

ORDINANCE NO. 1257

AN ORDINANCE OF THE DRAPER CITY COUNCIL AMENDING SECTION 2-3-080 OF THE DRAPER CITY MUNICIPAL CODE PERTAINING TO THE CITY MANAGER'S DUTIES; AMENDING SECTION 3-1-030 OF THE DRAPER CITY MUNICIPAL CODE PERTAINING TO DEPARTMENT HEADS' DUTIES; AND REPEALING AND REENACTING CHAPTER 3-3 OF THE DRAPER CITY MUNICIPAL CODE PERTAINING TO PROCUREMENT

WHEREAS, Draper City Municipal Code ("DCMC") Chapter 3-3 ("the Procurement Code") has not been extensively revised since its adoption in 2009; and

WHEREAS, there have been minor amendments to the Procurement Code over the years; and,

WHEREAS, the structure of the Procurement Code is not user friendly and creates confusion regarding the proper methods of procurement; and,

WHEREAS, the Procurement Code does not address properly some important aspects of state law regarding construction projects and Class C road projects; and

WHEREAS, City staff has undertaken to review and revise the Procurement Code to make it more user friendly while ensuring procurement is made in an equitable, efficient and economical fashion; and

WHEREAS, the edits to the Procurement Code are so significant, repeal of Chapter 3-3 and reenacting it meets the goals of making the Procurement Code user friendly and promotes equitable, efficient and economical procurement practices; and

WHEREAS, revisions to the Procurement Code impact other areas of the DCMC, specifically Section 2-3-080 regarding the City Manager's responsibilities and Section 3-1-030 regarding Department Heads' responsibilities; and,

WHEREAS, the Draper City Council finds good cause to repeal and reenact Chapter 3-3 and amend Sections 2-3-080 and 3-1-030 of the DCMC.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. Repealer. Draper City Municipal Code Chapter 3-3 is hereby repealed.

Section 2. Enactment. Draper City Municipal Code Chapter 3-3 is hereby reenacted to read as shown in Exhibit "A", which is attached hereto and incorporated herein by reference.

Section 3. Enactment. Portions of Draper City Municipal Code Section 2-3-080 are hereby amended to read as shown in Exhibit "B", which is attached hereto and incorporated herein by reference.

Section 4. Enactment. Portions of Draper City Municipal Code Section 3-1-030 are hereby amended to read as shown in Exhibit "C", which is attached hereto and incorporated herein by reference.

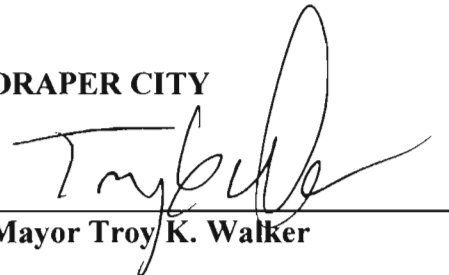
Section 5. Severability. If any section, part, or provision of this Ordinance is held invalid, or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance, and all sections, parts, and provisions of this Ordinance shall be severable..

Section 5. Effective Date. This Ordinance shall become effective immediately upon publication or posting or 30 days after final passage, whichever is closer to the date of final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, ON THE 2nd DAY OF MAY, 2017.



DRAPER CITY



Mayor Troy K. Walker

ATTEST:



Rachelle Conner, City Recorder

VOTE TAKEN:

	YES	NO
Councilmember Rapplepe	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Stenquist	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Summerhays	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Councilmember Vawdrey	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Weeks	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mayor Walker	<input type="checkbox"/>	<input type="checkbox"/>

EXHIBIT A

The current Chapter 3-3 is repealed and the following is reenacted as Chapter 3-3.

Chapter 3

PROCUREMENT CODE

3-3-010: COMPLIANCE:

- A. All procurement-related expenditures of the city shall conform to the provisions of this chapter and applicable provisions of State law including, but not limited to, the Uniform Fiscal Procedures Act set forth at Utah Code Ann. §10-6-101, et seq., as amended. Any expenditures of the city involving federal assistance funds shall comply with applicable federal law and regulations. Any expenditure of the city involving the construction, maintenance or improvement of a class C road or work using Class C funds shall comply with applicable provisions of Utah Code Ann. §§72-6-108 and 109, as amended. No check or warrant to cover any claim against appropriations may be drawn until the claim has been processed according to the relevant provisions provided herein.
- B. Procurement-related expenditures not covered under this chapter shall follow the Utah Procurement Code.
- C. All procurement shall follow the ethical standards of Title 19, Ethics, of the Draper City Municipal Code and the Utah Municipal Officers' and Employees' Ethics Act, Utah Code Ann. §10-3-1301, et seq.

3-3-020: DEFINITIONS:

As used in this chapter:

BID LIMIT: For a "building improvement" for the year 2003, \$40,000; for a "public works project" for the year 2003, \$125,000; for a "class C road improvement project" for the year 2003, \$125,000. For each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year.

BUILDING IMPROVEMENT: The construction or repair of a public building or structure.

CLASS C ROAD IMPROVEMENT PROJECT: The construction and maintenance of Class C roads.

CONSTRUCTION MATERIALS: The supplies and services used to complete a construction project.

CONSTRUCTION OF CLASS C ROADS: Work that would apply to any new roadbed either by addition to existing systems or relocations; resurfacing of existing roadways with more than two inches of bituminous pavement; or new structures or replacement of existing structures, except the replacement of drainage culverts.

CONSTRUCTION PROJECT: Means a building improvement, public works project, or class C road improvement project.

CONSUMER PRICE INDEX: The Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

EMERGENCY PROCUREMENT: The procurement of supplies, services, or construction materials that cannot be purchased through normal procurement methods due to an existing or imminent emergency condition. An emergency condition is a situation, which creates an immediate and serious threat to public health, life, safety, or property. An emergency condition is usually, but not always, the result of floods, natural disasters, epidemics, riots, or critical equipment failures.

EXEMPT EXPENDITURES: Expenditures for supplies or services that are less than \$2,000 dollars.

GOVERNMENT AGENCY CONTRACT: An existing procurement contract that another governmental agency has issued.

INVITATION FOR BIDS (IFB): An IFB is a procurement document used for seeking competition for large expenditure purchases or small expenditure purchases that may ultimately exceed the amount for a small expenditure purchases. IFBs are submitted electronically or in a sealed envelope to prevent its contents from being revealed or known before the deadline for the submission of bids.

MAINTENANCE OF CLASS C ROADS: The keeping of a road facility in a safe and stable condition to which it was constructed or improved, and includes the reworking of an existing surface by the application of up to and including two inches of bituminous pavement; the installation or replacement of guardrails, seal coats, and culverts; the grading or widening of an existing unpaved road or flattening of shoulders or side slopes to meet current width and safety standards; and horizontal or vertical alignment changes necessary to bring an existing road in compliance with current safety standards.

PERSON: Any individual, firm, partnership, trust, limited liability company, corporation, or other entity however designated.

PROCUREMENT: Buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring any supplies, services, or construction materials, and all functions that pertain to the obtaining of any supply, service, or construction materials, including the solicitation of sources, selection, award, and all phases of contract administration.

PROFESSIONAL SERVICES: The furnishing of services for auditing, banking, insurance, engineering, legal, architectural, and other forms of professional consulting.

PUBLIC WORKS PROJECT: The construction of a park or recreational facility or a pipeline, culvert, dam, canal, or other system for water, sewage, storm water, or flood control and does not include the replacement or repair of existing infrastructure on private property.

PURCHASE ORDER: A procurement document issued by the purchaser to formalize a purchasing transaction (contract) with a supplier. A purchase order encumbers funds (sets asides, assures, or reserves funds for a particular purchase from an approved budget account). A purchase order is sent to a supplier to initiate or “place” an order.

REQUEST FOR PROPOSALS: Also called an RFP. A RFP is an alternative method to sealed bids. A procurement document used for seeking competition for a purchase when the needs of the buyer cannot be clearly expressed or described within a written specification and cost is just one of several criteria necessary to make a procurement decision. Proposals are usually used to purchase professional or human services, or high technology “state of the art” equipment. Proposals are generally not appropriate for construction projects.

REQUEST FOR QUOTES: Also called an RFQ. A document used for seeking informal competition on small expenditure purchases. RFQ’s are usually solicited by telephone, fax, or email.

REQUISITION: (1) An internal document by which a department notifies the purchasing agent of items that are needed. The requisition should list the item (or items) needed, the quantity, the account number(s), and the department director’s approval to proceed with the purchase. The requisition “pre-encumbers” funds (determines if funds are available for a particular purchase from an approved budget account) or (2) a request submitted to the purchasing agent or finance department for requesting payment on a previously accrued obligation.

RESPONSIVE AND RESPONSIBLE BIDDER: A supplier or seller who has submitted a bid that conforms in all material aspects to the bid specifications (responsive), and who has the capability in all respects to perform in full the contract or purchase order requirements in a timely manner (responsible).

SEALED BIDS: Also called an Invitation for Bids (IFB).

SERVICES: The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports that are merely incidental to the required performance. “Services” does not include employment agreements or collective bargaining agreements.

SOLE SOURCE PROCUREMENT: The procurement of supplies or services that are only available from a single supplier or manufacturer.

SOLICITATION: The process of notifying prospective bidders that the City wishes to receive quotes, bids, or proposals for supplies or services. The process may consist of public advertising, distribution quotes, bids, or proposals to prospective bidders.

SUPPLIES: All personal property, including but not limited to goods, equipment, materials, and printing.

3-3-030: PROCUREMENT AUTHORITY:

The city council is authorized to approve all procurement and delegates this authority as outlined below.

- A. The mayor may sign contracts as specifically authorized in advance by the city council in accordance with procedures set forth in the Utah Uniform Fiscal Procedures Act for Utah Cities, as amended.
- B. The city manager may purchase supplies, services, or construction materials in accordance with the procedures set forth in this chapter and may sign contracts and agreements pertaining thereto. The

city manager shall update the city council on a monthly basis regarding construction project expenditures and large expenditures.

- C. Department directors and the purchasing agent may purchase supplies and services in accordance with procedures set forth in this chapter, and may sign the contracts and agreements pertaining thereto which do not exceed twenty-five thousand dollars (\$25,000.00), are funded in the city budget, are competitively bid, and are reviewed by the finance director or designee.
- D. The public works director or the parks and recreation director, as applicable, may oversee the procurement involved with construction projects, and may sign the contracts and agreements pertaining thereto that are funded in the city budget, are competitively bid, and are reviewed by the finance director or designee.
- E. Any city employee shall have authority to purchase supplies not to exceed two thousand dollars (\$2,000) in accordance with the procedures set forth in this chapter, if previously approved by the department director.

3-3-040: PURCHASING AGENT:

- A. The city manager shall designate a purchasing agent for the city. The purchasing agent shall act under the direct supervision of the finance director.
- B. The purchasing agent or designee shall perform the duties as assigned by the finance director, which duties shall include:
 - 1. Administering and interpreting the procurement code in accordance with any applicable federal, state and local laws, and finance department policies and procedures for carrying out the provisions of this chapter.
 - 2. Procuring or supervising the procurement of all supplies and services needed by the city, including preparation of specifications, and negotiation and signing of procurement contracts and issuing purchase orders.
 - 3. Exercising general supervision and control over all inventories or supplies of the city and the inspection of and accounting for all such inventories or supplies.
 - 4. Preparing and maintaining forms and reports as are reasonably necessary to the operation of this chapter and other rules and regulations of the city.
 - 5. Keeping generally informed of current developments in the field of procurement, including but not limited to market conditions and new products.
 - 6. Providing a copy of all contracts and agreements to the city recorder immediately upon their execution.
 - 7. Administering the sale, trade, exchange, or disposal of the city's surplus personal property.

3-3-050: BUDGET LIMITATION:

- A. No expenditure or encumbrance shall be made for any supplies, services or construction materials or project for the city in excess of the funded amount in the city budget as adopted or subsequently amended by the city council.
- B. Change orders in construction project contracts that cause the contract price to exceed the total project budget shall not be approved until reviewed and approved as a budget adjustment by the city council. Change orders may be signed in accordance with section 3-3-030.

3-3-060: GENERAL PROCUREMENT RELATED EXPENDITURES:

Procurement related expenditures for general types of supplies and services are classified as follows:

- A. Exempt Expenditures - \$2,000 or less
- B. Minor Expenditures – \$2,001 to \$5,000
- C. Small Expenditures - \$5,001 to \$20,000
- D. Large Expenditures – greater than \$20,000

3-3-070: PROCUREMENT PROCEDURES:

- A. General Purchasing Procedures. Except as otherwise stated below in this chapter, all procurement shall be made pursuant to the following general purchasing procedures:
 - 1. The department personnel prepare a requisition for the supplies or services that need to be purchased.
 - 2. The department director approves the requisition.
 - 3. The department selects a vendor or service provider according to the procedures for the type of expenditure, as outlined in subsections C through F of this section.
 - 4. The department sends the selected vendor or service provider information to the purchasing agent.
 - 5. The purchasing agent creates a purchase order and sends it to the vendor or service provider to place the order.
 - 6. Upon receipt of the vendor's invoice for payment, accounts payable shall match the invoice with the purchase order and issue payment.
- B. Exempt Expenditures. Exempt expenditures may be made without obtaining quotes or bids, but should be made with as much competition as practicable under the circumstances.
 - 1. The purchasing procedure for exempt expenditures is as follows:
 - a. The department purchases items using a credit card, on account, or petty cash.
 - b. The department prepares a requisition for the item(s) that were purchased.
 - c. The department director approves the requisition.
 - d. The purchasing agent creates a purchase order.
 - e. Accounts payable matches the invoice (or receipt) with the purchase order and issues a payment check to the vendor.

- C. Minor Expenditures. In order to select a vendor or service provider for minor expenditures, the department or purchasing agent shall solicit at least three written or verbal price quotes and shall provide documentation of said price quotes to the purchasing agent as required in section 3-3-070 (A) (4), or by selecting a vendor or service provider pursuant to a state of Utah or other governmental entity cooperative contract.
- D. Small Expenditures. In order to select a vendor or service provider for small expenditures, the purchasing agent or designee shall obtain and document price quotes by obtaining written or verbal quotes or bids, or by making the purchase pursuant to a state of Utah or other governmental entity cooperative contract.
- E. Large Expenditures. In order to select a vendor for large expenditures the purchasing agent obtains bids or proposals using any of the following methods: invitation for bids, request for proposals, or by making the purchase pursuant to a state of Utah or other governmental entity cooperative contract.
- F. Selection Procedures.
 - 1. Evaluating Invitation for Bids and Request for Quotes. Bids and quotes shall be evaluated within a reasonable time by the purchasing agent or designee to determine the lowest responsive and responsible bidder, whose bid or quote conforms in all material aspects to the bid or quote specifications, and who has the capacity in all respects to perform in full the contract or purchase order requirements in a timely manner. The purchasing agent or designee may not use criteria not described in the invitation for bids or request for quotes to evaluate a bid or quote.
 - 2. Evaluating Request for Proposals. Proposals shall be evaluated within a reasonable time by an evaluation committee comprised of at least three city employees to determine which proposal provides the best value to the city. The evaluation committee shall evaluate each responsive and responsible proposal, whose proposal conforms in all material aspects to the proposal specifications, and who has the capacity in all respects to perform in full the contract or purchase order requirements in a timely manner. Evaluation criteria for a proposal may include items such as experience, qualifications, approach to the project, references, management plans, schedule of delivery, cost, and other subjective or objective criteria. At any time during the evaluation process, the evaluation committee may request additional information from a proposer or proposers, including oral interviews or presentations. Criteria not described in the request for proposals may not be used to evaluate a proposal.
 - 3. Tie Bids. If two or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of re-soliciting bids, the purchasing agent shall resolve a tie bid by resolving the tie in favor of:
 - a. The bidder closest to the point of delivery;
 - b. The bidder who received the previous award;

- c. The bidder who will provide the earliest delivery date;
 - d. By drawing lots; or
 - e. Any other reasonable method
4. Single Bids. In the event that only one bid is received, the purchasing agent shall determine whether it is in the best interests of the city to re-solicit for additional bids, or proceed with a procurement award using the single bid received.
 5. No bids or Proposals. In the event no bids or proposals are received, the purchasing agent shall determine whether the delay of re-soliciting bids or proposals will be detrimental to the public interest. If a delay in re-soliciting bids or proposals would be detrimental to the public interest, the purchasing agent may purchase the supplies or services without obtaining quotes or proposals, but with as much competition as practicable under the circumstances.

3-3-080: SPECIAL TYPES OF EXPENDITURES

- A. Professional Services: Professional services are expenditures that, by their nature, are not reasonably adapted to award by competitive bidding. The city manager or designee shall award professional services contracts at his discretion based on an evaluation of the provider's professional qualifications, service ability, experience, cost of services, and other applicable criteria. Professional services may include, but not be limited to, the services of financial and legal advisors, architects, engineers, accountants, physicians, dentists, veterinarians, trainers and similar professional services.
 1. A contract for professional services for less than \$10,000 dollars may be awarded without obtaining quotes, bids, or proposals, but should be made with as much competition as practicable under the circumstances.
 2. A contract for professional services exceeding \$10,000 may be awarded after the purchasing agent or department solicits qualifications and billing rates from providers using a Request for Statements of Qualifications (RFSQ), and creates a list of pre-qualified providers. The department evaluates the RFSQ's and selects a provider based on demonstrated competence, qualifications, and fair and reasonable billing rates.
 3. A department may proceed with the purchase of professional services according to the terms and conditions of an existing city contract.
 4. With the city manager's approval, the city attorney may retain outside legal counsel and experts necessary to assist the city in prosecuting or defending lawsuits and claims without obtaining quotes, bids, or proposals.
- B. Construction Projects: The following provisions are applicable to all construction projects:
 1. Public Works Director and Parks and Recreation Director Responsible. Unless otherwise determined by the city manager, the public works director or the parks and recreation director, as applicable, shall be responsible for the procurement of all construction projects for the city.

2. Dividing The Cost Of A Construction Project. The cost of a construction project may not be divided to avoid exceeding the bid limit. However, the cost of a construction project that exceeds the bid limit may be divided if the selection procedures comply with the requirements of this chapter with respect to each part of the construction project that results from dividing the cost.
3. Bid Security. Contracts for construction projects may provide for a bid security in the amount equal to at least 5% of the amount of the bid.
4. Advertising. Advertising for construction projects shall comply with section 3-3-090.
5. The public works director or parks and recreation director, as applicable, may reject any and all bids if deemed to be in the best interests of the city.

C. Building Improvement and Public Works Projects:

1. Annual Calculation of Bid Limit. Each January the finance director shall establish the bid limit for the upcoming calendar year using the formula established in the definition of "bid limit".
2. Estimated Cost Below The Bid Limit. If the estimated cost of the building improvement or public works project is less than the bid limit, the city may complete the improvements or project in-house without calling for bids or the public works director or parks and recreation director may invite bids from at least three (3) potential, responsible providers of type of construction needed. Such invitations may be made in writing or orally, including by telephone, and shall be made without unfair favoritism or bias. The public works director or parks and recreation director shall keep a record of all invitations and bids made hereunder. Otherwise, expenditures shall be made pursuant to the procedures set forth in Sections 3-3-070 (E).
3. Estimated Cost Exceeding The Bid Limit. Except as otherwise provided herein, any expenditure of the city for a building improvement or public works project that exceeds the bid limit shall be made pursuant to the procedures set forth in Utah Code Ann. §11-39-101, et seq., as amended.

D. Class C Road Improvement Project: Any class C road improvement project that is wholly or partially funded by class C road funds shall be procured as required by the Utah Code Ann § 72-6-108 and 109, as amended, which is hereby adopted by reference.

E. Emergency Procurement: An emergency condition is a condition or unforeseen circumstances that creates an immediate or imminent threat to the public's health, welfare, safety, or property. The existence of an emergency condition may create an immediate and serious need for supplies, services, repairs, and/or construction that cannot be met through normal procurement methods and policy (i.e. an emergency procurement). An emergency procurement of supplies, services, repairs, and/or construction shall be made using as much competition as practical under the circumstances by the purchasing agent, the public works director, the parks and recreation director, or the city manager or his designee. Emergency procurements shall be limited to only those supplies, services, repairs, and/or construction necessary to mitigate the emergency.

- F. Sole Source Procurement: The purchasing agent may approve a sole source procurement, without competition, when the purchasing agent determines that there is only one source for the required item or service to be purchased; or the award is a condition of a donation or grant that will fund the full cost of the purchase. Examples of potential reasons for sole source procurements include, but are not limited to the compatibility of equipment, accessories, replacement parts, maintenance, or service is the paramount consideration; trial use or testing; procurement of items for resale; procurement of public utility service; or unique properties of the sole source. The purchasing agent may verify a sole source by putting the sole source item out to bid.
- G. Procurement Under City, County, State, or Federal Contracts or Pre-Qualified Lists: An expenditure for which requests for qualifications, competitive bidding or price negotiation according to a procedure comparable to the city's process has already occurred at the city, county, state or federal level may be made without further bidding.
- H. Procurement Under Interlocal Contracts: An expenditure made in conjunction with an interlocal agreement between the city and another governmental entity in compliance with the Interlocal Cooperation Act, Utah Code Title 11, Chapter 13, may be made without further bidding.
- I. Expenditures to Resolve Claims or Lawsuits: Expenditures to resolve claims or lawsuits against or by the city may be made without obtaining quotes or bids, but should be made with as much competition as practicable under the circumstances.

3-3-090 ADVERTISING REQUIREMENTS: All procurement solicitations shall conform to the following advertising requirements, as applicable. Unless otherwise stated, procurement solicitations may be posted in E-Procurement websites rather than advertised in a printed medium.

- A. All invitations for bids and requests for proposals shall be advertised a minimum of five days in advance of the bid due date at least once in a generally and widely available medium, which may include newspapers, business journals or posted on an E-Procurement website.
- B. All invitations for bids for building improvement and public works projects shall be published at least twice in a newspaper published or of general circulation in the city at least five days before opening the bids; and in accordance with Utah Code Ann. § [45-1-101](#), as amended, at least five days before opening the bids.
- B. All invitations for bids for class C road improvement projects shall be advertised at least once a week for three consecutive weeks in a newspaper of general circulation; and in accordance with Utah Code Ann. § [45-1-101](#), as amended, for three weeks.
- C. Notice for the sale of Surplus Personal Property shall be advertised at least ten (10) days prior to the sale or opening of bids at least once in a newspaper of general circulation; or posted on a public surplus company website. The notice shall describe the property to be sold, the terms of sale and the place and time of such sale or bid opening.
- D. Notice for the surplussing of real property shall be provided at least fourteen (14) days before the opportunity for public comment by: posting the property with notice of the consideration of designating it surplus; and mailing notice to each owner of real property within 300 feet of the

property that is the subject of the proposed disposition as shown on the last assessment rolls of the county in which the property is located.

3-3-100: PROCUREMENT CONTRACTS:

- A. The city may award exclusive and nonexclusive contracts. Unless a contract specifically states it is exclusive, it shall be deemed nonexclusive. "Nonexclusive" means that the city may award a contract to more than one contractor for similar supplies or services, as it deems appropriate.
- B. A contract for supplies, services, or construction materials must have a stated end date and may be entered into for any stated period of time deemed to be in the best interest of the city; provided, that the term of the contract and the conditions of renewal or extension, if any, are included in the solicitation. No contract may be renewed indefinitely.
- C. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriations of funds by the city council.
- D. Contracts and purchase orders may be amended, modified or supplemented only by written amendment to the contract or purchase order, executed by the parties to the contract.
- E. Authority to sign procurement contracts is as established in sections 3-3-030 and 3-3-040.
- F. The city recorder shall countersign all contracts made on behalf of the city or to which the city is a party. Department directors shall provide the city recorder with a fully conformed original copy of all procurement contracts upon their execution. The city recorder shall maintain a properly indexed record of all contracts.
- G. The city attorney shall review and approve all contracts as to form.

3-3-110: PROTEST OF SPECIFICATIONS OR AWARD OF PROCUREMENT CONTRACT:

Any actual or prospective bidder, offeror or contractor who is aggrieved with the solicitation or award of a procurement contract may protest to the city purchasing agent.

- A. Protest of Specifications: A protest regarding the specifications of a solicitation must be submitted in writing to the purchasing agent prior to the opening of the bid and must list the pertinent facts giving rise to the protest.
- B. Protest of Contract or Purchase Award: A protest regarding the award of a procurement contract or purchase award must be submitted in writing to the purchasing agent within five (5) business days of the award of a procurement contract or purchase award and must list the pertinent facts giving rise to the protest. Untimely protests will not be considered.
- C. Stay of Proceedings: In the event of a timely protest, the city shall not proceed further with the solicitation or with the award of the contract or purchase order until the protest is sustained or rejected by the purchasing agent, unless an immediate award of the contract is required to protect substantial interests of the city.

- D. Protest Review: The purchasing agent shall determine if the protest is timely filed. If the purchasing agent determines the protest is timely filed, he shall dismiss the protest if he determines the protest alleges facts, if true, do not provide an adequate basis for the protest. Otherwise, the purchasing agent shall uphold the protest.

3-3-120: DELIVERY OF SUPPLIES:

When supplies are delivered, the purchasing agent or the employee who requested the supplies shall inspect the supplies received to assure that the correct quantity and quality have been delivered. If the supplies delivered are satisfactory, the supplies shall be accepted and a copy of the packing slip, invoice, or other delivery document shall be stapled to a copy of the purchase order and forwarded to accounts payable for review, payment, and filing.

3-3-130: PETTY CASH:

The finance department may maintain a petty cash fund not to exceed \$500 that shall be kept in a locked box.

- A. Limits: Any employee of the city may receive up to \$50 from the petty cash fund for any lawful and necessary expenditure to be made on behalf of the city. Employees shall not receive any money from the petty cash fund for personal use.
- B. Procedure: Any employee receiving money from the petty cash fund shall sign a petty cash voucher showing the amount received and an explanation of the intended use of the money. Within one business day after making the expenditure, the employee shall return any excess money to the petty cash fund and staple the itemized receipt for the expenditure to the petty cash voucher.
- C. Replenishing Fund: When money in the petty cash fund becomes less than \$100, the treasurer shall draft a check to the petty cash fund to raise the amount of currency in the fund to \$500.

3-3-140: INVENTORY MANAGEMENT:

Department directors shall exercise supervision of all inventories of tangible city property within the control of or assigned to their departments. All city property located in warehouses and similar storage areas shall be inventoried annually, and accountability for the property shall reside with the respective department director.

3-3-150: DISPOSAL OF SURPLUS PERSONAL PROPERTY:

- A. Whenever city personal property is no longer needed by the department possessing the property, the department director having control of such property shall notify the city manager or designee. The city manager or designee shall notify other city departments of the availability of such property. If requested, the city manager or designee shall supervise the transfer of such property to the department requesting the property.
- B. If city personal property becomes surplus, unused, obsolete, unsuitable for public use, or otherwise no longer needed, the property shall be disposed of in accordance with this section.

1. City personal property that is included in the Fixed Asset Register (with an original value greater than \$5,000 dollars), shall not be disposed of, or sold through public auction, until such property is declared surplus by the city council pursuant to its administrative authority. Once this property is declared surplus by the city council, it may be sold to the highest bidder by the purchasing agent through an approved public auction service provider.
 2. City personal property that was not originally included in the Fixed Asset Register, and/or is reasonably expected to raise less than \$2,500 dollars through public auction, may be sold to the highest bidder by the purchasing agent through an approved public auction service provider.
 3. The city manager or his designee shall be responsible for conducting public auctions for city personal property that was not originally included in the Fixed Asset Register, and/or is reasonably expected to raise more than \$2,500 dollars through public auction. The city manager shall have the right to reject any bids or offers for city personal property when he deems it to be in the best interest of the city.
 4. If a surplus item remains unsold after reasonable attempts to sell it through public auction, the city manager may sell the surplus item to any person for such price as the city manager deems appropriate, or may dispose of the item at his discretion.
- C. City personal property or items that are fully consumed in their use for official city business shall be disposed of in any reasonable manner approved by the purchasing agent.
- D. Monetary proceeds from the sale or other disposition of items pursuant to this section shall be credited to the fund sundry account.
- E. Where city personal property is of such a size, shape, or is so unique as to be unmarketable, the above requirements may be waived and such property may be sold or otherwise disposed of in any reasonable manner, with the approval of the city council.

3-3-160: DISPOSAL OF SURPLUS REAL PROPERTY: The city council may exercise its executive authority and authorize by resolution the disposal, including by sale, lease, or other lawful manner, of real property for the benefit of the city as provided by Utah Code Ann. §10-8-2, as amended. A significant parcel of real property is a parcel greater than one acre or that has a reasonable value in excess of one hundred thousand dollars (\$100,000).

- A. The City Manager shall make an initial determination that real property is surplus. Surplus real property may include real property that is not needed for city infrastructure, property where the cost to maintain the property outweigh its value to the city, is part of a property trade that will benefit the city, the sale of which will realize significant financial benefits to the city, or the disposal of which is otherwise in the public interest.
- B. Before the city may dispose of a significant parcel of real property, the city shall provide notice as required in Section 3-3-100(D); and hold a public meeting at which the city council accepts public comment on the proposed disposition.

- C. All disposal, leases, or subleases of such real property of the city other than a significant parcel of real property, shall be made, as nearly as possible, under the same conditions and limitations as required by this chapter for the purchase of property including notice and bidding procedures.
- D. The city council may also authorize at its discretion and under such terms and conditions as it may deem desirable, fair and appropriate, considering intended use, property tax value and the interests of the city, the sale of any surplus property, through public auction or other method designed to best serve the interests of city residents and produce a fair return; the trade or exchange or any surplus property; and the lease or sublease of any surplus property.

3-3-170: PROHIBITED ACTIVITIES:

- A. Manipulation Prohibited. Purchases shall not be manipulated or artificially divided to fall within the exempt expenditure category, or to avoid using standard purchasing methods and policies.
- B. Personal Purchases. Personal purchases of any type on a city issued credit or purchasing card are strictly prohibited.

3-3-180: VIOLATIONS:

Any purchase or contract executed in violation of the provisions of this chapter or applicable state law shall be void as to the city, and any funds expended thereupon may be recovered by the city through appropriate action.

3-3-190: APPEALS:

Any person aggrieved of a determination of the purchasing agent decision in connection with the provisions of this chapter may appeal the determination or action within 5 (five) business days from the purchasing agent's decision by filing a written protest to the city recorder and the reasons therefore with the city council.

EXHIBIT B

The following subsections of 2-3-080 are amended as indicated. The other provisions of 2-3-080 remain as currently adopted.

Chapter 2-3 CITY MANAGER

Section 2-3-080 Duties, Control and Discretion.

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(4) Signature Authority. The City Manager shall have the authority to sign all contracts on behalf of the City provided:

(i) The contract has been approved by the City Council or funds to be spent under the contract have been specifically appropriated through the City's budget process; and

(ii) The contract does not involve the conveyance of any real property interest of the City.

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(7) Purchasing and Claims. The City Manager or designee shall act as purchasing agent for the City, and as such shall implement and enforce all provisions of the ordinances of the City relating to purchasing. The City Manager or designee may compromise and settle any claim by and against the City if the payment in compromise is one hundred thousand dollars (\$100,000) or less. The City Manager shall, on a periodic basis, advise the City Council concerning pending claims against the City and those which have been settled.

EXHIBIT C

The following subsection of 3-1-030 is amended as indicated. The other provisions of 3-1-030 remain as currently adopted.

Chapter 3-1 DEPARTMENTS AND DIVISIONS

Section 3-1-030 **Department Heads.** Within each department of the City, there shall be appointed by the Mayor, with the advice and consent of the City Council, a Department Head who shall have such powers and duties as prescribed by the City Council, including:

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(h) administering provisions of the City Procurement Code;

Affidavit of Posting

SALT LAKE/UTAH COUNTY, STATE OF UTAH

I, the City Recorder of Draper City, by my signature below, certify that copies of **Ordinance No. 1257** for the **City of Draper**, which **Passed and Adopted by the City Council of Draper City, State of Utah on the 2nd day of May, 2017**, was posted at the following places: Draper City Bulletin Board, Salt Lake County Library, Draper Crescent Senior Citizens Center, within the municipality.

Posted: May 3, 2017, through May 23, 2017

City Seal



A handwritten signature in blue ink, appearing to read "Rachelle Conner", is written over a horizontal line.

Rachelle Conner, MMC
City Recorder
Draper City, State of Utah