, followed by a public comment session at the September 14,

2020 City Council Workshop. A staff team has engaged in the topic since September 2020; this effort included an in-depth issue identification exercise with a working group of approximately 20 community and industry members in November and December of 2020. At the City Council's public hearing of January 20, 2021, Council referred measures 2A and 2B to the ballot. Subsequently, the Planning Commission discussed zoning and other land use concerns at a series of five workshops from January 21, 2021 to February 18, 2021.

A staff update to City Council on March 1, 2021 included an overview of research and the outreach process, as well as a summary of policy tools and a draft timeline for regulatory processes, pending the result of the April 6, 2021 election. Subsequently, the results of the election lifted the moratorium on marijuana businesses and established the City's authority to tax those businesses. Thus, the City Council is now empowered to craft and adopt relevant regulations. To be comprehensive and aligned with practices by other Colorado municipalities, a regulatory approach would include permitting, licensing, and enforcement procedures and standards for business types, taxation, land-use, and other considerations. An outline of recommendations is attached to the agenda packet, identical to the outline of recommendations provided to the City Council at the March 1, 2020 City Council workshop. A memorandum was provided to the City Council on April 20, 2021 summarizing background information pertinent to this discussion.

The following questions were highlighted in that memo; here, further detail is provided as Staff seeks Council's direction on next steps.

### **Key Questions**

*1) Will staff be directed to develop regulations? If so, will the regulations be on multiple license types simultaneously or to address only stores in a first process?*

The Council is not obligated by referred measures 2A and 2B to develop regulations for marijuana businesses. It is possible that, based on public expectation established by the result of the vote tally, community members may petition to place a more detailed question on a forthcoming ballot. That could have the effect of allowing marijuana businesses without a comprehensive regulatory approach in place. Staff therefore recommends that City Council proceed with developing regulations.

The scope of regulatory development may vary widely. To date, direction has been to develop regulations for retail and medical marijuana stores first, and to leave cultivation and products manufacturing for later consideration. Draft timelines to date have set those subsequent license types at six month intervals (see draft timeline). However, the City Council may direct staff to develop regulations for two or all of these license types simultaneously, and/or to develop regulations for licenses not considered to date.

*2) What is the target date for adoption of an ordinance and opening of a permitting process for marijuana businesses?*

To date, the target date for beginning issuing licenses for stores has been January 1, 2022 with other business types staggered in approximate 6 month increments thereafter. This would yield a target date for a first regulatory ordinance in approximately August or September of 2021. Alternative timelines may be pursued to delay or hasten licensing relative to those draft dates. Staff considers an August or September date of Ordinance adoption to be viable if the scope is limited to marijuana stores and no other license types. A draft timeline is attached to the agenda packet, and may be modified to reflect Council's will.

*3) Will a numerical cap be placed on the number of stores?*

The recitals for referred ballot measure 2B indicated that a limit of six (6) retail marijuana stores would be put in place by a subsequent regulation. As this was included in the recitals, rather than in the text of the measure, the Council is not bound to this number, nor to the establishment of a numerical cap. Many considerations are relevant to the setting of a numerical cap. These include:

- The relationship between the number of stores and the possible size and traffic volume of each store, with attendant site impacts;
- Whether a single number would apply City-wide, or whether a cap would assign certain numbers to various identified districts;
- Whether a mechanism to account for an eventual change in the number of businesses would be put in place, such as one pegged to population growth; and
- The possible commodification or strategic dormancy of licenses.

*4) If a numerical cap is placed on the number of stores, should the selection process be a competitive (e.g., merit-based) process, a lottery (e.g., random selection) process, or a hybrid process using a lottery involving applicants that meet a set of minimum standards?*

A lottery has been successfully used in many communities to select among would-be operators. After an application period has ended, a random selection process is carried out, without regard to specific features of applicants that might be used to determine which applicant is best qualified based on the standards and priorities of the jurisdiction.

A full analysis of the merits of applications, using a pre-determined point-based scoring system, has also been used successfully in other Colorado communities. This process is labor intensive, as applications are typically information-dense and lengthy, resulting in a large amount of staff time required for processing. This process can also be challenging due to the potential for subjectivity in the scoring of applications, as well as for other reasons.

Still other Colorado communities have found success in a hybrid approach that first establishes minimum requirements and then those qualified business are moved into a lottery selection process. This ensures that all applicants taken into serious consideration have viable business plans and meet any policy aims established by the jurisdiction, without requiring the same amount of staff time as a fully merit-based review. Staff recommends a hybrid approach.

*5) What is Council's preferred approach to public engagement on this topic?*

For example, special City Council meetings could be scheduled as listening sessions, focus groups could be held, or regulations could be first drafted and then meetings and/or hearings scheduled to receive comments on the draft(s). A detailed schedule of public engagement opportunities, as well as the specific topics on which input is desired, can be developed to provide the public and potential marijuana business license applicants with an understanding of when and how their input will be provided.

*6) Shall Council adopt the baseline taxation rate based on the authority created by ballot measure 2A (e.g., special marijuana sales tax of 5% and special marijuana excise tax of 3%)?*

The working group had recommended a 3% excise tax rate and a 5% sales tax rate. An alternative is to establish a tax rate that exceeds the baseline rate, up to the maximum amount established by 2A (10% excise tax, 15% sales tax). A 5% special marijuana sales and use tax rate would place the City of Grand Junction's total sales and use tax rate on marijuana near the median for Colorado jurisdictions. A 10% special marijuana sales and use tax rate would place the City of Grand Junction's total sales and use tax rate on marijuana at nearly the highest rate statewide, though staff considers such a rate unlikely to deter the operation of retail marijuana businesses in City limits in the context of current regulations in neighboring communities.

This analysis may be impacted if regulations are changed in proximate jurisdictions. Retail sales are currently allowed in the nearby communities of Palisade, De Beque, Rifle, and Parachute. The City of Fruita appears to be moving towards soliciting feedback from their community about potential sales. All marijuana sales are currently banned in Fruita. Delta and Montrose allow medical marijuana sales but prohibit retail marijuana sales. Retail sale of marijuana remains illegal in the State of Utah, but

medical sales are allowed in that state as of the November 2020 election. A summary of the special marijuana sales and use tax rates and special marijuana excise tax rates in all Colorado jurisdictions as of 2020 is included in the agenda packet.

*7) Are there policy goals that should be prioritized in the development of criteria for selection of licensees' marijuana stores?*

This will be relevant in the event that Council pursues a merit-based process, or a minimum qualifications review followed by a lottery, to select a limited number of operators. Two primary policy goals that Council may consider are requirements for local residency of ownership interests, and/or requirements for substantial prior experience of owners/operators in the marijuana industry. These two aims may be regarded as contrasting, if not mutually exclusive, given the relatively limited number of City residents that currently own and/or operate marijuana businesses. Other goals may be related to the operation of business (e.g. specific elements of the business plan); to the operation of facilities (e.g. green-building or architectural requirements); to social equity factors (such as women- or minority-owned businesses or prior criminal convictions for marijuana-related activities that are now legal); and/or other policy considerations.

**FISCAL IMPACT:**

City staff prepared estimates for TABOR compliance for ballot measure 2A concerning special sales and use tax and special excise tax for regulated marijuana. These estimates identified an anticipated revenue of \$2.9 million in the first year of marijuana business operations. This may be impacted by decisions to permit on retail sales (versus both sales and cultivation) initially or entirely. This estimate was also prepared based on an anticipated number of marijuana sales businesses of six total locations. A change in the anticipated numerical cap may therefore also impact this estimate.

Per ballot measure 2A, revenues from the special marijuana sales and use tax and special marijuana excise tax are dedicated to:

- The enforcement of regulations on the regulated marijuana industry and other costs related to the implementation of the use and regulation of regulated marijuana and lawful utilization of marijuana; and,
- Building, operating and maintaining the highest priority(ies) of the adopted Parks and Recreation Open Space (PROS) Plan which include indoor and outdoor recreation and park facilities, capital improvements and enhancements to the City's parks, trails and open space system.

**SUGGESTED ACTION:**

Discussion Only.

**Attachments**

1. Marijuana Regulations Draft Timeline
2. Marijuana Business Land Use and Operations Regulations Draft Outline
3. Marijuana Tax Rates of All Colorado Municipalities
4. Memo - Marijuana Update 04.20.2021



# Marijuana Regulation Proposed Timeline



**DRAFT**

**Marijuana Business Land Use and Operations Regulations Outline**

**A) ENFORCEMENT, OPERATIONS, AND SECURITY**

- a. Convene a multi-disciplinary City staff team to address implementation and enforcement
  - i. Additional staff may be needed to assist with licensing, license renewals, inspection and enforcement
- b. Local Enforcement Mechanisms to be Implemented
  - i. Addition of staff (currently estimated at 1 FTE PD Officer)
  - ii. Coordination with Marijuana Enforcement Division (MED) at State level
  - iii. Establish regular inspections of all facilities
  - iv. Covert enforcement
  - v. Evaluate establishing a local marijuana business issues identification group
  - vi. Additional background investigation conducted by City Police Department into all principals of business or corporation (establish mandatory standards for acceptable history)
- c. All State operations and security requirements as provided for by State Marijuana Enforcement Division and Colorado Marijuana Rules (1 CCR 212-3 and subsequent revisions)<sup>1</sup> shall apply, including but not limited to:
  - 1. METRC Seed-to-Sale inventory tracking of all THC products
  - 2. Universal Symbol Graphics for THC-content warning labels on all products
  - 3. Criminal history evaluations of employees, applicants, and licensees; employees must renew license every two years
  - 4. Security locks, surveillance, and alarms required for all points of ingress/egress
  - 5. Surveillance cameras required for all operations areas including restricted access areas; all footage available to Local and State authorities upon request; 40-day minimum footage retention
  - 6. Disposal of all marijuana waste must render materials unusable and unrecognizable
  - 7. No products visible from public right-of-way
  - 8. Retail sales limited to 21+; medical sales limited to 18+ when separate entrance and purchase space are provided
  - 9. No sale or consumption of alcoholic beverages on premises
  - 10. Licensee must permit Local and State inspection at any time during all business hours and hours of apparent activity

**B) STORES**

- a. Licensing
  - i. Capped at \_\_\_\_ retail sales licenses
    - 1. All medical sales will be required to be co-located with a retail location and will not be counted as a separate license for purpose of the cap

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<sup>1</sup> The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(j), 44-10-203(1)(g), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), and 44-10-1001(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII).

2. Requires both State and Local license
  3. License requires annual renewal
  - ii. Selection through a competitive RFP process
    1. RFP process would be open for response August 2021
    2. Submittal August 1; review and initial selection September 1
    3. Reserve lottery option if more than capped licenses are qualified candidates
    4. Point-based assessment to include
      - a. Proportion of local ownership
      - b. Track record, experience, and past violations
      - c. Operating plan
      - d. Other policy-derived aims
  - iii. Once selected, business may apply for a License (see 3, below); Local license applications and processing beginning September 1, 2021
    1. Required both State and Local license
    2. 45-day State licensing period
    3. Estimated 60-day Local licensing period
    4. See appended document for State licensing fee schedule; local fee schedule to be determined based on estimated cost of administration
    5. Final determination by Marijuana Licensing Authority (to be established similar to Liquor Licensing Authority)
- b. Land Use/Zoning
- i. Allowed in all zone districts that currently allow for retail sales (i.e. in C-1, C-2, B-2, MU, MXS, MXOC zone districts)
  - ii. Buffering, 500 feet from schools (public, private, and parochial) and from main campus of a university/college (closest distance along public ROW)
  - iii. Mechanism to deter or prevent clustering of multiple stores in close proximity
  - iv. Site development to conform to standards of Zoning and Development Code
  - v. Parking ratio for High Volume Retail Sales and Services to apply; currently requires 1 parking stall per 300sf of structure
  - vi. A cap decreases the impact/need of tools such as buffering or overlays
  - vii. A cap is likely to increase the volume of customers per store, increasing potential for site issues such as traffic circulation and parking
- c. Use Specific Standards
- i. On-site signage consistent with existing sign regulations; the state requires that no marijuana business have any form of advertising that targets individuals under the age of 18 (medical) or age 21 (recreational)
  - ii. Treatment of off-premise signs (aka Billboards)
  - iii. Hour of operation – State limits operations from 8 a.m. to midnight, Monday through Sunday
  - iv. Require BMPs for odor mitigation
- d. Additional Regulatory Considerations

- i. Revise GJMC to clarify standards limiting odor nuisance in affected zone districts (Performance Standards throughout GJMC 21.03) and citywide (Title 8)
- ii. Building Codes to address building and life safety issues related to marijuana sales
- iii. Fire Codes to address building and life safety issues related to marijuana sales
- iv. Regulations to deter dormant licenses
  - 1. Require operations to begin with 12 months of licensing
  - 2. Establish minimum timeframe of 24 months before license can be traded

**C) PRODUCT MANUFACTURERS**

- a. Licensing
  - i. Not capped for number of licenses
  - ii. Permit both medical product manufacturer licenses and retail product manufacturer licenses
  - iii. Open applications for licenses February 2022
  - iv. Requires both State and Local license
  - v. Local license issued by Local Marijuana Licensing Authority (to be established similar to Liquor Licensing Authority)
  - vi. See appended document for State licensing fee schedule; local fee schedule to be determined based on estimated cost of administration
- b. Land Use Framework
  - i. Allowed in all areas where manufacturing/food products are allowed in current land use Code (i.e. I-O, I-1, I-2, C-2 zone districts)
  - ii. Hazardous uses (H Occupancy) as determined by the Fire Code requires a conditional use permit (CUP) and is conditionally allowed only in I-O, I-1, and I-2 zone districts
- c. Use Specific Standards
  - i. On-site signage consistent with existing sign regulations; the state requires that no marijuana business have any form of advertising that targets individuals under the age of 18 (medical) or age 21 (recreational)
  - ii. Require BMPs for odor mitigation
  - iii. Other site-specific standards to be consistent with Zoning and Development Code requirements for indoor industrial operations
- d. Additional Regulatory Considerations
  - i. Revise GJMC to clarify standards limiting odor nuisance in affected zone districts (Performance Standards throughout GJMC 21.03) and citywide (Title 8)
  - ii. Building Codes as adopted to address building and life safety issues related to these uses
  - iii. Fire Codes as adopted to address building and life safety issues related to these uses
  - iv. Utility impacts
    - 1. Electrical demand management

2. Wastewater pretreatment (IPT) requirements

**D) CULTIVATIONS**

- a. Licensing
  - i. Not capped for number of licenses
  - ii. Permit both medical cultivation licenses and retail cultivation licenses
  - iii. Open applications for licenses August 2022
  - iv. Required both State and Local License
  - v. Local license issued by Local Marijuana Licensing Authority (to be established similar to Liquor Licensing Authority)
  - vi. See appended document for State licensing fee schedule; local fee schedule to be determined based on estimated cost of administration
- b. Land Use/Zoning
  - i. Allowed for indoor cultivation only
  - ii. Allowed in I-1, I-2 zone districts
- c. Use Specific Standards
  - i. On-site signage consistent with existing sign regulations; the state requires that no marijuana business have any form of advertising that targets individuals under the age of 18 (medical) or age 21 (recreational)
  - ii. Require BMPs for odor mitigation
  - iii. Other site-specific standards to correspond to Zoning and Development Code requirements for indoor industrial operations
- d. Additional Considerations
  - i. Revise GJMC to clarify standards limiting odor nuisance in affected zone districts (Performance Standards throughout GJMC 21.03) and citywide (Title 8)
  - ii. Building Codes to address building and life safety issues related to marijuana cultivation
  - iii. Fire Codes to address building and life safety issues related to marijuana cultivation
  - iv. Utility impacts
    - 1. Electrical demand management
    - 2. Water demand
    - 3. Wastewater pretreatment (IPT) requirements
  - v. Structure material requirements to mitigate light pollution

**E) OTHER LICENSE TYPES**

- a. No other license types to be allowed at this time except for stores, products manufacturers, cultivations, and testing facilities
  - i. License and permit types to be explicitly prohibited include hospitality business, delivery, business operator, research & development, transporter
- b. Continue to permit testing facilities with no cap on number of licenses
  - i. Currently an allowed use in B-2, C-1, C-2, MU, BP, I-O, I-1, and I-2 zone districts
- c. Further license types could be permitted by act of Council in future, as these are not specified in ballot language

**F) TAXATION**

- a. Establish taxation at levels approved by ballot measure (if approved)
  - i. Special Marijuana Sales and Use Tax of 5%
  - ii. Special Marijuana Excise Tax of 3%
- b. Reserve consideration of tax increases as permitted by ballot measure
  - i. Special Marijuana Sales and Use Tax may be increased up to 15%
  - ii. Special Marijuana Excise Tax may be increased up to 10%
- c. Implementation shall require update/amendment to City Tax Code

DRAFT

Municipal Retail Marijuana Status								
	Sales	Cultivation	Manufacturing	Testing	Delivery	On-site Consumption	Tax Information	Notes
Aguilar								
Akron								
Alamosa				√			5% sales tax on retail sales (not currently allowed)	moratorium in place until ordinance allowing sales is finalized as of July 2019
Alma	√	√	√	√				
Antonito	√							
Arriba								Permanent moratorium.
Arvada								
Aspen	√	√	√	√				
Ault								
Aurora	√	√	√	√			5% excise tax, 4% sales tax on retail with authority up to 10%	
Avon								
Basalt	√						5% sales tax on retail marijuana	
Bayfield							\$10 per retail transaction (sales not currently allowed)	
Bennett								
Berthoud	√						7% sales and excise tax on retail sales	
Bethune								
Black Hawk	√						5% sales on retail and medical	
Blanca		√	√				5% excise on sale or transfer of unprocessed retail marijuana	
Blue River								
Boone								
Boulder	√	√	√	√			5% excise tax, 3.5% sales tax	
Bow Mar								
Branson								
Breckenridge	√	√	√				5% excise tax on all sales of marijuana	
Brighton								
Brookside								
Broomfield				√				Prohibition ordinance to automatically repeal on 2/1/21
Brush								
Buena Vista								
Burlington								
Calhan								
Campo								
Cañon City							5% excise and sales, authority up to 10%	Moratorium with Ordinance 7-2014

Municipal Retail Marijuana Status								
	Sales	Cultivation	Manufacturing	Testing	Delivery	On-site Consumption	Tax Information	Notes
Carbonate								
Carbondale	√	√	√	√			sales tax 5%, excise tax 5%	
Castle Pines								
Castle Rock								
Cedaredge								
Centennial								
Center								Defeated by voters 11/19
Central City	√						5% on retail sales	
Cheraw								
Cherry Hills Village								
Cheyenne Wells								
Coal Creek								
Cokedale								
Collbran								Permanent moratorium
Colorado Springs						√		<a href="#">Colorado Springs Municipal Code</a>
Columbine Valley								
Commerce City	√	√	√	√			7% sales tax, 5% excise tax	
Cortez	√	√		√				
Craig	√	√	√	√			4% sales tax	Approved by voters 11/19
Crawford							5% sales with authority up to 10, 5% excise (sales not currently allowed)	
Creede								
Crested Butte	√		√	√				
Crestone	√						5% sales tax	
Cripple Creek								
Crook								
Crowley								
Dacono								
De Beque	√	√	√	√			5% excise tax on sale and cultivation	
Deer Trail								
Del Norte								
Delta							5% excise, 2% sales (sales not currently allowed)	
Denver	√	√	√	√		√	5% excise and authorized up to 15%	<a href="#">Link to Denver's Marijuana Business Licenses Page</a>
Dillon	√						5% sales tax; 5% excise	
Dinosaur	√	√	√	√			5% excise, 5% sales	
Dolores	√	√	√	√			\$5 occupation tax per sales transaction; 5% excise	Approved by voters 4/20
Dove Creek								



Municipal Retail Marijuana Status								
	Sales	Cultivation	Manufacturing	Testing	Delivery	On-site Consumption	Tax Information	Notes
Durango	√			√			3% sales tax	
Eads								
Eagle	√	√	√	√			2.5% sales and 2.5% excise each increasing .5%/year up to 5%	
Eaton								
Eckley								
Edgewater	√	√	√	√				
Elizabeth								
Empire	√	√	√				\$5/transaction	
Englewood	√						3.5% with authority up to 5%	
Erie								
Estes Park								
Evans								
Fairplay								
Federal Heights	√	√	√	√			5% sales tax with authority up to 10%, 5% excise tax with authority up to 10%	
Firestone								
Flagler								
Fleming								
Florence				√			5% excise tax on wholesale	Permanent moratorium except testing
Fort Collins	√	√	√	√				
Fort Lupton								
Fort Morgan								
Fountain								
Fowler								
Foxfield								
Fraser	√						5% sales tax	
Frederick								
Frisco	√	√	√				5% sales tax	
Fruita							5% excise tax	
Garden City	√	√	√	√				
Genoa								
Georgetown	√		√				\$5/transaction	
Gilcrest								
Glendale	√	√	√	√		√		
Glenwood Springs	√	√	√	√			sales tax: 5% up to 15%, excise tax: 5%	
Golden								
Granada								
Granby								

Municipal Retail Marijuana Status								
	Sales	Cultivation	Manufacturing	Testing	Delivery	On-site Consumption	Tax Information	Notes
Grand Junction				√				
Grand Lake								
Greeley								
Green Mountain Falls								
Greenwood Village								
Grover								
Gunnison	√	√	√	√			5% sales tax	
Gypsum								
Hartman								
Haswell								
Haxtun								
Hayden	√	√					7.5% excise tax with authority up to 15%	
Hillrose								
Holly								
Holyoke								
Hooper								
Hot Sulphur Springs								
Hotchkiss							2% sales tax (up to 10%) in event sales are permitted by election	
Hudson								
Hugo								
Idaho Springs	√	√						
Ignacio								
Iliff								
Jamestown								Permanent moratorium
Johnstown								
Julesburg								
Keenesburg								
Kersey								
Kim								
Kiowa								
Kit Carson								
Kremmling								
La Jara								
La Junta								
La Salle								
La Veta	√	√	√	√				
Lafayette	√	√	√	√			sales and excise tax 5%; up to 10%	
Lake City								

Municipal Retail Marijuana Status								
	Sales	Cultivation	Manufacturing	Testing	Delivery	On-site Consumption	Tax Information	Notes
Lakeside								
Lakewood								
Lamar								
Larkspur								
Las Animas	√	√	√	√			5.75% sales tax	
Leadville	√	√	√	√			5% excise tax, up to 10%	
Limon								
Littleton							Special 3% sales tax on retail	
Lochbuie								
Log Lane Village	√	√	√	√			5% excise tax	
Lone Tree								
Longmont	√						3.5% sales tax; 3% excise tax with authority up to 15%	
Louisville	√	√		√			5% excise tax on cultivation	
Loveland								Defeated by voters 11/19
Lyons	√	√	√	√			3.5% sales; 5% excise tax; both up to 10%	
Manassa								
Mancos	√	√	√	√			occupation tax up to \$10/transaction	
Manitou Springs	√			√			6%, authority up to 10%	cultivation and manufacturing prohibited
Manzanola								
Marble								
Mead								Defeated by voters 11/19
Meeker								
Merino								
Milliken	√	√	√	√			occupation tax up to \$10/transaction	
Minturn								
Moffat	√	√	√				2% sales tax first year, increasing to 5% in year two	
Monte Vista							18% excise tax, 18% sales tax	
Montezuma								
Montrose								
Monument								
Morrison								
Mountain View	√	√	√	√			5% sales tax	
Mountain Village								
Mt. Crested Butte								
Naturita	√	√	√	√			2% sales tax, with authority up to 10; excise tax of 5%	

Municipal Retail Marijuana Status								
	Sales	Cultivation	Manufacturing	Testing	Delivery	On-site Consumption	Tax Information	Notes
Nederland	√	√	√				3.75% sales tax	
New Castle								
Northglenn	√	√	√				4% sales tax, up to 10%	
Norwood	√		√	√			2% sales tax, up to 10%; 5% excise tax	Approved by voters 4/20
Nucla								
Nunn		√					5% excise tax	
Oak Creek	√	√	√	√				
Olathe								
Olney Springs								
Ophir								
Orchard City							up to 5% sales tax, up to 5% excise tax, up to \$10 occupation tax for each sale transaction	
Ordway	√		√	√				
Otis								
Ouray							5% with authority up to 10%	
Ovid								
Pagosa Springs	√	√						
Palisade	√	√	√	√			5% excise tax; Occupation tax of \$5.00 for each sales transaction that is less than \$100, \$10.00 for each sales transaction between \$100.00 and \$500.00 and \$25.00 for each sales transaction of \$500.00 or more	
Palmer Lake		√					5% sales tax with authority up to 10% (sales not currently allowed); 5% excise tax with authority up to 10%	
Paoli								
Paonia							excise and sales tax of 5%, both with authority up to 10%	
Parachute	√	√	√	√	√	√	5% excise tax	
Parker								
Peetz								
Pierce								
Pitkin								
Platteville								
Poncha Springs							5% sales tax; 5% excise tax (sales not currently allowed)	
Pritchett								

Municipal Retail Marijuana Status								
	Sales	Cultivation	Manufacturing	Testing	Delivery	On-site Consumption	Tax Information	Notes
Pueblo	√	√	√	√			8% excise tax with authority up to 15%	
Ramah								
Rangley								
Raymer								
Red Cliff	√	√	√	√			5% sales tax, 15% excise tax	
Rico	√	√	√	√			10% sales and 10% excise on unprocessed retail marijuana sold or transferred from cultivation facility to retail facility	
Ridgway	√	√	√	√				
Rifle	√	√					5% excise tax	
Rockvale								
Rocky Ford	√						6% sales tax with authority up to 8%	
Romeo								
Rye								
Saguache								
Salida	√							
San Luis	√	√	√					
Sanford								
Sawpit								
Sedgwick	√	√	√	√			5% sales tax; 2% excise tax on cultivation; occupation tax of \$5-\$25 per wholesale manufacturing transaction	
Seibert								
Severance							7% sales tax (sales not currently allowed)	
Sheridan							5% excise	
Silt	√	√	√	√			3.5% retail sales	
Silver Cliff								
Silver Plume	√						4% and no greater than 8%	
Silverthorne	√	√					5% excise tax on mj and products	
Silverton	√	√	√	√			1% sales tax and 3% excise tax	
Simla								
Snowmass Village	√						5% sales tax, up to 15%	
South Fork							5% sales tax	
Springfield								
Starkville								
Steamboat Springs	√	√	√	√				
Sterling								
Stratton								

Municipal Retail Marijuana Status								
	Sales	Cultivation	Manufacturing	Testing	Delivery	On-site Consumption	Tax Information	Notes
Sugar City								
Superior					√			
Swink								
Telluride	√	^	√	√				
Thornton	√			√			5% sales tax	
Timnath								
Trinidad	√	√	√	√			5% sales tax	
Two Buttes								
Vail								
Victor								
Vilas								
Vona								
Walden								
Walsenburg	√	√	√	√			5% excise tax	
Walsh								
Ward								
Wellington								
Westcliffe								
Westminster								
Wheat Ridge	√	√	√	√			3.5% sales tax	
Wiggins								
Wiley								
Williamsburg								
Windsor								
Winter Park								
Woodland Park								
Wray								
Yampa								
Yuma							5% sales tax with authority up to 10 (sales not currently allowed)	

## *Memorandum*

**TO:** Mayor and Members of Council  
City Councilmembers Elect Reitz, Herman, and Simpson

**FROM:** Greg Caton, City Manager  
Tamra Allen, Community Development Director

**DATE:** April 20, 2021

**SUBJECT:** Regulation of Marijuana Businesses

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Referred measures 2A and 2B were passed on April 6, 2021 in the municipal election, providing Council an opportunity to consider establishing tax rates and regulations for marijuana businesses. This memorandum offers a broad summary of progress toward developing local marijuana business regulations to date as well as a selection of forthcoming considerations related to marijuana businesses. Topics include business types, licensing, taxation, land-use, and enforcement.

**Background Information** – The City has actively investigated approaches to regulating marijuana businesses for the better part of a year. Preliminary conversations on this topic by the City Council began on July 13, 2020, followed by a public comment session at the September 14, 2020 City Council Workshop. A staff team has engaged in the topic since September 2020; this effort included an in-depth issue identification exercise with a working group of approximately 20 community and industry members in November and December of 2020. At the City Council's public hearing of January 20, 2021, Council referred measures 2A and 2B to the ballot. Subsequently, the Planning Commission discussed zoning and other land use concerns at a series of five workshops from January 21, 2021 to February 18, 2021.

A staff update to City Council on March 1, 2021 included an overview of research and the outreach process, as well as a summary of policy tools and a draft timeline for regulatory processes, pending the result of the April 6, 2021 election. Subsequently, the results of the election lifted the moratorium on marijuana businesses and established the City's authority to tax those businesses. Thus, the City Council is now empowered to craft and adopt relevant regulations. To be comprehensive and aligned with practices by other Colorado municipalities, a regulatory approach would include permitting, licensing, and enforcement procedures and standards for business types, taxation, land-use, and other considerations.

To help facilitate public understanding of this evolving topic area, staff has established a webpage on the City website. That page – accessed at <https://www.gjcity.org/1091/Marijuana-Business-Licensing-and-Regulat> – will be continually updated to keep the public informed of new developments and upcoming public hearings or workshops.

In order to move forward with regulation development, several key questions should be addressed in the near future:

- *Will staff be directed to develop regulations? If so, will the regulations be on multiple license types simultaneously or to address only stores in a first process? To date,*

direction has been to develop regulations for retail and medical marijuana stores first, and to leave cultivation and products manufacturing for later consideration.

- *What is the target date for adoption of an ordinance and opening of a permitting process for marijuana businesses?* To date, the target date for beginning issuing licenses for stores has been January 1, 2022 with other business types staggered in approximate 6 month increments thereafter.
- *Will a numerical cap be placed on the number of stores?* The recitals for the referred ballot question indicated 6 stores.
- *If a numerical cap is placed on the number of stores, should the selection process be a competitive (e.g., merit-based) process, a lottery (e.g., random selection) process, or a hybrid process using a lottery involving applicants that meet a set of minimum standards?* Colorado communities have found success in a hybrid approach that first establishes minimum requirements and then those qualified business are moved into a lottery selection process.
- *What is Council's preferred approach to public engagement on this topic?* For example, special City Council meetings could be scheduled as listening sessions, focus groups could be held, or regulations could be first drafted and then meetings and/or hearings scheduled to receive comments on the draft(s).
- *Shall Council adopt the baseline taxation rate based on the authority created by ballot measure 2A (e.g., special marijuana sales tax of 5% and special marijuana excise tax of 3%)?* The working group had recommended a 3% excise tax rate and a 5% sales tax rate. An alternative is to establish a tax rate that exceeds the baseline rate, up to the maximum amount established by 2A (10% excise tax, 15% sales tax).
- *Are there policy goals that should be prioritized in the development of criteria for selection of licensees' marijuana stores?* This will be relevant in the event that Council pursues a merit-based process, or a minimum qualifications review followed by a lottery, to select a limited number of operators.
- *What elements should be included in the development of a land-use framework for marijuana businesses?* Planning Commission and public engagement identified land use related issues and that have resulted in preliminary recommendations.

**License Types** – A meaningful discussion of regulatory options and taxation must be informed by an understanding of the business types that comprise the regulated marijuana industry. Each business type requires a different license type, which must be issued by both the state and the local jurisdiction. Each license type may be issued as either a medical or retail (e.g., recreational) license. A municipality may allow only medical, only retail, both, or a mix of both for different license types. While there are more than ten license types, the Council has only seriously considered three types to date: *Stores*, *Cultivation*, and *Products Manufacturers*.

**Stores** – It is staff's opinion that the general perception of the marijuana business issue focuses primarily on the sale of marijuana. The marijuana store license, which leads to the establishment of a physical store or dispensary location, may sell marijuana to persons over the age of 21 or, in the case of medical stores, to any person holding a valid medical marijuana license. An individual cannot purchase more than 1 ounce of retail marijuana or 2 ounces of medical marijuana. A store may also sell marijuana concentrates, infused products (edibles), ointments, balms, lotions and other topical products. A store may only operate between the hours of 8 a.m. – midnight, or as further restricted by the municipality. Marijuana stores are associated with the collection of sales taxes. Question 2A concerning taxation of marijuana was



adopted by the voters on April 6, 2021. It established a special marijuana sales tax of 5% (for a total of 8.25%) and authority to raise that 5% rate up to 15%.

**Cultivation** – Cultivation licenses are granted to entities that cultivate, prepare, and package marijuana and transfer marijuana to sales businesses, products manufacturers, research facilities, and some other license types, but not to consumers. Marijuana cultivated by a retail cultivation license can only be transferred to other retail licenses, and vice versa for medical cultivation. These operations often occupy industrial facilities exceeding 20,000 square feet but may also be smaller. They typically require substantial HVAC, irrigation, and electrical facilities, and tend to employ a relatively large number of employees for the tending of plants and the trimming and packaging of their raw product. The product is subject to a local and state excise tax. These facilities are distinct from similar activities protected by the Colorado Constitution, such as the personal cultivation of up to six plants at a private residence and the medical caregiver model.

**Products Manufacturers** – These businesses manufacture marijuana products that are intended for consumption in concentrated form for smoking, or for consumption other than by smoking, such as edible products, ointments, and tinctures. These businesses may vary widely in terms of their products and processes, and they may include hazardous uses which in Grand Junction would currently require a Conditional Use Permit requirement. Medical products manufacturers may transact only with medical marijuana cultivation and sales licenses, and vice versa for retail. These businesses also generate a substantial number of jobs for processing and packaging activities, depending on the type of product manufactured and the degree of automation. There is no sales or excise tax on manufactured products.

**Other Licenses** – The City currently allows marijuana testing facilities. No testing facilities, which require a testing license, exist locally at this time. Several other business types may be considered but have not been identified by Council as desirable options. Transport licenses can be issued to independent businesses that transports marijuana among other businesses. Research and Development businesses can be licensed for study of marijuana. Hospitality Business licenses permit businesses to allow consumption of marijuana products on-site, either selling marijuana for on-site consumption, or allowing consumers to bring their own. Delivery licenses permit businesses that deliver marijuana and marijuana products from sales locations to residences. Business Operator Licenses are for marijuana-related professional services and management businesses.

**Taxation** – Taxation of marijuana includes sales and use tax and excise tax, both of which are typically a combination of local and states taxes. Sales and use tax is applied to sales in stores and excise tax is applied to the raw marijuana product transferred from cultivation businesses. Question 2A established both a local sales and use tax rate and a local excise tax rate, including baseline rates and authority to increase those rates up to specified limits without returning to the voters. These tax rates would need to be finally set by amendment of the City's tax code.

The special sales and use tax rate for marijuana and marijuana products may be set at a baseline 5% but can be raised up to 15%. Combined with existing local sales tax of 3.25%, this creates a taxation range of 8.25% to 18.25%. The baseline rate of 5% (cumulatively 8.25%) would exceed the total rate of up-Valley communities such as De Beque, Rifle, and Parachute, but be less than that of Palisade. Broadly, staff considers this a viable rate. An additional 15% State Marijuana Sales Tax (which absorbs the baseline State of Colorado Sales Tax of 2.90%)

will be applied automatically to retail marijuana, 10% of which is subsequently shared back to the collecting municipality.

The special excise tax rate for marijuana and marijuana products may be set at a baseline 3% but can be raised up to 10%. Combined with existing local sales tax of 3.25%, this creates a taxation range of 6.25% to 16.25%. Additionally, a 15% State Marijuana Excise Tax will be applied automatically to any unprocessed marijuana transferred from a cultivation facility. Broadly, staff considers this a competitive rate.

Based on this information, City staff prepared an estimate of \$2,900,000 in City tax revenue in the first year of sales and excise tax on marijuana products. This estimate was requisite for TABOR obligations and was thus included in 2A. This revenue is dedicated to the enforcement related to marijuana business regulations and to the highest priorities of the 2020 Parks, Recreation, and Open Space Master Plan.

**Licensing** – All marijuana businesses require licensing by both the State and the local jurisdiction. All licenses require annual renewal. State licensing processes are routinely updated through a rule-making process that includes feedback from local jurisdictions, but otherwise the primary interaction between the two licensing processes is mutual confirmation of eligibility and granting of license.

Local licensing processes reflect a wide range of detail, with some jurisdictions being highly discriminatory based on policy aims, and others undertaking a far more limited review. Beyond the level of detail at which licensing requests are reviewed, and the policy aims that would drive a decision-making process, the primary classifications of licensing processes relate to the method of selection. Three general categories of process can be said to exist: random; competitive; and a hybrid thereof. A random or lottery process establishes an application window, and, at the closure of that time-period, a number of licenses are randomly award to a specified number of applicants. A competitive process, sometimes described as a merit-based or RFP (request for proposals) process, establishes a system of criteria and ratings based on policy aims. A hybrid process establishes a baseline set of criteria for eligibility, and randomly selects among those businesses deemed to be eligible. Staff considers the feasibility of a fully competitive or merit-based process to be potentially unfeasible due the anticipated volume of applications, which appears highly likely to exceed 50 applications. Staff therefore encourages Council to seriously consider a hybrid approach, using a set of minimum qualifications and a lottery thereafter.

The policy goals that are secured through a merit-based or hybrid process vary widely throughout the state. Proportion of local ownership is a common requirement, as are experience, quality of business and operating plans, records of past violations, and goals related to sustainability, safety, and quality of built environment. Staff will seek direction from Council on this topic to inform the development of selection criteria. Staff has also contracted with Laura Bauer, a former City Clerk for Commerce City who is widely regarded as an expert on marijuana business licensing in the state, to assist staff in developing a licensing system.

The City Clerk is typically one of the primary entities responsible for the management of license applications and any selection process. A Marijuana Licensing Authority, similar to a Liquor Licensing Authority, may be established as a non-biased body to oversee essential elements of the application review process. The exact length of this process hinges upon the review time

associated with each component and may be anticipated to take between three and six months in total. The process typically resembles the following sequence:

*License Availability* – The city clerk will post a notice of license availability on the city’s website, opening an application period for the filing and acceptance of new applications.

*Pre-Application Meeting* – A mandatory preapplication meeting between the licensing jurisdiction and the applying entity is scheduled and held.

*Application Filed* – An application, with all fees and forms, is filed by the applicant.

*Fingerprinting* – All controlling beneficial owners, owners, and managers are fingerprinted.

*Lottery* – If there are more applicants than available sites, a public lottery is conducted among the qualified applicants, presided over by a Marijuana Licensing Authority.

*Community Development and Building Department Reviews* – Upon being selected in the lottery, the applicant initiates and completes review pertaining to the development of the site and structure where the business is proposed to be located.

*State Licensure* – Upon being selected in the lottery, the applicant proceeds with obtaining a state-issued marijuana business license and files evidence of licensure with the City Clerk.

*Local Licensure* – Upon receipt of the conditional state license and Certificate of Occupancy, and successful inspections, a local license is issued and business operations may begin.

**Land Use** – As a component of licensure, as well as a process pertinent to any business operation in the City, land use is a primary consideration related to marijuana businesses. Land use considerations diverge substantially depending on the license type. The following summary reflects recommendations and remaining questions from Planning Commission and City staff and highlights a number of outstanding questions. For example, as described above, the regulation of marijuana stores hinges substantially on the decision of whether to set a numerical cap on such businesses, and, if so, at what number.

Marijuana Stores – Medical and retail (e.g., recreational) marijuana stores must be licensed separately by both the state and municipality. The Planning Commission recommends that all medical sales be required to be co-located with a retail location and not be counted as a separate license for purpose of the cap if a cap is put in place.

Marijuana stores are commonly permitted in a subset of zone districts that would allow other retail operations, often with additional restrictions. Currently, the zone districts that allow for general retail sales are the C-1 (Light Commercial), C-2 (General Commercial), B-1 (Neighborhood Business), B-2 (Downtown Business), M-U (Mixed Use), MXS (Mixed Use Storefront), and MXOC (Mixed Use Opportunity Corridor) zone districts. Planning Commission has recommended that marijuana sales be restricted to these zone districts, excluding the B-1 zone district.

Planning Commission recommends that marijuana sales be buffered 500 feet from schools (public, private, and parochial) and from main campus of a university/college (closest distance along public ROW). Other uses commonly buffered from in the state include parks and places of worship. Planning Commission also recommends:

- Mechanisms to deter or prevent clustering of multiple stores in close proximity;
- That site development to conform to standards of Zoning and Development Code;
- That the parking ratio for High Volume Retail Sales and Services (1 parking stall per 300sf of structure) subject to further research by planning staff;
- On-site signage consistent with existing sign regulations;
- Hour of operation as limited by the State (8 a.m. to midnight, Monday through Sunday); and,
- BMPs for odor mitigation.

These recommendations assume that a cap on the number of stores would be in place. A cap would have multiple effects, including:

- Decreased needs need for tools such as buffering or overlays;
- An increase the volume of customers per store, increasing potential for site issues such as traffic circulation and parking; and,
- Need for further regulation to deter dormant licenses, such as to require operations to begin with 12 months of licensing and/or a minimum timeframe of 24 months before license can be traded.

**Marijuana Products Manufacturers** – Unlike marijuana stores, marijuana products manufacturers are primarily industrial in function. Planning Commission recommendations for regulating this land use reflect that distinction. To date, no discussion has been made of a cap on the number of these businesses; such a cap is extremely uncommon throughout the state. The Planning Commission recommends that such businesses be limited to areas where general manufacturing and food products manufacturing are allowed, depending on the nature of the specific business, to include I-O (Industrial – Office), I-1 (Light Industrial), I-2 (General Industrial), and C-2 (General Commercial) zone districts. Where a particular operation is determined to be a hazardous uses (H Occupancy) per Fire Code, that operation would require a conditional use permit (CUP) to be permitted to operate I-O, I-1, and I-2 zone districts under current Code standards.

**Cultivations** – Cultivation licenses, when indoors, are primarily industrial in function, rather than agricultural. To date, no discussion has been made of a cap on the number of these businesses; such a cap is uncommon throughout the state. Permit both medical cultivation licenses and retail cultivation licenses. Planning Commission has recommended that these businesses be restricted to indoor operations. This is vital to the management of odor impacts and is also important to limit possible genetic contamination of hemp crops, which are vulnerable to contamination with THC-producing varieties of the *Cannabis sativa* plant, in which event a contaminated hemp harvest would be required to be destroyed per State law. Given the relatively high potential for odor impacts, even when using BMPs, these are recommended to be allowed only the I-1 (Light Industrial) and I-2 (General Industrial) zone districts. Particular attention should be paid to odor and light management for these businesses. Likewise, due to potentially high demand on utilities, further investigation of possible approaches to electrical, wastewater, and water impacts is anticipated.

**Enforcement** – After reviewing the regulatory enforcement function of marijuana in several municipalities Staff is recommending one or two full time sworn police officer(s). The actual number will depend greatly upon the number and types of licensing the City decides upon allowing. Enforcement will be focused on monitoring compliance with the City’s and the State’s

regulatory requirements for licensing, inventory control, transportation, and sale to underage individuals. This last point may involve such things as sting operations utilizing underage operatives and/or people with fraudulent identification documents.

Staff also recommends funding be allocated to the investigation and enforcement of black and gray market marijuana. Black market marijuana is currently prevalent in Grand Junction and Mesa County and local law enforcement resources are too limited to address the complaints of grows, use and sales. The funding of one or two full-time police officer position(s) to investigate and enforce state law regarding black and gray market marijuana is, per Grand Junction Police Department leadership, critical to addressing this problem in Grand Junction. This funding was secured through the language of question 2A, which provides dollars for enforcement.

The legal marijuana industry has been broadly demonstrated to be supportive of addressing those competing with their business through illegal means. Other Colorado municipalities that have been consulted by City staff have underscored the importance of relationship building with marijuana business owners. This facilitates a positive flow of information and appears to reduce the likelihood of criminality associated with marijuana. Staff recommends forming an ongoing roundtable of operating marijuana businesses for the purpose of issue identification and regulatory updates.

Product quality is largely enforced by the State. Legal marijuana is distinct from illegal marijuana in that it is stringently tested for quality and purity. Retail and medical marijuana sold in Colorado is required to be tested not only for its THC-content but also for a range of contaminants, including the heavy metals lead, arsenic, cadmium, and mercury, as well as molds and microbial contaminants. While marijuana is itself proven to have developmental and other negative impacts, depending on the manner and frequency of use, the harm reduction associated with this testing system has clear societal benefits relative to the existing illegal and widespread use of unregulated marijuana.

Other enforcement entities generally work closely with local law enforcement to ensure that regulations are followed and updated in accordance with State law. A primary point of contact is the Marijuana Enforcement Division of the Department of Revenue (MED). The MED provides training opportunities at the request of local law enforcement on a range of topics, and also conducts background checks and varying levels of monitoring of license owners, operators, and marijuana business employees. Likewise, municipal law enforcement is encouraged to work with the Colorado Bureau of Investigation, State Highway Patrol, and adjacent law enforcement agencies such as the County Sheriff's office.

Staff will continue to present information and questions to the City Council on this topic and will seek direction from the City Council on the questions highlighted in this memorandum at the May 3, 2021 City Council Workshop. Staff will continue to develop materials and based on Council's direction.

### *C. Department Directors*