

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION 2012-26

A RESOLUTION ADOPTING PURCHASING POLICY

WHEREAS, purchase of goods, services and commodities by municipalities is controlled by State Statute; and

WHEREAS, practical application of statutes require some degree of clarification; and

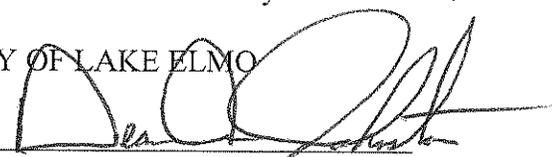
WHEREAS, it is not only desirable but imperative that the City of Lake Elmo have a clear, written policy on procurement activities to ensure the city is abiding by all state, local and federal requirements in addition to utilizing cooperative purchasing opportunities whenever possible; and

WHEREAS, the City of Lake Elmo is committed to fiscal responsibility this policy will provide for a uniform and systematic method in order to ensure the best balance of quantity, quality and price for the city's expenditures.

NOW, THEREFORE, BE IT RESOLVED, that the attached Purchasing Policy dated June fifth 2012 is hereby adopted.

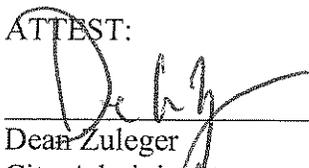
Adopted by the City Council of the City of Lake Elmo on this fifth day of June 2012.

CITY OF LAKE ELMO

By: 

Dean A. Johnston
Mayor

ATTEST:



Dean Zuleger
City Administrator

CERTIFICATION

I hereby certify that the foregoing Resolution is a true and correct copy of a resolution presented to and adopted by the Council of the City of Lake Elmo at a duly authorized meeting thereof held on the 5th day of June 2012, as shown by the minutes of said meeting in my possession.



Sandie Thone
City Clerk

(Seal)

CITY OF LAKE ELMO PURCHASING POLICY

1.1 PURPOSE

It is the purpose of this purchasing policy and purchasing procedures to provide a uniform and systematic method in the procurement of goods and services required by the city in order to secure the best balance of quantity, quality and price. These policies and procedures will define the responsibilities and the authorities of the purchasing requirements and limitations imposed by local, state and federal law.

1.2 POLICY

Considerable authority has been delegated to departments and employees to make purchasing decisions. This requires that employees involved at every step of the purchasing process take full responsibility for understanding the city's policies and procedures regarding purchasing and vendor relations. Purchasing decisions are business decisions made on behalf of the city and therefore should be made with the utmost consideration for what is in the best interest of the city. The city should purchase and use materials, products and services that are economically responsible and reduce resource consumption and waste within federal, state and local laws. Beyond the conventional purchasing decision-making process, this policy identifies the need to include economic, environmental and social factors. These are all components that may be included to determine what the best value is for the city. Purchases should reflect the general impact on the environment and economic factors: best value, leveraging our buying power, staff time/labor and technological advances.

1.3 POLICY SCOPE

This policy applies to all purchasing activities within the city. This policy and the procedures associated with it apply to all city departments, employees and authorized users and encompass all purchases using city funds providing for the limitations, exceptions and exemptions described herein.

1.4 AUTHORITY FOR PURCHASING

Purchasing authority is granted to the employee or authorized user and is subject to all city purchasing policies and procedures and must be made in accordance with all federal, state and local laws. For the purpose of this policy the individual delegated to make purchases on behalf of the city will be referred to as the 'purchasing agent.' The purchasing agent has the authority to make most purchases pursuant to the requirements and limitations of the policy and take advantage of savings through bulk purchasing, systematic procedures, and effective expenditure controls. The purchasing agent is responsible for ensuring that city purchasing is in compliance with all

procurement laws, rules, policies and procedures.

Purchasing authority is granted to the individual and the delegation may be rescinded at any time. Failure to comply with these policies and procedures could result in discipline up to and including termination.

1.5 PRELIMINARY CONSIDERATIONS

1.5.1 New Versus Used

Prior to making a purchase of new products determine if a used, recycled, repaired, refurbished or remanufactured product would fulfill the needs of the city.

1.5.2 Cooperative Venture

If the item or service to be purchased is new determine whether the item or service is currently available through the process of cooperative purchasing. For purchases estimated to exceed \$25,000, the purchasing agent on the behalf of the city *must* consider the availability, price, and quality of supplies, materials, or equipment available through the state cooperative venture before buying through another source. See *Section: 1.6 Cooperative Purchasing*

1.6 COOPERATIVE PURCHASING

1.6.1 Cooperative Purchases

In efforts for the city to increase savings the purchasing agent is encouraged to make purchases jointly with one or more government units through cooperative purchasing. The city and its purchasing agents are encouraged to be involved in the joint-powers agreement to profit from these programs.

1.6.2 State Cooperative Purchasing Venture

The city and its purchasing agents are not only encouraged but mandated in some instances to consider purchasing a variety of equipment, supplies and services through the state contracts. For all purchases not exceeding \$25,000, in addition to following all procurement laws, rules, policies and procedures, the purchasing agent is encouraged to consider the availability, price, and quality of supplies, materials, services or equipment available through the state CPV (Cooperative Purchasing Venture) before buying through another source. For purchases estimated to exceed \$25,000, the purchasing agent *must* consider the availability, price, and quality of supplies, materials, or equipment available through the state cooperative venture before buying through another source. For purchases in excess of \$25,000 the findings must be documented on the purchase requisition.

1.6.3 Cooperative Purchasing Agreement versus Competitive Bidding

Competitive quotes and bidding requirements may be waived where the other government entity has performed the ground work except in the event that the contract is estimated to cost in excess of \$50,000 in which case the city will follow the

guidelines set forth in the uniform municipal contracting law (competitive bidding law) and utilize the competitive bidding process for certain contracts. *See section: 1.8 Competitive Bidding Requirements*

1.7 PURCHASING REQUIREMENTS

1.7.1 General Purchasing Requirements

Whether or not competitive bids are necessary, all normal purchasing (except purchasing with other price agreements or purchasing that comes out of petty cash funds) will adhere to the following requirements: Purchasing requirements allow council to audit all bills for materials, supplies, and services.

1.7.2 Obtaining Quotes

A previous quote may be used if the purchase requisition meets the following criteria: The total dollar value does not exceed the purchase agent's delegated authority, the re-order is within six months of the original purchase requisition order date, the city need is for the exact same items and quantities, shipping costs remain the same, terms and conditions remain the same as the original purchase requisition and the prices remain the same, or lower, than the original purchase requisition. The purchasing agent may contact the vendor to request pricing, terms and conditions. If agreed upon, the purchasing agent may issue a purchase requisition without obtaining additional quotes. This *reordering option* may occur once in relation to an original order. The original requisition number should be referenced on the reorder.

1.7.3 Emergencies

Under Minnesota's Emergency Management Act, the city is given authority to enter into contracts without following normally required procedures. The governing body may waive compliance with the time-consuming procedures that concern: the performance of public work, contracting, incurring obligations, employing temporary workers, renting equipment, purchasing supplies and materials, limitations on tax levies and the appropriation and expenditure of public funds (uniform municipal contracting law).

1.7.4 Preparing a Purchase Requisition

The department or person needing the item should prepare a purchase requisition form. The form should include a description of the product, quantity, applicable specifications, and any similar information. The form should include the verification of funds. The form should include the quotes specified in the format designated by the purchasing requirement outlined below.

1.7.5 Verification of Funds

After submission of the purchase requisition for approval, the delegated department representative is responsible for verifying whether the budget has authorized the purchase and if sufficient funds are available.

1.7.6 Cancelling the Purchase Requisition

The delegated department representative should cancel the purchase requisition if the budget does not allow the purchase or if funds are not available.

1.7.7 Final Approval Process

After completing these steps proceed to acquire the requested item or service. The council and/or city administrator must approve unless the person has the proper authority to make the purchase on behalf of the city council pursuant to city and state laws and policies.

1.7.8 PURCHASING AT OR BELOW \$2,500.00

A minimum of one price quote is required and can be obtained via telephone, facsimile, in writing, e-mail, and website or at the transaction in a retail store. Purchasing agent or end user must obtain a price prior to issuing an order. All purchases at or below \$2,500.00 will include verification that the budget has authorized the purchase and/or sufficient funds are available. All purchases at or below \$2,500.00 will include a purchase requisition signed by the department representative authorizing the purchase. In the event the purchase was not authorized in the budget and/or the funds are not available the department representative will cancel the purchase requisition. Otherwise the purchase requisition will include the quotes, the verification of funds and documentation of consideration for any of the following that apply: cooperative purchasing, used versus new, made in the USA, economic, environmental and social factors.

1.7.9 PURCHASING BETWEEN \$2,500.01 AND \$5,000.00

A minimum of two price quotes are required and can be obtained via telephone, facsimile, e-mail, website or in writing. Purchasing agent must obtain a firm price prior to submitting for approval. The responses must be documented on the purchase requisition. Purchases between \$2,500.01 and \$5,000.00 will include verification that the budget has authorized the purchase and/or sufficient funds are available. All purchases between \$2,500.01 and \$5,000.00 will include a purchase requisition signed by the department representative authorizing the purchase. In the event the purchase was not authorized in the budget and/or the funds are not available the department representative will cancel the purchase requisition. Otherwise, the purchase requisition will include the quotes, the verification of funds and documentation of consideration for any of the following that apply: cooperative purchasing, used versus new, made in the USA, economic, environmental and social factors. The department representative will submit the signed purchase requisition, the quotations, the verification of funds and the considerations to the city administrator for signature and approval.

1.7.10 PURCHASING BETWEEN \$5,000.01 AND \$25,000.00

If the contract is expected to be \$25,000.00 or less, the council has discretion to make the contract by obtaining quotes or it may simply buy or sell the item on the open market. If the council chooses to obtain quotes, it must obtain at least two quotes and keep them on file for at least one year. A minimum of two price quotes are required and should be obtained in writing.

The purchasing agent must obtain a firm price prior to submitting for approval. The responses must be documented on the purchase requisition. Purchases between \$5,000.01 and \$25,000.00 will include verification that the budget has authorized the purchase and/or sufficient funds are available. All purchases between \$5,000.01 and \$25,000.00 will include a purchase requisition signed by the department representative authorizing the purchase.

In the event the purchase was not authorized in the budget and/or the funds are not available the department representative will cancel the purchase requisition. Otherwise, the purchase requisition will include the quotes, the verification of funds and documentation of consideration for any of the following; cooperative purchasing, used versus new, made in the USA, economic, environmental and social factors. The department representative will submit the signed purchase requisition, the quotations, the verification of funds and the considerations to the city administrator. The city administrator will submit the purchase recommendation to the city council. Upon approval of the city council, the city administrator will sign the purchase requisition.

1.7.11 PURCHASING BETWEEN \$25,000.01 AND \$50,000.00

If the contract cost is expected to exceed \$25,000.00 but not to exceed \$50,000.00, the city can choose to use either the competitive bidding process or make the contract by direct negotiation. If direct negotiation is used, the city must get at least two quotations and keep them on file for at least one year. For purchases estimated to exceed \$25,000.00 the city is mandated by law to consider the availability, price, and quality of supplies, materials, or equipment available through the state cooperative purchasing venture before buying through another source. A minimum of two price quotes are required if the state cooperative purchasing venture cannot be utilized. The price quotations should be obtained in writing. The purchasing agent must obtain a firm price prior to submitting for approval. The responses must be included and be documented on the purchase requisition. Purchases between \$25,000.01 and \$50,000.00 will include verification that the budget has authorized the purchase and/or sufficient funds are available. All purchases between \$25,000.01 and \$50,000.00 will include a purchase requisition signed by the department representative authorizing the purchase. In the event the purchase was not authorized in the budget and/or the funds are not available the department representative will cancel the purchase requisition. Otherwise, the purchase requisition will include the quotes, the verification of funds and documentation of consideration for any of the following; cooperative purchasing, used versus new, economic, environmental and social factors. The department representative will submit the signed purchase requisition, the quotations, the verification of funds and the considerations to the city administrator. The city administrator will submit the purchase recommendation to the city council. Upon approval of the city council, the city administrator will sign the purchase requisition.

1.7.12 PURCHASING EXCEEDING \$50,000.00

The city will use the competitive bidding process in compliance with the uniform municipal contracting law for certain contracts estimated to cost over \$50,000.00.

The competitive bidding law applies to: contracts for sale, purchase, or rental of supplies, materials, or equipment, contracts for the construction, alteration, repair, or maintenance of real or personal property.

The city administrator along with the department representative(s) will be responsible for preparing the necessary specifications. The city administrator will present them to the city council for review and approval. The council should seek competitive bids. Council will set a date and time for bid results to be opened and a date for council consideration. The results will be tabulated, presented to council with a recommendation for bid award. Upon award by the council the city administrator will sign the purchase requisition.

1.8 COMPETITIVE BIDDING REQUIREMENTS

The uniform municipal contracting law (competitive bidding law) guidelines will be followed and the competitive bidding process utilized for certain contracts estimated to cost over \$50,000.00. The competitive bidding law applies to: contracts for the sale, purchase, or rental of supplies, materials, or equipment, contracts for the construction, alteration, repair, or maintenance of real or personal property. The city administrator along with the department representative(s) will be responsible for preparing the necessary specifications. The city administrator will present them to the council for review and approval. The council should seek competitive bids. Council will set a date and time for bid results to be opened and a date for council consideration. The results will be tabulated, presented to council with a recommendation for bid award. Upon award by the council the city administrator will sign the purchase requisition. *Please refer to Competitive Bidding Procedures.*

1.9 EXCEPTIONS

In the absence of a statutory requirement, it is not necessary for the city to advertise for bids. The city may choose to advertise for bids, however, even if the law does not require them to do so. The city is not required by statute to follow the competitive bidding process for the following contracts.

1. Professional services: The city is not required to follow the competitive bidding process when contracting for professional services, such as those of doctors, engineers, lawyers, architects, and accountants as well as other services requiring technical, scientific or professional training.
2. Insurance contracts: The city is not required to follow the competitive bidding process for insurance contracts. The city must, however, seek requests for proposals for group insurance for 25 or more employees.
3. Electronic reverse-auction procedure: The city is not required to follow the competitive bidding process for the electronic purchase of supplies, materials, or equipment. Electronic reverse auctions differ from a traditional auction in that vendors bid against each other to offer the lowest selling price for a particular contract in an open and interactive electronic environment.

The city is prohibited from using a reverse-auction procedure to contract for professional or technical services.

4. Purchases from other government agencies: The city does not need to comply with competitive bidding requirements when purchasing property or equipment from the national government, the state, or any political subdivision of the state. The council may, by resolution, authorize any of its officers or employees to enter a bid for the city at any sale of equipment, supplies, materials, or other property. The council may authorize an officer or employee to make a down payment or a payment in full, if necessary, in connection with the bidding.

5. Real estate: The city is not required to follow the competitive bidding process for the purchase, lease, or sale of real estate.

1.10 PRICE AGREEMENTS

The city may use price agreements to acquire items frequently purchased in small quantities. For example, gasoline, office supplies and auto parts price agreements. A price agreement is a contract between the city and a merchant. Under the agreement, the merchant agrees to supply all the city's requirements for the specified commodities during the period of the agreement. The price may be fixed or variable, such as a set discount off of the market price. The city usually estimates its probable needs even though it is not obligated to purchase any definite quantity. Price agreements expedite delivery, reduce paper work, and generally result in lower prices. The city may then make purchases as the need arises. Depending on the commodity and the frequency of purchases, the council may or may not require separate requisition forms. Although the purchasing requirements may be circumvented the approvals and verification of funds are still a requirement for price agreements.

1.11 USE OF CREDIT CARDS

City council may authorize the use of a credit card by any city officer or employee otherwise authorized to make a purchase on behalf of the city. A purchase by credit card must comply with all statutes, rules, and city policies applicable to city purchases. If a city employee makes or directs a purchase by credit card that is not approved by the council, the employee is personally liable for the amount of the purchase and may be subject to discipline.

1.12 CONFLICT OF INTEREST

1.12.1 Conflict of Interest - Employee

No employee will participate directly or indirectly in a procurement when the employee knows that the employee or any member of the employee's immediate family has a financial interest to the procurement; when a business or organization in which the employee; or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or when any other person, business or organization with

whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

Upon discovery of an actual or potential conflict of interest, an employee shall promptly file a written statement of disqualification and shall withdraw from any further participation in the transaction involved.

1.12.2 Conflict of Interest - City Official

No city official, elected or appointed, will participate directly or indirectly in any contract that the council makes. City officials elected or appointed, may not have a personal financial interest in a contract or procurement. This prohibition applies whether the official actually votes on a contract or not. There are limited exceptions to this prohibition. City council should seek advice from the city attorney before entering into any contract in which a council member or any other city official will have a financial interest. A public officer who violates the conflict of interest law is guilty of a gross misdemeanor and can be fined up to \$3,000 and imprisoned up to one year. In addition, the other members of the council who knowingly authorized the unlawful contract may also be subject to criminal penalties. Furthermore, contracts that violate these statutes are generally void.

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Adopted by the City Council of the City of Lake Elmo on this fifth day of June 2012.

CITY OF LAKE ELMO

By: _____
Dean A. Johnston
Mayor

ATTEST:

Dean Zuleger
City Administrator

CERTIFICATION

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Sandie Thone
City Clerk

(Seal)