

**CITY OF HOLLADAY**

**ORDINANCE NO. 2016-\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
HOLLADAY AMENDING VARIOUS SECTIONS OF THE CITY'S  
ZONING ORDINANCE RELATING TO NOTICE FOR LAND USE  
APPLICATIONS**

**WHEREAS**, the City Council of the City of Holladay hereby finds that it will promote the public interest and will create clarity and uniformity in administration of the City's Zoning Ordinance to make revisions to various sections of the Zoning Ordinance relating to notice provided by the City for the consideration of land use applications; and

**WHEREAS**, the Planning Commission of the City has held a public hearing and has forwarded a positive recommendation to the Council regarding adoption of the proposed noticing amendments; and

**WHEREAS**, the City Council on October 27, 2016, held a public hearing to receive comment from the public regarding the proposed amendments and now desires to adopt the same;

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of the City of Holladay, Utah as follows:

**Section 1.**     Amendment. Section 13.07.030 Subsections E and F of the Zoning Ordinance of the City of Holladay is hereby amended to read in its entirety as set forth in Exhibit A, attached hereto and incorporated herein by reference.

**Section 2.**     Amendment. Section 13.08.010 of the Zoning Ordinance of the City of Holladay is hereby amended to read in its entirety as set forth in Exhibit B, attached hereto and incorporated herein by reference.

**Section 3.**     Amendment. Section 13.08.040 Subsection E of the Zoning Ordinance of the City of Holladay is hereby amended to read in its entirety as set forth in Exhibit C, attached hereto and incorporated herein by reference.

**Section 4.**     Amendment. Section 13.08.140 of the Zoning Ordinance of the City of Holladay is hereby amended to read in its entirety as set forth in Exhibit D, attached hereto and incorporated herein by reference.

**Section 5.**     Amendment. Section 13.10.060 of the Zoning Ordinance of the City of Holladay is hereby amended to read in its entirety as set forth in Exhibit E, attached hereto and incorporated herein by reference.

**Section 6.**     Amendment. Section 13.72.050 Subsection D of the Zoning Ordinance of the City of Holladay is hereby amended to read in its entirety as set forth in Exhibit F, attached hereto and incorporated herein by reference.

**Section 7.**     Amendment. Section 13.78.040 of the Zoning Ordinance of the City of Holladay is hereby amended to read in its entirety as set forth in Exhibit G, attached hereto and incorporated herein by reference.

**Section 8.**     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 9.**     Effective Date. This Ordinance shall take effect upon publication or posting or thirty (30) days after passage, whichever occurs first.

**PASSED AND APPROVED** this 3<sup>rd</sup> day of November, 2016.

By: \_\_\_\_\_  
Robert Dahle, Mayor

[SEAL]

**VOTING:**

Lynn H. Pace	Yea ____	Nay ____
Mark H. Stewart	Yea ____	Nay ____
Sabrina R. Petersen	Yea ____	Nay ____
Patricia Pignanelli	Yea ____	Nay ____
Steven H. Gunn	Yea ____	Nay ____
Robert Dahle	Yea ____	Nay ____

**ATTEST:**

\_\_\_\_\_  
Stephanie N. Carlson, MMC  
City Recorder

**DEPOSITED** in the office of the City Recorder this \_\_\_\_ day of \_\_\_\_\_, 2016.

**RECORDED** this \_\_\_\_ day of \_\_\_\_\_, 2016.

# EXHIBIT A

## 13.07.030: TEXT AND ZONING MAP AMENDMENT:

- A. *No Change:*
- B. *No Change:*
- C. *No Change:*
- D. *No Change:*

E. *Noticing Requirements for Text and Zoning Map Amendments:* The city shall provide:

1. Notice of date, time and place of the planning commission's first public hearing to consider the adoption or any amendment to the text of the zoning ordinance or the zoning map of the city; and

2. Notice of each public meeting on the subject.

3. Each notice of a first public hearing for a text amendment shall be provided at least ten (10) calendar days before the public hearing and shall be:

- a. Published in a newspaper of general circulation in the area; and
- b. ~~Mailed to each affected entity;~~
- c. Posted:
  - (1) In at least three (3) public locations within the city; and
  - (2) On the city's official website; and
  - (3) On the Utah public notice website.

~~d. For a zone change application, mailed to:~~

- ~~(1) Each property owner whose land is directly affected by the zoning map amendment; and~~
- ~~(2) Each property owner within five hundred feet (500') of the subject property.~~

4. For a zone change application, mailed to Each notice of a first public hearing for a zone map amendment shall be provided at least ten (10) calendar days before the public hearing and shall be:

a. Mailed to:

(1) Each property owner whose land is directly affected by the zoning map amendment; and

(2) Each property owner within five hundred feet (500') of the subject property; and

b. Posted:

(1) In at least three (3) public locations within the city; and

- (2) On the city's official website;
- (3) On the Utah public notice website; and

(4) On the property which is the subject of the application.

4-5. Each notice of the public meeting at which a text amendment or zone change application is to be considered shall be noticed by posting the agenda of the meeting twenty four (24) hours prior to the meeting:

- a. On the city's internet website;
- b. On the Utah public notice website; and
- c. In at least three (3) public locations within the city.

F. *Procedure:*

1. After the application for a text or zoning map amendment is complete, the community development director shall forward the application to the technical review committee for its review and recommendation.

2. Upon receipt of a recommendation from the technical review committee, the community development director shall forward the application to the planning commission for its review and recommendation.

a. The planning commission shall hold a public hearing on the proposed amendment.

b. After the public hearing, the planning commission may modify the proposed amendment and shall thereafter forward the proposed amendment with a recommendation to the city council.

3. Following receipt of the planning commission recommendation, the city council shall hold a public hearing on the proposed amendment. Each notice of a public hearing shall be provided at least ten (10) calendar days before the public hearing and shall be:

a. Posted:

(1) In at least three (3) public locations within the city;

(2) On the city's official website;

(3) On the Utah public notice website; and

~~(4) If applicable, on the property which is the subject of the application.~~

b. For a zone change application, mailed to:

(1) ~~Each affected entity;~~

(2) Each property owner whose land is directly affected by the text or zoning map amendment; and

(32) Each property owner within five hundred feet (500') of the subject property.

# EXHIBIT B

## 13.08.010: **THREE STEP REVIEW:**

- A. *No change*
- B. *No change*
- C. *Conceptual Review and Approval:*
  - 1. *No change*
  - 2. *No change*
  - 3. *No change*
  - 4. *No change*
  - 5. *No change*
  - 6. *No change*
  - 7. The planning commission shall hold a public hearing to consider the application.
    - a. At least ten (10) calendar days before the public hearing as required by this section, notice shall be mailed to:
      - (1) ~~Each affected entity;~~ Each property owner whose land is directly affected by the conceptual plan; and
      - (2 ~~3~~) Each property owner within five hundred feet (500') of the subject property; and
      - (3) Physically posted on the property which is the subject of the application.
    - b. Notice of the hearing shall be posted at least twenty four (24) hours prior to the meeting:
      - (1) On the city's internet website;
      - (2) On the Utah public notice website; and
      - (3) In at least three (3) public locations within the city. ~~and~~
      - (4) ~~On the property which is the subject of the application.~~
  - 8. *No change*
  - 9. *No change*
  - 10. *No change*

# EXHIBIT C

## 13.08.040: CONDITIONAL USE PERMIT:

E. *Noticing:* The planning commission shall consider the conditional use application at a public hearing.

1. At least ten (10) calendar days before the public hearing, notice shall be: ~~mailed to the record owner of: a. Land directly affected by the proposed general plan amendment and/or rezone; b. All lots within five hundred feet (500') of the subject property; and~~

a. Mailed to the record owner of:

(1) Land directly affected by the proposed general plan amendment and/or rezone; and

(2) All lots within five hundred feet (500') of the subject property; and

b. Posted on the property which is the subject of the application.

2. A copy of the planning commission's agenda shall be posted twenty four (24) hours prior to the public hearing and prior to any subsequent public meeting in the following places:

a. On the city's internet website;

b. On the Utah public notice website; and

c. In at least three (3) public locations within the city. ~~and~~

~~d. On the property which is the subject of the application.~~

## EXHIBIT D

### 13.08.140: SPECIAL EXCEPTIONS:

A. *No change*

B. *No change*

C. *No change*

D. *Procedure:*

1. *No change*

2. *No change*

3. *No change*

4. At least ten (10) calendar days prior to the planning commission's first public hearing, notice shall be:

a. Mailed to the record owner of:

(1) Land directly affected by the proposed special exception;

(2) All lots within five hundred feet (500') of the subject property; and

(3) Posted on the property which is the subject of the application.

b. A copy of the planning commission's agenda shall be posted twenty four (24) hours prior to the public hearing in the following places:

(1) On the city's internet website;

(2) On the Utah public notice website; and

(3) In at least three (3) public locations within the city. ~~and~~

~~———— (4) On the property which is the subject of the application.~~

5. *No change*



# EXHIBIT E

## 13.10.060: NOTICING REQUIREMENTS:

A. *Conceptual Review*: For conceptual plat review of a subdivision the city shall send notice of the date, time and place of the first public hearing.

1. At least ten (10) calendar days before the public hearing, notice shall be mailed to the record owner of:

- a. Land directly affected by the proposed subdivision;
- b. All lots within five hundred feet (500') of the subject property; and
- c. Posted on the property which is the subject of the application.

2. A copy of the planning commission's agenda shall be posted twenty four (24) hours prior to the public hearing in the following places:

- a. On the city's internet website;
- b. On the Utah public notice website;
- c. In at least three (3) public locations within the city. ~~and~~
- d. ~~On the property which is the subject of the application.~~

B. *Preliminary Plat Review*: For preliminary plat review the city shall notify the applicant and any third party requesting notice of the date, time and place of the public meeting and as outlined in subsection A2 of this section.

C. *Final Plat Review*:

1. In cases where the planning commission shall approve a final plat at a public meeting as required by subsection 13.10.070C3 of this chapter, the city shall provide notice as required by subsection A2 of this section.

2. In cases where the city council shall approve a final plat at a public ~~hearing~~ meeting as required by subsection 13.10.070C4 of this chapter, the city shall provide notice of the time, place and date of the ~~hearing~~ meeting.

~~a. At least ten (10) calendar days before the first public hearing notice shall be mailed to:~~

- ~~(1) All affected entities; and~~
- ~~(2) The record owner of:~~

~~(A) Land directly affected by the proposed subdivision; and~~

~~(B) All lots within five hundred feet (500') of the subject property;  
and~~

~~(2) Posted on the property which is subject of the application.~~

~~b.~~ At least twenty four (24) hours prior to the public ~~hearing meeting~~, the council's agenda shall be posted:

(a) On the city's official website;

(b) On the Utah public notice website; and

(c) In at least three (3) public locations within the city; ~~and~~

~~(4) On the property which is the subject of the application.~~

D. *Vacating, Altering, Or Amending A Plat With Or Without A Public Street:* The city shall provide notice of all public hearings and public meetings regarding the amendment, alteration or vacation of a recorded plat, with or without a public street, as required by subsection C of this section.

# EXHIBIT F

## 13.72.050: APPROVAL PROCEDURE FOR DEVELOPMENT IN THE FOOTHILLS AND CANYONS OVERLAY ZONE:

- A. *No Change*
- B. *No Change*
- C. *No Change*

D. *Application for Site Development Plan Approval:*

- 1. *No Change*
- 2. *No Change*
- 3. *No Change*
- 4. *No Change*
- 5. *No Change*

6. Planning Commission Consideration And Action On Site Development Plans For Conditional Uses And Subdivisions: Upon receipt of the community development director's staff report and recommendation, the planning commission shall review the application, site development plan, and related materials and make a final decision on the proposal.

a. Action: The planning commission shall take one of the following actions, based on application of the standards for review set forth in subsection E of this section:

(1) Approve the application, either as recommended by the community development director or as further modified by mutual agreement with the applicant during the planning commission's deliberations;

(2) Approve the application with such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter and title, subject to subsection D8, "Compliance With Conditions Of Approval", of this section; or

(3) Deny the application on the basis of specific findings communicated to the applicant in writing.

b. Optional Public Hearing: Where the planning commission finds that the size, complexity, projected impacts, proximity to conflicting land uses, or any other aspects of the proposed development may raise issues of particular concern to the general public and welfare, the planning commission may hold a public hearing pursuant to public notice to inform the public and obtain comment prior to taking action on a proposed site development plan.

(1) At least ten (10) calendar days before the public hearing, notice shall be mailed to the record owner of:

(A) Land directly affected by the proposed subdivision; ~~and~~

(B) All lots within five hundred feet (500') of the subject property;  
and

(C) Posted on the property which is the subject of the application.

(2) A copy of the planning commission's agenda shall be posted twenty four (24) hours prior to the public hearing in the following places:

(A) On the city's internet website;

(B) On the Utah public notice website; and

(C) In at least three (3) public locations within the city.

~~(D) On the property which is the subject of the application~~

c. Notice: The community development director shall notify an applicant in writing of the planning commission's final action on an application for site development plan approval for a conditional use or subdivision.

7. *No change*

8. *No change*

E. *No Change*

F. *No Change*

# EXHIBIT G

## 13.78.040: SUBMISSION, REVIEW AND APPROVAL; SITE PLAN AND CONDITIONAL USE PERMIT:

A. *No Change*

B. *No Change*

C. *Review and Approval of a Conditional Use:* The planning commission shall consider the conditional use application at a public hearing.

1. At least ten (10) calendar days before the public hearing, notice shall be mailed to the record owner of:

- a. Land directly affected by the proposed general plan amendment and/or rezone;
- b. All lots within five hundred feet (500') of the subject property; and
- c. posted on the property which is the subject of the application.

2. A copy of the planning commission's agenda shall be posted twenty four (24) hours prior to the public hearing and prior to any subsequent public meeting in the following places:

- a. On the city's internet website;
- b. On the Utah public notice website;
- c. In at least three (3) public locations within the city; ~~and~~
- d. ~~On the property which is the subject of the application.~~

D. *No Change*

**CITY OF HOLLADAY**

**ORDINANCE NO. 2016-\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
HOLLADAY AMENDING SECTION 13.80.040B AND THE  
ACCOMPANYING CHART, 13.80.1, REVISING REGULATIONS  
RELATING TO PARKING IN THE HOLLADAY VILLAGE ZONE FOR  
NEIGHBORHOOD MARKETS**

**WHEREAS**, the City Council of the City of Holladay has considered a proposed amendment to the text of the City's Zoning Ordinance relating to parking in the Holladay Village Zone; and

**WHEREAS**, the Planning Commission of the City has held a public hearing and has recommended approval to the Council of the proposed amendments; and

**WHEREAS**, the City Council on October 27, 2016, held a public hearing to receive comment from the public regarding the proposed amendments and now desires to adopt the same;

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of the City of Holladay, Utah as follows:

**Section 1.** Amendment. Section 13.80.040B, including specifically the chart set forth at 13.80.1, is hereby amended to read in its entirety as set forth in Exhibit A, attached hereto and incorporated herein by reference.

**Section 2.** 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 3.** Effective Date. This Ordinance shall take effect upon publication or posting or thirty (30) days after passage, whichever occurs first.

**PASSED AND APPROVED** this 3<sup>rd</sup> day of November, 2016.

By: \_\_\_\_\_  
Robert Dahle, Mayor

[SEAL]

**VOTING:**

Lynn H. Pace	Yea ____	Nay ____
Mark H. Stewart	Yea ____	Nay ____
Sabrina R. Petersen	Yea ____	Nay ____
Patricia Pignanelli	Yea ____	Nay ____
Steven H. Gunn	Yea ____	Nay ____
Robert Dahle	Yea ____	Nay ____

**ATTEST:**

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Stephanie N. Carlson, MMC  
City Recorder

**DEPOSITED** in the office of the City Recorder this \_\_\_\_ day of \_\_\_\_\_, 2016.

**RECORDED** this \_\_\_\_ day of \_\_\_\_\_, 2016.

13.80.040 B. **Developments in the HV Zone:**

1. Minimum Number of Parking Spaces: All developments within the HV zone shall provide a minimum number of off street parking spaces in the amount specified on chart 13.80.1 in this section. In no case shall the parking provided be less than that required by the use(s) allowed within the structure except as specifically allowed by the planning commission upon request per subsection B4 of this section. Notwithstanding the foregoing, when shared parking is furnished as provided in section 13.80.050 of this chapter, the total number of required parking spaces may be reduced as authorized in that section.

CHART 13.80.1

Use	Required Spaces
Bed and breakfast	1 space per bedroom plus 1 space
Daycare/preschool	3 spaces plus 1 space for each employee on the premises at the same time
General business and professional office (except medical and dental office)	2.5 spaces per 1,000 square feet of net leasable area
General retail	2.5 spaces per 1,000 square feet of net leasable area
Medical and dental office	6 spaces for each doctor's office plus 1 for each employee working at the same time
<u>Neighborhood Market</u>	<u>3.5 spaces per 1,000 square feet of net leasable area</u>
Personal services	2.5 spaces per 1,000 square feet of net leasable area
Public and quasi-public use	As provided in this section for most similar use
Residential <sup>1</sup>	1 space for each 1 bedroom unit 1.5 spaces for each 2 bedroom unit 2 spaces for each 3 bedroom unit
Restaurant	1 space for each 4 seats

Note:

1. When a dwelling unit has over 4 bedrooms, the community development director shall designate the number of required spaces.

2. Existing Surface Parking Lots: The use of existing surface parking lots within the HV zone may be continued so long as upon expansion or remodeling of the associated structures (see section 13.71.060 of this title), the parking lot is improved, where reasonably possible, to meet the requirements of this section. Exceptions may be granted



1 by the community development director using alternative parking located within two  
2 hundred feet (200') from the project site.

3 3. Maximum Number of Spaces: In the HV zone, the maximum number of surface  
4 lot parking spaces shall be no more than one hundred twenty five percent (125%) of the  
5 required minimum number of spaces as required in chart 13.80.1 of this section.

6  
7 4. Abutting Public Parking: The planning commission may allow for ~~ten~~ 50 percent  
8 (~~10~~50%) of immediately abutting parking stalls in the public right of way to be counted  
9 toward the minimum required number of stalls for a use in the HV zone as per chart  
10 13.80.1 of this section, if:

- 11  
12 a. The use can demonstrate that the abutting parking stalls will be used by the  
13 customers of that use as the primary parking location within the village, and  
14 b. The use can demonstrate that the reduced number of on site parking stalls in  
15 conjunction with the abutting stalls in the right of way will be adequate to  
16 accommodate the general business activity on the site, and  
17 c. The approval of abutting stalls in the public right of way will not detrimentally  
18 impact overall parking capacity of the Holladay Village area and does not  
19 represent a violation of the spirit and intent of this title, and  
20 d. The abutting on street stalls will not be marked, signed or implied by the use that  
21 any stall is reserved for exclusive use by the business.

## Stephanie Carlson

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**From:** Todd Godfrey <tjgodfrey@hgblaw.net>  
**Sent:** Monday, October 31, 2016 2:30 PM  
**To:** Stephanie Carlson; Gina Chamness  
**Cc:** Paul Allred; Jonathan Teerlink; Pat Hanson  
**Subject:** Noticing Ordinance and One Additional Change

Stephanie and Gina;

Please include this with the packet for Thursday night on the noticing ordinance item.

Mayor Dahle and Council Members;

In the noticing Ordinance that is before you for consideration on Thursday night, we have made one additional change. There are new revisions in Section 13.10.060C. Subsection 2 of that section has been revised to delete the reference to a public hearing on a final plat. This change is being made to make the section consistent with other provisions of the land use ordinances of the City regarding final plat consideration by the Council and has been suggested by the City's ordinance codifiers. The changes were prepared for the original packet materials but were not included in the version that went to Stephanie for the packet.

This change was not considered by the Planning Commission, but I do not feel there is a need to remand this ordinance to the Commission for consideration. This change brings consistency in the processing provisions for final plats and with staff I recommend its inclusion and adoption. Please let Paul or me know if you have any questions.

Thanks,

Todd



Todd J. Godfrey  
Hayes Godfrey Bell, P.C.  
2118 East 3900 South, Suite 300  
Salt Lake City, Utah 84124  
Telephone: (801) 272-8998  
Facsimile: (801) 272-1551

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CITY OF HOLLADAY

ORDINANCE NO. 2016-\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
HOLLADAY ENACTING AND CODIFYING CHAPTER 11 OF TITLE 2  
OF THE CITY OF HOLLADAY MUNICIPAL CODE RELATING TO  
PROCUREMENT.

WHEREAS, the City Council of the City of Holladay desires to adopt new procurement regulations to govern the purchase of supplies, and services and contracting for capital projects within the City; and

WHEREAS, the City Council has reviewed the proposed procurement regulation and find that they will promote the public interest and the fiscal integrity of the City;

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the City of Holladay, Utah as follows:

**Section 1.** Adoption and Codification. Chapter 11 of Title 2 of the City of Holladay Municipal Code, governing procurement, is hereby adopted and codified to read in its entirety as set forth in Exhibit A, attached hereto and incorporated herein by reference.

**Section 2.** 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 3.** Effective Date. This Ordinance shall take effect upon publication or posting or thirty (30) days after passage, whichever occurs first.

PASSED AND APPROVED this     day of October, 2016.

By: \_\_\_\_\_  
Robert Dahle, Mayor

[SEAL]

**VOTING:**

Lynn H. Pace	Yea ____	Nay ____
Mark H. Stewart	Yea ____	Nay ____
Sabrina R. Petersen	Yea ____	Nay ____
Patricia Pignanelli	Yea ____	Nay ____
Steven H. Gunn	Yea ____	Nay ____
Mayor Robert Dahle	Yea ____	Nay ____

ATTEST:

\_\_\_\_\_  
Stephanie N. Carlson, MMC  
City Recorder

DEPOSITED in the office of the City Recorder this \_\_\_\_ day of \_\_\_\_\_, 2016.

**RECORDED** this \_\_\_\_ day of \_\_\_\_\_, 2016.

## **CHAPTER 2-11. Procurement.**

- 2-11-010. Purpose.**
- 2-11-020. Application and Compliance.**
- 2-11-030. General Guidelines.**
- 2-11-040. Definitions.**
- 2-11-050. Bid Evaluation.**
- 2-11-060. Responsibility of Bidders and Offerors.**
- 2-11-070. Right to Inspect Facilities and Audit Records.**
- 2-11-080. Reporting of Anti-Competitive Practices.**
- 2-11-090. Pre-qualification.**
- 2-11-100. Competitive Sealed Bidding.**
- 2-11-110. Competitive Sealed Proposals (RFP).**
- 2-11-120. Minimal Purchases.**
- 2-11-130. Small Purchases.**
- 2-11-140. State Contract Purchasing.**
- 2-11-150. Recent Purchases by Another Government Agency.**
- 2-11-160. Contracting for Designated Professional Services.**
- 2-11-170. Contracts With Other Governmental Entities.**
- 2-11-180. Sole Source Procurement.**
- 2-11-190. Emergencies, Public Threats and Unforeseen Conditions.**
- 2-11-200. Procurement Protests.**
- 2-11-210. Sanctions.**
- 2-11-220. Remedies for Solicitations or Awards in Violation of Law.**
- 2-11-230. Routine Expenditures.**
- 2-11-240. Payroll Obligations.**
- 2-11-250. Providing Information and Records.**
- 2-11-260. Blanket Purchase Order.**
- 2-11-270. Administrative Regulations and Policies.**
- 2-11-280. Authorized Contract Types.**
- 2-11-290. Signing Authority.**

### **2-11-010. Purpose.**

The purpose of this ordinance is ensure that the city purchases goods and services in a manner that ensures that all such purchases are made fairly, equitably, efficiently, and economically and in the best interest of its residents.

### **2-11-020. Application and Compliance.**

(a) This chapter applies to agreements for the procurement of supplies, services and construction entered into by the city. The chapter applies to every expenditure of public funds by the city for public purchasing irrespective of the source of the funds. Any expenditure involving federal funds shall comply with applicable federal law and regulations. Nothing in this chapter shall prevent the city from complying with the terms and conditions of any grant, gift or bequest that is otherwise consistent with law.

(b) The City may take any action with respect to purchasing, bidding and contracting that is in the best interest of the City, including rejecting any bid from a bidder in an adverse position to the City in a present, pending or threatened litigation. The City may also reject a non-responsive bid, and may reject bids when the City's interest will be served, unless this rejection would be existing law be considered arbitrary. Finally, the city may waive or modify requirements within a particular bid process when it is in the best interest of the city, and when it is consistent with mandatory applicable legal requirements and fair and equitable practices.

### **2-11-030. General Guidelines.**

(a) The City Manager may act as the purchasing agent. The City Manager may delegate authority to purchase certain supplies, services or construction items to other city officials, if the delegation is necessary for the effective procurement of those items. The City Manager may designate a purchasing agent whose duties include procurement, soliciting bids and proposals, advising City departments regarding procurements, maintaining a bidders' list and vendor files, as well as records needed for purchasing. Responsibility rests with employees who purchase goods and services, Dept Directors, and the City Manager.

(b) Purchasing Agent or any department or division may prepare, file or amend specifications, requisitions or quantity estimates for supplies and services.

(1) Purchases not exceeding \$5,000 may be made with the approval of department directors or the City Manager, with or without competitive sealed bids or quotes. Departments should take reasonable steps to assure fair pricing.

(2) Purchases between \$5,000 and \$25,000 shall be made only after soliciting at least three formal quotes or completing the competitive sealed bidding process.

(3) All purchases of or exceeding \$25,000 shall be made only after completing the competitive sealed bidding process.

#### **2-11-040. Definitions.**

(a) "*Business*" means any corporation, limited liability company, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

(b) "*Business day*" means any day when the city administration offices are open for public business.

(c) "*Construction*" means the process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine repair or routine maintenance of existing structures, buildings, or real property.

(d) "*Contractor*" means any person having an agreement with the city.

(e) "*Department*" means any city department, commission, committee, board, or agency requiring the procurement of supplies, services, or construction pursuant to this chapter.

(f) "*Director of finance*" means the city's appointed director of finance.

(g) "*Employee*" means an individual drawing a salary or wages from the city, whether elected or not; any non-compensated individual performing personal services for the city or any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of the city; and any individual serving as an elected official of the city.

(h) "*Invitation for bids*" means all documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.

(i) "*Manager*" means the city's appointed manager.

(j) "*Person*" means any business, individual, union, committee, club, other organization, or group of individuals.

(k) “*Procurement*” means the buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction, including description of requirements, selection, and solicitation of sources, preparation and award of agreement, and all phases of agreement administration.

(l) “*Professional services*” means those services that are provided by a person skilled in the practice of a learned or technical discipline. Providers of professional services often require prolonged and specialized intellectual training, and profess attainments in special knowledge as distinguished from mere skills. Disciplines may include, but are not limited to, accounting, auditing, court reporting, experts in a specialized field, finance, law, materials testing, medicine, and others.

(m) “*Public agency*” means a public entity subject to or created by the city.

(n) “*Purchasing agent*” means the director of finance or other persons designated in this chapter to procure supplies, services, or construction on behalf of the city.

(o) “*Request for proposals*” or “*RFP*” means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

(p) “*Responsible bidder or offeror*” means a person who has the capability in all respects to perform fully the agreement requirements, and the experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.

(q) “*Responsive bidder*” means a person who has submitted a bid which conforms in all material respects to the requirements set forth in the invitation for bids.

(r) “*Services*” means the furnishing of labor, time, or effort by any person, including professional services.

(s) “*Supplies*” means all property, including, without limitation, equipment, materials, printing, insurance, and leases of real property, but excluding land or a permanent interest in land.

## **2-11-050. Bid Evaluation.**

(a) *Generally.* Bids, proposals, and related matters shall be evaluated using the criteria in this section.

(b) *City’s evaluation process.* When evaluating matters, the city shall consider the following:

(1) Solicitation criteria. The city shall consider the evaluation criteria stated in a bid or proposal package or other solicitation document.

(2) Policy criteria. As further described in this section, the city shall consider whether a bid, proposal or other offer or submission is responsive to the city’s request; whether the bidder or offeror is responsible; and whether any element conflicts with the other criteria of this chapter.

a. Due diligence. The city may take steps as it deems appropriate to verify and determine any matter. The city shall determine in its sole discretion what steps may be appropriate in light of the matters being considered and the resources of the city. The failure to discover any matter shall not preclude any subsequent evaluation or action.

b. Records. In the manner it shall determine, the purchasing agent shall retain in the procurement file records relevant to a solicitation or award; provided, however, that if the award contract is approved by resolution of the city council, the city recorder shall keep the procurement file records.

c. Evaluating responsiveness. To be responsive, a bid, proposal or other offer or submission must conform in all material respects to the terms of the city's solicitation documents. Such terms may include, without limitation, using bid forms, mandatory submittals, required securities, and appropriate substantive responses. Ministerial errors and other matters in a bid, proposal or other offer or submission will not necessarily render it non-responsive, and the purchasing agent shall review such matters and determine whether the submission is responsive. The purchasing agent may evaluate responsiveness based on any additional reasonable criteria.

d. Evaluating responsibility. To be responsible, a bidder or offeror must have the capability in all respects to fully perform the agreement requirements, and the integrity, capacity and reliability which will assure timely, proper performance.

e. Factors. The city may consider any relevant factors when evaluating responsibility, including, without limitation, the following:

(i) The bidder's capacity to perform the contractual requirements, including whether the bidder has available appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain them. Without limitation, capacity may also include legal capacity to enter agreements, the ability to perform within required times, or the ability to perform any necessary future service and maintenance.

(ii) The bidder's ability, skill and quality of performance.

(iii) The bidder's character, integrity, reputation, judgment, experience and efficiency.

(iv) The bidder's ability to work cooperatively with the city, including, without limitation, whether the bidder has previously failed to comply with city agreements or other requirements; non-payment of sums due to the city; poor working relationships with or adversarial actions against the city; prior suspension or other proceedings by the city against the bidder; or failure to assist the city in determining responsibility.

f. Making a determination. The submission of any bid, proposal or other offer or submission constitutes an agreement by the bidder or offeror to reasonably assist the city with its determination of responsibility.

g. Effect of determination. The city's determination of responsibility relates solely to a bidder's overall ability to perform for a specific procurement, and is not a general assessment of a bidder's capabilities.

h. Evaluating specific matters. For any bid, proposal, other offer, or submission:

(i) Tie bids. Tie bids occur when identical prices are submitted from responsive and responsible bidders and that price is the low bid. The purchasing agent shall make an award in a manner that is beneficial to the city, and may make an award in manner that will discourage tie bids. Such may include:

A. Award to the person closest to the point of delivery.

B. Award to the person who previously held the agreement.

C. Award to the person with the earliest delivery date.



(ii) Only one bid received. If the city receives only one responsive bid, proposal or other offer or submission, the city may make an award to that bidder or offeror if the purchasing agent determines that the bid, proposal or other offer or submission is fair and reasonable and conforms to all applicable requirements, and that other prospective bidders or offerors had reasonable opportunity to respond or that there is not adequate time for a re-solicitation. The written determination and basis for decision by the purchasing agent shall be placed in the procurement file. Alternatively, the city may reject the sole bid, proposal or other offer or submission.

i. Inspections and tests. The city may perform inspections, tests and other evaluations in any manner conducive to the city's interest, including, without limitation, the use of third parties. All prospective and actual recipients of a bid or agreement shall provide all reasonable assistance and information required by the city to perform any such inspection, test or other evaluation.

j. Modifying submissions. After the time for submission, a bid, proposal or other offer or submission may be modified as follows:

(i) Confirmation. When it appears a mistake has been made, or when the city desires an assurance of any matter, the city may request a bidder or offeror to confirm in writing such bid, proposal or other offer or submission.

(ii) Notification of Error. A bidder or offeror shall notify the purchasing agent of any error contained in a bid, proposal or other offer or submission within two business days after bid opening or the time for submitting proposals unless the purchasing agent waives this requirement. The purchasing agent shall have sole discretion to determine whether to permit any such modification or withdrawal.

(iii) Modifications by agreement. The purchasing agent may agree with a bidder or offeror to any modifications so long as they do not prejudice fair competition or the city's interests. Modifications may include such matters as the following:

A. Time for accepting. The purchasing agent and bidder or offeror may agree that a bid, proposal or other offer or submission will remain effective for a longer period of time than that stated in the bid, proposal or other offer or submission.

B. Subcontractor or supplier changes. Any proposed change in subcontractors or suppliers must be submitted to the purchasing agent, and the purchasing agent may reject any such proposed change. The bidder or offeror will receive no additional compensation as a result of a change to any subcontractors or suppliers, and must continue to meet the requirements of any federally-mandated program and other contractual and legal requirements.

C. Change in specifications. The purchasing agent and bidder or offeror may agree to a change in specifications when such change is in the city's interest, is reasonably related to the work originally solicited, and would not be prejudicial to fair competition.

D. City's correction of ministerial mistakes. The purchasing agent may at any time correct mistakes in a bid or proposal that are of a ministerial or minor nature. Ministerial or minor informalities are clerical errors and matters of form rather than substance that are evident from

the document, or insignificant mistakes or informalities that can be waived or corrected without prejudice to other bidders or offerors. They generally do not have a substantial effect on price. Examples include a failure to:

1. Sign the bid, proposal, or other submissions requiring signature, but only where they are accompanied by other materials indicating intent to be bound.

2. Acknowledge receipt of an addendum, but only if the materials demonstrate the bidder or offeror received the addendum and intended to be bound by it, or the addendum has a negligible effect on the bid, proposal or other offer or submission.

E. City's correction of mistakes where the intent is evident. If the intent of the bid, proposal or other offer or submission is clearly evident on the face of the document, the purchasing agent shall correct it as intended and it may not be withdrawn. Examples include:

1. Typographical errors. Errors in extending unit prices. Transposition errors. Arithmetical errors.

2. Differences in written and numerical prices (written shall control).

F. No withdrawal for mistakes where intent is not evident. If the bidder or offeror's intent is not clearly evident on the face of the document, the bid, proposal or other offer or submission may not be withdrawn except as agreed by the purchasing agent.

G. Correcting errors in judgment. Errors in judgment may not be corrected, and the bid, proposal or other offer or submission may not be withdrawn, except as agreed by the purchasing agent. The purchasing agent may allow correction of an error in judgment if it can be done without prejudice to other bidders or offerors. The purchasing agent may allow withdrawal if it is in the city's interest.

#### **2-11-060. Responsibility of Bidders and Offerors.**

Bid and performance bonds or other security as specified on the city's bid form are required on all construction contracts in excess of **\$25,000** (or such lesser threshold as may be required from time to time by state law) and may be requested for supply agreements or service agreements as the purchasing agent deems advisable to protect the city's interests. Any such bonding requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of a bidder or offeror's responsibility.

#### **2-11-070. Right to Inspect Facilities and Audit Records.**

The city may, at reasonable times:

- (a) Inspect the part of the plant, place of business, or worksite of a contractor or subcontractor which the city determines is pertinent to the performance of any agreement awarded or to be awarded by the city; and

(b) Audit the books, accounting and any applicable records of any contractor or subcontractor.

**2-11-080. Reporting of Anti-Competitive Practices.**

When for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the city attorney.

**2-11-090. Pre-qualification.**

Where deemed appropriate by the city, bidders, proponents and/or suppliers may be pre-qualified for particular types of supplies, services and construction to determine the responsibility of such persons.

(a) *Standard of responsibility.* Factors to be considered in determining whether the standard of responsibility has been met by a bidder or supplier in connection with a pre-qualification include:

(1) Availability of the appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain them, necessary to indicate the capability of the bidder or supplier to meet all contractual requirements;

(2) A satisfactory record of performance;

(3) A satisfactory record of integrity;

(4) Legal qualifications to contract with the city; and

(5) Whether all necessary information has been supplied in connection with the inquiry concerning responsibility.

(b) *Information pertaining to responsibility.* In connection with a proposed pre-qualification, the bidder, proponent or supplier shall supply information requested by the city concerning the responsibility of such person. If such information is not supplied, the city shall base its determination of responsibility upon any available information or may find the bidder or supplier non-responsible if such failure is unreasonable, as determined by the city.

**2-11-100. Competitive Sealed Bidding.**

(a) *Conditions for use.* All city purchases shall be awarded and obtained by competitive sealed bidding except as otherwise provided in this chapter.

(b) *Invitation for bids.* Each competitive sealed bid proceeding shall be commenced by the purchasing agent or designee issuing an invitation for bids, which shall include specifications and all contractual terms and conditions applicable to the procurement, and otherwise shall be in compliance with this chapter. All specifications shall be drafted so as to promote overall economy for the purposes intended and to encourage competition in satisfying the city's needs, and shall not be unduly restrictive. The policy set forth in this section applies to all specifications including, without limitation, those prepared for the city by architects, engineers, designers, and draftsmen.

(c) *Public notice.* All noticing shall be processed through the city recorder or designee. Adequate public notice of the invitation for bids shall be given for a reasonable time, and not less than five working days prior to the date set forth therein for the opening of bids. Such notice may include publication in a newspaper of general circulation a reasonable time prior to bid opening. The public notice shall state the place, date, and time of bid opening.

(d) *Bid opening.* All bids shall be accepted and opened by the city recorder or designee. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the

invitation for bids. The amount of each bid, the name of each bidder, and such other relevant information as the purchasing agent deems appropriate, shall be recorded; the record and each bid shall be open to public inspection.

(e) *Bid acceptance and evaluation.* Bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include, without limitation, criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids. Those criteria that will affect the bid price and be considered in evaluation for award (such as discounts, transportation costs, and total or life cycle costs) shall be objectively measurable.

(f) *Correction or withdrawal of bids; cancellation of awards.* Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or agreements based on such bid mistakes, may be permitted by the purchasing agent where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written, telegraphic or facsimile notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. 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:

(1) The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or

(2) The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or agreements based on bid mistakes, shall be supported by a written determination made by the purchasing agent.

(g) *Award.* Award shall be made with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, unless otherwise provided for in this chapter. Such notice shall be sent by mail, facsimile transmission, electronic mail and/or by posting on the city's web site.

(h) *Multi-step sealed bidding.* When it is considered impractical to prepare an initial purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

(i) *Cancellation of invitation for bids.* An invitation for bids or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part, as may be specified in the solicitation, when it is in the city's interest. Each solicitation issued by the city shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part when in the best interests of the city. Notice of cancellation shall be sent to all persons responding to the solicitation, which notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurement of similar items.

## **2-11-110. Competitive Sealed Proposals (RFP).**

(a) *Conditions for use.* When the purchasing agent determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the city, a purchase may be made by use of the competitive sealed proposals method described in this section.

(b) *Request for proposals.* Competitive sealed proposals shall be solicited through a request for proposals ("*RFP*").

(c) *Public notice.* Adequate public notice of the RFP shall be given in the same manner as provided in subsection 2.160.110(C).

(d) *Receipt of proposals.* No proposal's contents, except for the names of the offerors, shall be disclosed to competing offerors during the process of negotiation. A register of proposals 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. The register of proposals shall be open for public inspection only after award.

(e) *Evaluation factors.* The RFP shall state the relative importance of price and other evaluation factors, including the quantitative basis for evaluation. No criteria may be used in an RFP response evaluation that is not set forth in the RFP.

(f) *Discussion with responsible offerors and revisions to proposals.* As provided in the RFP, discussions may be conducted with responsible offerors who submit proposals determined to have a reasonable chance of being selected in order to clarify and assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment to discuss and revise proposals in writing and such written revisions may be permitted after submissions and prior to award to obtain best and final offers. In conducting such discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors, except for the names of the offerors.

(g) *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 the evaluation factors set forth in the RFP. No other factors or criteria shall be used in the evaluation. The file shall contain the basis on which the award is made.

(h) *Cancellation of an RFP.* An RFP or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part, as may be specified in the solicitation, when it is in the best interests of the city. Each solicitation issued by the city shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part when in the city's interest. Notice of cancellation shall be sent to all persons responding to the solicitation

#### **2-11-120. Minimal Purchases.**

(a) *Applicability.* This section applies to the purchase of goods, supplies, materials, equipment or services having a total value of not more than **\$5,000**. So long as funds used for such purchases are part of the approved annual budget for the department making the purchase, purchases may be approved.

(b) *Authorized parties.* Only the purchasing agent, department heads and employees designated by department heads may make minimal purchases under this section.

(c) *Procedure.* Minimal purchases may be made by any reasonable means. Documentation shall be retained by the purchaser and archived in the individual department's purchase records to demonstrate reasonableness.

(d) *Manipulation prohibited.* Purchases shall not be artificially divided into smaller amounts to fall within this section. Such prohibition includes, without limitation, awarding numerous purchases to a single person for substantially similar performances, or by dividing the work required for a single project solely for purposes of making use of this section.

#### **2-11-130. Small Purchases.**

(a) *Applicability.* This section applies to the purchase of goods, supplies, materials, equipment or services, having a total value of not more than **\$25,000**, when such purchase is approved in writing in advance by the head of the department making the purchase and the manager. So long as funds being used are available under the approved budget, no other approval is required.

(b) *Authorized parties.* Only the purchasing agent, department heads and employees designated by department heads shall make small purchases as defined in this section. .In making small purchases, the following procedures shall be used in lieu of a bid or proposal process:

(1) Solicitation and award .Purchases shall be made by soliciting quotes from no fewer than three vendors. Such solicitation may be completed in any reasonable manner including, without limitation, telephone inquiry, internet search or other price comparison. Award shall be made to the vendor offering the lowest responsible quotation.

(2) Records. Any department making a small purchase shall retain a record of the names of the prospective vendors contacted, those offering quotations, and the date and amount of each quotation, and shall document all quotes received.

(c) *Manipulation prohibited.* Purchases shall not be artificially divided to fall within this section .Such prohibition includes, without limitation, awarding numerous purchases to a single person for substantially similar performances, or by dividing the work required for a single project solely for purposes of making use of this section.

(d) *Small purchase modifications and renewals.* Any agreement solicited under this section shall not be modified in excess of the maximum dollar limit specified above, or renewed on a successive basis with the same party, without written approval of the purchasing agent or the manager.

#### **2-11-140. State Contract Purchasing.**

Because an appropriate bid procedure has already been completed by the state of Utah, any item that is a state contract item may be purchased without following any otherwise applicable bid requirements, provided that the purchasing agent or department head making the purchase shall document the state contract number used and record that information in the purchase file.

#### **2-11-150. Recent Purchases by Another Government Agency.**

When purchasing supplies, material or equipment from a vendor who has been awarded a bid for the same items from another governmental entity within the preceding 90 days, the price paid by the other governmental entity shall be deemed to be the lowest price available for such items and the city need not follow any other bidding requirements, provided that the purchasing agent or department head making the purchase shall maintain in the purchase file appropriate documentation demonstrating compliance with the requirements of this section.

#### **2-11-160. Contracting for Designated Professional Services.**

The city may procure the services of financial and legal advisors, architects, engineers, accountants, physicians, dentists, veterinarians, and construction managers as defined by the laws of the state of Utah, and similar professional services, as negotiated based on demonstrated competence and qualification and at fair and reasonable prices.

#### **2-11-170. Contracts With Other Governmental Entities.**

Whenever the city agrees to make purchases together with another governmental entity, and the agreement is entered in compliance with the solicitation procedures of that other entity, the city shall be deemed to have complied with the city's solicitation requirements. Contracted services from other governmental entities are exempt from any requirements to obtain bids or quotes. Unless not legally

required, all contracts with other governmental entities shall comply with the Interlocal Cooperation Act (UTAH CODE ANN. § 11- 13-101 *et seq.*) and shall be approved by resolution of the city council.

**2-11-180. Sole Source Procurement.**

(a) *Definition.* Without limitation, sole source procurement may arise when:

(1) The city needs a supply or service of a unique or specialized nature, and only one known supplier is reasonably available to meet the need.

(2) Specific parts, accessories, equipment, materials, services, proprietary items or other items are necessary to meet the city's needs, and there are no comparable items reasonably available.

(3) Items are procured for resale.

(b) *Procedure.* To use sole source procurement, the purchasing agent shall place a written determination in the procurement file after conducting a good faith review of available sources, stating why no other sources are reasonably available, or why competition would not be likely to produce other acceptable offers. Sole source procurement shall not be used only to accommodate a desire for a particular proprietary item unless the city has a very specific need for such item which can be justified in writing. The city shall be deemed to have a very specific need when there is a need to procure matching or compatible supplies and services and when other similar supplies and services would not be reasonably beneficial to the city's needs. The purchasing agent or designee shall negotiate and use appropriate means to obtain the best price available for any item procured under this section.

**2-11-190. Emergencies, Public Threats and Unforeseen Conditions.**

(a) *Generally.* Notwithstanding any other provisions of this chapter, and conditioned on prior appropriation of necessary funds by the city council, the purchasing agent may make, or authorize others to make, emergency procurement of supplies, services, or construction items when there exists a threat to public health, welfare, or safety; provided that procurement in response to such emergencies, public threats or unforeseen conditions shall be made with such competition as is practicable under the circumstances. Procurement made on this basis shall occur as set forth in this section, subject, however, any contrary requirements of, or procedures under, Utah state law or any emergency management plan for the city from time to time in effect.

(b) *Definitions.* The conditions specified in this section are defined as follows:

(1) An "*emergency condition*" creates an immediate and serious need for supplies or services that cannot adequately be addressed using normal procurement methods. Such a need may arise by reason of a natural disaster, epidemic, riot, equipment failure or other reason.

(2) "*Public threats*" are circumstances that appear likely to adversely impact the public's health, welfare, convenience or safety. They may arise when circumstances appear to create a risk of environmental contamination, traffic congestion or hazards, disruption of utility or other public services, or other matters.

(3) An "*unforeseen condition*" creates a need to procure supplies or services within time frames that could not reasonably be anticipated or accommodated under normal procurement methods.

(c) *Procedure.* The purchasing agent shall examine the circumstances and determine whether they constitute a condition set forth above. If so, the purchasing agent may take any action required by such condition. The purchasing agent shall place in the procurement file a written determination and explanation of the condition. Procurement should be as competitive as possible under

the circumstances, but priority shall be given to meeting the needs of the emergency or combating the public threat. Only those supplies and services impacted by the condition in question may be acquired under this section.

## **2-11-200. Procurement Protests.**

Any actual or prospective bidder or offeror who is aggrieved in connection with the solicitation or award of a contract for procurement may protest the procurement by filing a written protest with the purchasing agent. The protest shall contain the following information:

(a) The protesting party's name, mailing address and daytime telephone number, the signature of the protesting party or the attorney for the protesting party, and the date the protest is signed; and

(b) The relief sought, a statement of facts and a recitation of the reasons and legal authority in support of the protest sufficient to permit review.

(c) Protests shall be submitted prior to the closing date for receiving bids or proposals unless the protestor did not know and could not reasonably have known of the facts giving rise to the protest prior to such time, but in any event, all protests shall be submitted within five business days after the closing date for receiving bids or proposals.

(d) The city may proceed with the procurement despite the protest, except that the purchasing agent may suspend the procurement process for so long as he determines is appropriate.

(e) The purchasing agent may designate another individual to assist in reviewing the matter, which assistance may include finding facts, analyzing the protest, and making recommendations to the purchasing agent.

(f) The purchasing agent or designee may request additional information from the protesting party or from other persons to make a determination. The protesting party shall provide all information requested by the purchasing agent reasonably needed to decide the protest except information which is protected from disclosure by law, or which could reasonably be expected to result in unfair competitive injury to the protestor.

(g) The purchasing agent shall review and decide protests, and shall issue a written determination to the protesting party within 15 business days of receipt of the protest.

(h) The protesting party may appeal the written decision of the purchasing agent by filing a written appeal with the manager within five business days of the purchasing agent's written determination. The notice of appeal. Unless otherwise agreed to by the city and the appellant, the hearing shall be held no sooner than five business days and no later than 30 business days after the date that the appeal is filed.

(j) At the hearing before the manager, the appellant and the city's representative shall be allowed to testify, present evidence, and comment on the issues. The manager also may allow other interested persons to testify, comment or provide evidence on the issues.

(k) No later than 15 business days after the hearing, the manager shall issue a signed order either granting the appeal in whole or in part, or upholding the determination of the purchasing agent in whole or in part. The order of the manager shall include:

(1) The decision, and any reasons for the decision the manager may wish to provide; and

(2) A statement that any party to the appeal may appeal the decision to the District Court.



(l) If the manager fails to issue a decision within 15 business days after the hearing, said failure shall be considered the equivalent of an order denying the appeal.

(m) The manager may appoint a person other than the purchasing agent to fulfill the manager's responsibilities under this section.

## **2-11-210. Sanctions.**

(a) It is unlawful:

(1) For any bidder or prospective bidder, or city employee or city officer, in restraint of freedom of competition or otherwise, by agreement with any other person, bidder, or prospective bidder, to bid a fixed price, or to "rotate" bidding practices among competitors;

(2) For any person to offer or to give to any employee of the city or any member of his immediate family, any gain, whether in the form of money, services, loan, travel, entertainment, hospitality, promise, or other form, under circumstances in which it could reasonably be intended to influence him or could reasonably be expected to influence him in his duties concerning the award of any contract or order of purchase, or for any city employee to directly or indirectly solicit or directly or indirectly accept any such gift for such purpose;

(3) For any city employee or city officer to disclose, in advance of the opening of the bids, the content of any bid invited through the formal competitive bidding procedure;

(4) For any city employee or city officer to actively participate in the awarding of a contract from which he will directly benefit; and

(5) For any city employee or city officer or other person to appropriate for personal or private use any item of public property.

(b) Any city employee or city officer committing any of the foregoing acts may be discharged or suspended from employment, and the city may seek additional appropriate legal redress.

(c) At the discretion of the city council, the following contracts are voidable:

(1) Contracts which result from a conflict of interest under this chapter or other applicable law;

(2) Contracts awarded to a person or firm that tried to influence the award of such contract by offering something of value to any city officer or city employee; and

(3) Contracts awarded by a city officer or city employee circumventing the requirement of this chapter or other applicable statute.

(d) The city council hereby declares its intent that the contracts described in subsection (c)(1)-(c)(3) above would not have been entered into on behalf of the city if such misconduct had been discovered prior to the execution of the contract. In this regard, the council further states that no city officer or city employee has authority, either actual, apparent or implied, to negotiate or execute any such contract and that such contract shall, at the discretion of the city council, be voidable, unless the action of the city officers or city employees in executing the contract is ratified by affirmative action of the city council after the misconduct was discovered and made known to the city council.

(e) All persons or firms responsible for any misconduct prohibited by this section shall be liable to the city for any losses incurred by the city resulting from any contract awarded due to such misconduct.

**2-11-220. Remedies for solicitations or awards in violation of law.**

(a) *Prior to bid opening or closing date for receipt of proposals.* If, prior to the bid opening or the closing date for receipt of proposals, the purchasing agent, after consultation with the city attorney, determines that a solicitation is in violation of applicable law, then the solicitation or proposed award shall be canceled or revised to comply with applicable law.

(b) *Prior to award.* If, after a bid opening or the closing date for receipt of proposals, the purchasing agent, after consultation with the city attorney, determines that a solicitation or a proposed award of an agreement is in violation of applicable law, then the solicitation or proposed award shall be canceled.

(c) *After award.* If, after an award, the purchasing agent, after consultation with the city attorney, determines that a solicitation or award of an agreement was in violation of applicable law, then:

(1) If the person awarded the agreement has not acted fraudulently or in bad faith:

a. The agreement may be ratified and affirmed, provided it is determined that doing so is in the city's best interests; or

b. The agreement may be terminated and the person awarded the agreement shall be compensated for the actual costs reasonably incurred under the agreement, plus a reasonable profit, prior to the termination; or

(2) If the person awarded the agreement has acted fraudulently or in bad faith, the agreement may be declared null and void or voidable, if such action is in the city's best interests.

**2-11-230. Routine Expenditures.**

(a) Notwithstanding anything in this chapter to the contrary, but subject to statutory compliance by the city's director of finance and treasurer, the manager or designee may approve for payment routine expenditures such as utility bills, leases and payroll-related expenses, provided that such expenditures are referenced in the then approved budget, that the funds are available for such expenditures, and that sufficient documentation is provided concerning such expenditures.

(b) The manager or designee also similarly may approve payments for supplies, non-professional and professional services and payments on city-approved contracts, provided that such expenditures are referenced in the then approved budget, that the funds are available for such expenditures, and that sufficient documentation is provided concerning such expenditures.

**2-11-240. Payroll Obligations.**

Notwithstanding anything in this chapter to the contrary, but subject to statutory compliance by the city's director of finance and treasurer, the manager or designee may approve payroll checks prepared in accordance with a salary schedule approved by the city council.

**2-11-250. Providing Information and Records.**

(a) Information and copies of records under this chapter may be requested from the city recorder pursuant to the Government Records Access and Management Act, UTAH CODE ANN. § 63G-2-101 *et seq.* ("GRAMA").

(b) Quotations shall remain confidential until all quotations have been received.

**2-11-260. Blanket Purchase Order.**

Notwithstanding anything in this chapter to the contrary, the manager, purchasing agent or designee may arrange with suppliers blanket purchase orders which shall authorize continuing charges against the city. Such purchase orders shall be reviewed and renewed at least once each fiscal year. The manager, purchasing agent or designee shall, in advance of any transaction negotiated upon such blanket purchase order, notify the merchant or supplier of the specific city employee authorized to take delivery and sign the purchase order. No billing against the city shall be valid as applied against the purchase order unless the person taking delivery was authorized to do so and the supplier can may be which they shall be available for public inspection if provided by GRAMA.

(a) Sealed bids shall remain confidential until the bids are opened, after which they shall be available for public inspection if provided by GRAMA, except for information or data that the bidder designates as proprietary or confidential.

(b) Sealed proposals shall remain confidential until an award is made. After award of a contract, the successful proposal shall be available for public inspection if provided by GRAMA, except for information or data that the bidder designates as proprietary or confidential.

#### **2-11-270. Administrative Regulations and Policies.**

The manager may prescribe administrative regulations and procedures which are consistent with the provisions of this chapter and other written financial procedures approved by the city council.

#### **2-11-280. Authorized Contract Types.**

As authorized by UTAH CODE ANN. 63G-6a-1205(4), the city is authorized to use any of the following contract types:

- (a) A fixed price contract;
- (b) A fixed price contract with price adjustment;
- (c) A time and materials contract;
- (d) A labor hour contract;
- (e) A definite quantity contract;
- (f) An indefinite quantity contract;
- (g) A requirements contract;
- (h) A contract based on a rate table in accordance with industry standards; or
- (i) A contract that includes one or more of the following construction delivery methods:
  - (1) Design-build;
  - (2) Design-bid-build; or
  - (3) Construction contractor.

#### **2-11-290. Signing Authority**

The city council may authorize the manager to sign any agreement, purchase order, obligation, form, or other document. In addition, the manager has authority to sign all documents necessary to allow the city to make minimal purchases and small purchases, as defined in this chapter, provided that funds have

been previously appropriated by the City Council. Any contract or written obligations signed by the manager in excess of \$50,000 or where a specific appropriation has not been made by the City Council must be signed by the mayor and attested by the city recorder.

**13.82.210: SIGNS ALLOWED:**

Signs allowed, by zone, shall be as set out in the following chart:

Signs Allowed In All Zones				
Sign	Size	Height	Location	Other
<u>Construction</u>	<u>16 sq. ft. on a lot/parcel with less than one-half acre in area.</u>	<u>8' maximum</u>	<u>On private property</u>	<u>Only 1 sign allowed per parcel or lot.</u> <u>Signs must be removed within 7 days of completion of project.</u>
	<u>32 sq. ft. on a lot/parcel with one-half acre or larger in area.</u>			
Political	16 sq. ft. maximum per use	6 ft. when freestanding	On private property	
Property	3 sq. ft. maximum per use		Attached to and parallel with the front wall of the main structure	Home occupation signs not allowed
Real Estate	6 sq. ft. maximum	3' when freestanding	On private property	Only 1 sign allowed per parcel or lot. <del>Subdivision "project" signs not allowed.</del> Signs must be removed within 7 days of the sale or lease of the property in question
Temporary	6 sq. ft. maximum	24" when freestanding	On private property	Sign may be used up to 30 days in any 1 calendar year. Requires permit and fee

Signs Allowed In the C-1, C-2 Zones: *No changes*

Signs Allowed In the R-M Zones: *No changes*

Signs Allowed In the O-R-D Zone: *No changes*

Signs Allowed In The RO Zone: *No changes*

Signs in the Residential Zones: *No changes*

Signs in the HV Zones: *No changes*

Signs Allowed In the R/M-U Zone District: *No changes*

<u>Signs Allowed in the P Zone</u>				
<u>Sign</u>	<u>Size</u>	<u>Height</u>	<u>Location</u>	<u>Other</u>
<u>Monument</u>	<u>24 sq. ft Maximum</u>	<u>6' maximum</u>	<u>3' minimum setback and located in a landscaped area a minimum of 9 sq. ft.</u>	<u>One sign per lot/parcel only.</u> <u>May be externally illuminated.</u>
<b>Signs Allowed In The HV Zone</b>				
All signs allowed in the Holladay Village zone and are subject to the regulations in section 13.82.200 of this chapter				
<b>Signs Allowed In The R/M-U Zone District</b>				
All signs allowed in the regional/mixed-use zone district are subject to the regulations as adopted in the site development master plan as approved under chapter 13.65 of this title				

CITY OF HOLLADAY

ORDINANCE NO. 2016-\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
HOLLADAY AMENDING PROVISIONS OF THE CITY'S ZONING  
ORDINANCE RELATING TO ALLOWED SIGNS

**WHEREAS**, the City Council of the City of Holladay has considered certain amendments to the City's sign regulations and now finds that adoption of the same will benefit the public interest; and

**WHEREAS**, the Planning Commission of the City of Holladay has held a public hearing on the proposed amendments and has forwarded a positive recommendation regarding the same; and

**WHEREAS**, the City Council of the City of Holladay, on October 27, 2016, held a public hearing regarding the proposed amendments and now desires to enact the same;

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of the City of Holladay, Utah as follows:

**Section 1.** Amendment. Section 13.82.210 of the Zoning Ordinance of the City of Holladay, regarding allowed signs, is hereby amended to read in its entirety as set forth in Exhibit A, attached hereto and incorporated herein by reference.

**Section 2.** 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 Resolution shall be severable.

**Section 3.** Effective Date. This Ordinance shall take effect upon publication or posting or thirty (30) days after passage, whichever occurs first.

**PASSED AND APPROVED** this \_\_ day of \_\_\_\_\_, 2016.

By: \_\_\_\_\_  
Robert Dahle, Mayor

[SEAL]

**VOTING:**

Lynn H. Pace	Yea ____	Nay ____
Mark H. Stewart	Yea ____	Nay ____
Sabrina R. Petersen	Yea ____	Nay ____
Patricia Pignanelli	Yea ____	Nay ____
Steven H. Gunn	Yea ____	Nay ____

Robert Dahle

Yea \_\_\_\_ Nay \_\_\_\_

**ATTEST:**

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Stephanie N. Carlson, MMC  
City Recorder

**DEPOSITED** in the office of the City Recorder this \_\_\_\_ day of \_\_\_\_\_, 2016.

**RECORDED** this \_\_\_\_ day of \_\_\_\_\_, 2016.