

ORDINANCE

An Ordinance creating the position of Purchasing Agent
and establishing Purchasing Procedures for the Town of Elloree.

NO: 02-13-12-1

Be it ordained by the Council of the Town of Elloree:

Section 1. Purchasing Agent, specified duties.

The Mayor, or an officer of the city designated by the Mayor, shall be the Purchasing Agent for the City. He/She shall be responsible for:

- (A) The purchase of supplies, materials and equipment and contractual services required by any office, department or agency of the city government.
- (B) The storage and distribution of all supplies, materials and equipment required by any office, department or agency of the city government.
- (C) Establishing written specifications, whenever practicable, for supplies, materials and equipment required by any office, department or agency of the city government. Such specifications shall be definite and certain and shall permit of competition.
- (D) Maintaining, whenever practicable, a perpetual inventory record of all materials, supplies or equipment stored in storerooms or warehouses.
- (E) Soliciting and maintaining an up-to-date list of qualified suppliers who have requested their names to be added to a "bidders list". The purchasing agent shall have authority to remove temporarily the names of vendors who have defaulted on their quotations, attempted to defraud the city or who have failed to meet established specifications or delivery dates.
- (F) Obtaining as full and open competition as possible on all purchases, contracts and sales.

Section 2. Formal contract procedure

All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed ten thousand dollars, shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting proposals. No contract or purchase shall be subdivided to avoid the requirements of this section.

All sales of personal property which has become obsolete or unusable, when the estimated value shall exceed ten thousand dollars, shall be sold by formal written contract or at a public auction to the highest responsible bidder, after due notice inviting proposals and bidders.

Section 2.1 Bidding – Competitive, required exception

Before any purchases or contracts for supplies, materials, equipment or services exceeding five hundred dollars are made, the purchasing agent shall give ample opportunity for competitive bidding. For purchases or contracts not exceeding one thousand dollars, oral bids may be accepted. All other bids shall be in writing.

Competitive bidding shall be encouraged for all contracts, purchases or sales. However, in the event of an emergency affecting the public welfare, health or safety, the provisions of this section shall not apply. A full report of the circumstances of an emergency purchase shall be filled by the purchasing agent with the city council and shall be entered in the minutes of the council.

Section 2.2. Award to lowest bidder; advertising, when required

All contracts for city improvements, materials, equipment, or services costing more than ten thousand dollars shall be awarded to the lowest responsible bidder after publication in a newspaper of general circulation in the city at least five days before the last day set for receipt of proposals; provided, however, that in case of professional services, this section shall not apply. The newspaper notice required herein shall include a general description of the articles or services to be purchased, shall state where bid blanks and specifications may be secured and the time and place for opening bids. *See Section 2.4(F)(2)*

Section 2.3. Sealed Bid Procedures

Procedure for sealed bids shall be as follows:

- (A) **Sealing.** Bids shall be submitted to the purchasing agent securely sealed in an envelope, and shall be identified on the envelope in accordance with bid instructions.
- (B) **Opening.** Bids shall be opened in public at the time and place stated in the public notices.
- (C) **Tabulation.** A tabulation of all bids received shall be available for public inspection.
- (D) **Rejection of bids.** The purchasing agent shall have the authority to reject all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby.
- (E) **Bidders in default to city.** The purchasing agent shall not accept the bid of a vendor or contractor who is delinquent in the payment of taxes, license, or other moneys due the city.
- (F) **Award of contract:**

(1) *Authority in agent.* The purchasing agent shall have the authority to award contracts within the purview of this article; provided, however, that contracts in excess of five thousand dollars shall not be awarded without prior approval of city council.

(2) *Lowest responsible bidder.* Contracts shall be awarded to the lowest responsible bidder. In determining “lowest responsible bidder”, in addition to price, the purchasing agent shall consider:

- (a) The ability, capacity and skill of the bidder to perform the contract or provide the service required;
- (b) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- (c) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- (d) The quality of performance of previous contracts or services;
- (e) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
- (f) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
- (g) The quality, availability and adaptability of the supplies or contractual services to the particular use required;
- (h) The ability of the bidder to provide future maintenance and service for the use of the subject: of the contract;
- (i) The number and scope of conditions attached to the bid.

(G) *Award to other than low bidder.* When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent and filed with the papers relating to the transaction and held for a period of no less than 12 months.

(H) Tie bids:

(1) *Local vendors.* If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the local bidder. If two or more of such bids are submitted by local bidders, the purchasing agent shall award the contract to one of the local tie bidders by drawing lots in public. If local bidders are not involved in the tie bids, the purchasing agent shall award the contract to one of the outside tie bidders by drawing lots in public. The purchasing agent, local bidders, and vendors should bear in mind, however, that to award a contract to a local vendor where he is not the lowest responsible bidder, or where price, quality and service are not equal, is to give preference to one minute segment of the citizenry against the best interests of the community as a whole.

Section 2.5 Materials Testing

The purchasing agent shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, the purchasing agent shall have the authority to make use of laboratory facilities of any agency of the city government or any outside laboratory.

Section 3. Financial interest of city officials and employees prohibited

No member of the city council or any officer or employee of the city, shall have a financial interest in any contract or in the sale to the city or to a contractor supplying the city of any land or rights or interests in any land, material, supplies or services; except when a majority of the city council determines such exception in the best interest of the city, provided, that no councilman whose interest is involved shall vote on the question. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge express or implied of the person or corporation contracting with the city shall render the contract voidable by the city manager or the city council.

Section 4. Records of open market orders and bids

The purchasing agent shall keep a record of all open market orders and the bids submitted in competition thereon, and such records shall also be open to public inspection.

Section 5. Stock reports

All offices, departments or agencies of the city government shall submit to the purchasing agent, at such times and in such form as he shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped.

Section 7. Supplies unsuitable for public use, sale or exchange

The purchasing agent shall have the authority to sell all supplies which have become unsuitable for public use, or to exchange the same for, or trade-in the same on, new supplies.

Section 8. Gifts and Rebates

The purchasing agent and every officer and employee of the City are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is, or might be awarded, any rebate, gift, money, or anything of value whatsoever, except where given for the use and benefit of the City.

Section 9. Cooperative purchasing

The purchasing agent shall have authority to join with other units of government in cooperative purchasing plans when the best interests of the city would be served thereby; provided that the purchasing agent of the city is given the authority to make purchases of supplies and equipment through the property division of the state budget and control board, without the formality of publication and receiving competitive bids.

Section 10. Appeals

Appeals of decisions made by Purchasing Agent must be submitted in writing within 10 days to the Town Clerk for review by council at its next regularly scheduled meeting.

Appeals of the decisions of Town Council may be made to the Court of Common Pleas following the requirements set forth by South Carolina state statute.

DONE AND RATIFIED in council assembled this 9th day of April, 2012.

First Reading: February 13, 2012
Public Hearing: March 12, 2012
Second Reading: March 12, 2012
Third Reading: April 9, 2012

Van Stickles Van Stickles, Mayor

Barbara Butler Barbara Butler, Town Council

Michael C. Fanning Michael Fanning, Town Council

Milt Felder Milt Felder, Town Council

Harold Void Harold Void, Town Council

ATTEST: Chasity Sanders Avinger Chasity Sanders Avinger, Town Clerk, Elloree, SC