

## TITLE 21. PURCHASING

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### Chapter 1. Repealed

### Chapter 2. General Provisions

- 21-2-1 Statement of Purpose
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**21-2-1 Statement of Purpose.** The purpose of this Title is to protect and insure that the funds entrusted to the City are expended as set within established guidelines. The objectives of this Title are:

- (1) To simplify, clarify, and modernize the law governing and procedures associated with the procurement process by this City;
- (2) To ensure the fair and equitable treatment of all persons who deal with the procurement system of this City;
- (3) To provide guidelines to City employees and Officers;
- (4) To provide increased economy in City procurement activities; and,
- (5) To foster effective broad-based competition within the free enterprise system.

**21-2-2 Application.** This Title shall apply to all employees and office holders when making purchases or establishing contracts, as established in this title, for the City.

*History: 05/11*

### 21-2-3 Penalties.

(1) The penalty for employees or Officers of the City who fail to comply with this section could be liability for the expenses incurred and disciplinary action up to and including termination.

(2) Conflicts Of Interest. No Employee or Officer may have a direct or indirect interest in any contract entered into by the City unless all conflicts are revealed and action is approved by the City Council after legal review by the City Attorney, Utah code Ann. § 10-3-1305, 1306, & 1307.. A violation of this provision shall subject such member or employee to all penalties applicable by law.

(3) Collusion among Bidders. Any agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition, by agreement to bid a fixed price, or otherwise, shall render the bids of such bidder void.

(4) Advance Disclosures. Any disclosure about the bids made or permitted by an Employee or Officer of the City, in advance of the bid opening, shall render all Bids void. This applies whether the bids were solicited by advertisement or by request.

(5) Gratuities. All City Employees and Officers are required to adhere to the requirements of Utah Code Ann. § 10-3-1304, 63G-6-1001 & 1002, regarding the acceptance of any gratuity in the form of cash, merchandise, or any other thing of value. Violations shall subject such member or employee to all penalties applicable by law.

(6) Any person or legal entity violating any of the provisions of this Title or committing any acts prohibited by this Title shall be deemed in violation of a Class "C" misdemeanor and shall be subject to an order of restitution for any damage or expense borne by the City.

*History: 05/11*

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### Chapter 3. Definitions

#### 21-3-1 Definitions

**21-3-1 Definitions.** For the purposes of this title, the following words and phrases shall have the meanings respectively ascribed to them by this section:

**“Budget”** means the budget adopted and if applicable amended by the Clinton City Council for the fiscal year in which a purchase is being made.

**“Bid Limits”** means:

- (1) For building improvements:
  - (a) For the year 2011, \$49,194.95; and,
  - (b) For each year after 2011, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year; and,
- (2) For public works project:
  - (a) For the year 2011, \$153,734.20; and,
  - (b) For each year after 2011, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year.

**“Building Improvement”** means the construction or repair of a public building or structure.

**“Capital Assets”** means a purchase of land, buildings, improvements, and equipment, for financial reporting purposes, if the dollar value equals or exceeds the amount as follows, otherwise the purchase shall be considered an operational expenditure, supply or expense. Purchases of land, buildings, improvements, and equipment shall be considered a capital asset for financial reporting purposes if the dollar value equals or exceeds the amount for that class of asset as follows:

- (1) Land \$1
- (2) Buildings \$25,000
- (3) Improvements other than buildings and land:
  - (a) Infrastructure \$25,000
  - (b) Other \$10,000
- (4) Equipment:
  - (a) Rolling stock \$15,000
  - (b) Other \$10,000

**“City Manager”** means the Clinton City Manager.

**“City Purchasing Agent” or “Purchasing Agent”** means the City Manager unless the Council has appointed another individual as the City Purchasing Agent or as otherwise outlined in this ordinance.

**“Council”** means the Clinton City Council.

**“Lowest Responsive Responsible Bidder”** means any prime contractor who has bid in compliance with the invitation to bid, either sealed bid or open market, and within the requirements of the plans and specifications for a construction project or item, who is the low bidder and has met the "Standard of Responsibility" outlined in § 21-5-19, who has furnished a bid bond or equivalent in money as a condition to the award of a prime contract, and who furnishes a payment and performance bond as required by law.

**“Officer”** means elected, appointed, volunteer, or other non-employee of the City who is associated with the functions of the City.

**“Prime Contractor”** means the contractor bidding on a project or item. Sub-contractors may not be broken out of a contract and be established as a prime contractor.

**“Public Works Project”** means the construction of a park facility, recreation facility, pipeline, culvert, dam, canal, water system, sewer system, storm drain system, street, curbs, sidewalks, and other public facilities except for buildings.

*History: 05/11*

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## Chapter 4. Administration

21-4-1	Purchasing System Adopted
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**21-4-1 Purchasing System Adopted.** As established in Utah Code Ann., § 10-7-86 and §§ 63G-6-104(3)(d), as amended, and other pertinent provisions of the laws of the State of Utah, there is hereby adopted and established a purchasing system for Clinton City.

*History: 4/84, 12/94, 05/00, 05/11*

**21-4-2 Applicability to State Code.** Clinton City may operate within the guidelines established in Utah Code Ann., § 63G-6-101 et. seq., Utah Procurement Code and the procedures established in this Title.

*History: 05/11*

**21-4-3 Responsibility of Administration.** The City Manager shall administer, implement, and enforce the provisions of this Title. Any powers granted or duties imposed upon the City may be delegated by the City Manager to persons acting in the beneficial interest of or in the employ of the City.

*History: 05/11*

**21-4-4 Administration.** The City Purchasing Agent shall administer the purchasing system and perform the duties and has powers concerning purchasing matters as follows:

- (1) Administer and maintain the purchasing system according to the rules and regulations established or authorized by this Title and applicable law.
- (2) Establish a reasonable procedures manual to govern this Title.
- (3) Prescribe and maintain such forms as are reasonably necessary for the operation of this Title and other rules and regulations.
- (4) Recommend to the Mayor and Council additional changes from time to time that may be considered desirable, and to interpret, with legal advice, the provisions of this act and applicable statutes.

(5) Negotiate and recommend execution of contracts for the purchase of supplies, materials, equipment, and contractual services after consultation with department heads and other responsible City agents.

(6) Keep informed of current developments in the field of purchasing, i.e., prices, market conditions, new products, etc.

(7) Seek to obtain as full and open competition as possible either by bidding or negotiation.

*History: 4/84,9/84, 12/94, 05/00, 05/11*

**21-4-5 Office of Primary Responsibility.** The Clinton City Treasurers Department is the Office of Primary Responsibility for review and proposing changes to this Title. The Treasurer may call on other departments for assistance in reviewing this Title.

**21-4-6 The Treasurer.** The Treasurer shall appoint a person to act as Accounts Payable Clerk to oversee the systems outlined in this Title.

**21-4-7 Duties of the Accounts Payable Clerk.** The Treasurer shall prescribe the duties of the Accounts Payable Clerk.

**21-4-8 Department Heads.** Each Department Head is designated as a Purchasing Agent for his respective Department's budget on behalf of the City Purchasing Agent and shall have authority for purchases not exceeding the amount authorized by the City Purchasing Agent for any purchases made for the Department.

**21-4-9 Project Manager.** The Council may appoint, by resolution, a Project Manager for the length of a specific project that has a bid that has been received and accepted by the Council. The Council may give a Project Manager authority to act as the Purchasing Agent for the project with authority to sign documents as representative of the City, procure items for the project and pay bills related to the project once the contract has been executed.

**21-4-10 Exemptions.**

(1) This Title shall not prevent the City Purchasing Agent from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

(2) Whenever any purchase or encumbrance is made with state or federal funds and the applicable state or federal law or regulations are in conflict with this Title to the extent that

following the provisions of this Title, would jeopardize the use of those or future state or federal funds, such conflicting provisions of this Title shall not apply and the City shall follow the procedure required by the state or federal law regulation.

*History: 05/11*

**21-4-11 Interlocal Agreement in Letting of Contracts for Commodities or Services.** The City shall have the power to enter into joint purchase agreements with any or all other public agencies within the state for the purchase of any commodity or service, when it is determined by the City Purchasing Agent to be in the best interest of the City. Interlocal Agreements shall be adopted by the Council as established in Utah Code Ann. § 11-13-101 et. seq.

*History: 05/11*

**21-4-12 Records.**

(1) The City Purchasing Agent shall establish procedures

for all procurement records retention and disposal.

(2) The Treasurer shall maintain all procurement records, retention and disposal, in accordance with the procedures established by the City.

(3) A written record of all contracts is to be made and kept for three (3) years after the order of supplies, materials, or capital assets.

(4) The City Manager shall establish procedures for maintaining an inventory of all items, not permanently affixed, having a value of over \$1,000.00.

All procurement records shall be retained and disposed of in accordance with Clinton City Code Title 2.

*History: 05/11*

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**Chapter 5. Purchasing System**

- 21-5-1 Provisions for Purchasing
- 21-5-2 Acquisition of Supplies, Materials, and Equipment
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- 21-5-4 Construction of Building Improvements and Public Works Projects
- 21-5-5 Exceptions to Bidding Requirements
- 21-5-6 Awarding Construction Contracts not Requiring Sealed Bidding
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- 21-5-26 Irrevocable Transfer by Contribution, Donation, or Gift to Qualifying Entities
- 21-5-27 Conveyance Documents
- 21-5-28 Validity of Actions

**21-5-1 Provisions for Purchasing.**

- (1) No purchases shall be made and no encumbrances shall be incurred for the benefit of the City:
- (a) Except as provided in this Title and in Utah Code Ann. § 10-6-122, 10-6-123, 10-6-139, 11-39-101 et. seq. and 72-6-109, and other sections of the as may be applicable;
- (b) Unless funds sufficient to cover the purchase or encumbrance have been designated in the budget and are available and the purchase is approved by the appropriate Purchasing Agent as set in this Title. Any obligation contracted by any unauthorized official shall not be valid or enforceable against the City; and,
- (c) Purchases are processed as established in the procedures manual referenced in § 21-4-4(2) and this Title.

*History: 05/11*

(2) No Employee or Officer of the City shall purchase for and on behalf of the City any material or supplies, goods, wares, merchandise, services of any kind or character, except as provided for by this title and other administrative procedures. No voucher, check, or other methods of payment shall be honored if this method is not followed; however, this subsection shall not apply to emergency purchases as specifically provided for in § 21-5-15.

(3) The City Recorder shall sign all contracts made on behalf of the City and shall maintain a properly indexed record of all such contracts.

*History: 4/84, 9/84, 12/94, 05/11*

**21-5-2 Acquisition of Supplies, Materials, and Equipment.**

(1) In order to promote overall economy and the best use for the purpose intended, the City administration shall be responsible for assuring that all purchases or contracts for purchase shall obtain the desired supplies, materials, and capital assets for the lowest possible price.

(2) Purchases or contracts for purchases of capital assets designated in the approved budget must be approved by the City Manager or his designee.

(3) Purchases or contracts for purchases of capital assets not established in the approved budget shall be subject to approval by the Council.

(4) Purchases or contracts for purchase of supplies, materials or equipment costing the City \$25,000.00 or more must be approved by the Council, even those established in the budget.

(5) Open market procedures as set forth in § 21-5-7 may be used for purchases or contracts for purchase of supplies, materials, or equipment costing the City less than the bid limits established in § 21-3-1. A written record of the informal quotations shall be made and kept by each department for three (3) years after the order of supplies, materials, or capital assets.

(6) Notwithstanding the process in § (5) above, the City Manager may require any purchase for supplies, materials or equipment to go through competitive sealed bidding if in his determination such actions would be in the best interests of the City.

(7) Formal bidding, as set forth § 21-5-8 shall be

used for purchases or contracts for purchases where the cost to the City is in excess of the bid limits established in § 21-3-1.

(8) The restriction contained in § (4) and (6) above shall not apply whenever the requesting department determines in writing, to the satisfaction of the Council, that there is only one source for the requisitioned item or that the use of open market procedures or formal bidding is either not practicable or advantageous to the City under the circumstances.

*History: 4/84, 9/84, 12/94, 05/00, 05/11*

### **21-5-3 Acquisition of Services.**

(1) Contracts for services that are outlined in the approved budget, costing the City less than the bid limits established in § 21-3-1 annually must be approved and authorized by the City Manager or his designee.

(2) Contracts for services where the cost to the City is in excess of the bid limits established in § 21-3-1 annually must be approved by the Council, even those approved in the budget.

(3) Open market procedures, as set forth in § 21-5-7, will be used for all contracts for services with the exception of contracts for architectural, engineering, legal, computer programming, or other professional or technical services. These types of service contracts shall be negotiated for on the basis of demonstrated competence and qualification and at fair and reasonable prices.

(4) Nothing in this Section shall be construed to require bids on contracts let for the management of any of the departments, business, or property of the City.

(5) The City Manager may require any acquisitions of services to be bid formally if, in his determination, such actions would be in the best interests of the City.

*History: 4/84, 9/84, 12/94, 05/00, 05/11*

### **21-5-4 Construction of Building Improvements and Public Works Projects.**

(1) When the City shall contemplate making any building improvement or public works project to be paid for out of the funds of the City, the City shall cause appropriate plans, specifications, and an estimate of the cost of the building improvement or public works project to be made. If the estimated cost of a building improvement or public works project exceeds the bid limits established in Utah Code Ann. § 21-3-1 of this Title or § 11-39-101, the City shall call for formal competitive bids as outlined in § 21-5-8.

(2) Building improvements or public works projects shall not be divided into parts to avoid subjecting the City to the bidding requirements. However, they may be divided

if the City complies with the bidding requirements with respect to each divided part of the building improvement or public works project.

### **21-5-5 Exceptions to Bidding Requirements.**

The following are exceptions to the bidding requirements.

(a) The building improvement or public works project is below the bid limits;

(b) The building improvement or public works project is undertaken in an emergency to eliminate an imminent risk of damage to or loss of public or private property and such action shall be limited to the elimination of the imminent risk;

(c) The expense is to remedy a condition that poses immediate physical danger; or,

(d) The expense is to reduce a substantial, imminent risk of interruption of an essential public service, the City Manager may proceed to direct the improvements be made.

*History: 05/11*

### **21-5-6 Awarding Construction Contracts not Requiring Sealed Bidding.**

(1) Construction contracts costing the City less than the bid limit must be approved by the City Manager or his designee.

(2) Construction contracts costing the City more than the bid limit must be approved by the Council.

(3) Open market procedures, as set forth in § 21-5-7, may be used for awarding construction contracts costing the City less than the bid limit for public works projects and general fund improvements.

(4) Formal bidding, as set forth in § 21-5-8, will be used for awarding construction contracts costing the City more than the bid limit for public works projects and general fund improvements.

(5) For Class "C" roadway construction and maintenance as defined in Utah Code Ann. 72-6-109, formal bids are required for construction projects over the bid limit.

(6) The City Manager may require any construction contract for construction to be bid formally if, in his determination, such actions would be in the best interests of the City.

*History: 4/84, 9/84, 12/94, 05/00, 05/11*

**21-5-7 Open Market Procedure.**

(1) Open market purchases shall, whenever possible, be based upon at least three (3) bids or price quotations submitted either in person, by telephone, or in writing as required by the City Manager.

(2) Notwithstanding the foregoing, purchases costing less than \$5,000.00 that are not a capital asset shall not require solicitation of bids, but shall nevertheless require the purchase of goods at the lowest possible cost to the City.

*History: 4/84, 9/84, 12/94*

**21-5-8 Competitive Sealed Bidding.**

(1) If the City determines to proceed with the building improvement or public works project, it shall request bids by: (reference R33-3-104)

(a) Publishing notice once a week for three consecutive weeks in a newspaper of general circulation within the County prior to the opening of bids; and,

(b) On a website established by the collective efforts of Utah's newspapers.

(2) Except as provided in § 21-5-5 above and § 21-5-9, enter into a contract for completion of the building improvement or public works project with the lowest responsive responsible bidder.

*History 9/11*

**21-5-9 Rejection of Bids.** At its discretion, the Council may reject any or all bids presented, and all notices calling for bids shall so state. If all bids are rejected and the Council decides to continue with the purchase contract, it shall advertise anew in the same manner as before. If after twice advertising and no bid is received that is satisfactory, the City may proceed under open market procedures outlined in § 21-5-7.

**21-5-10 Bid Bonds.** The City Manager may require as a condition of bidding a bid bond or a cashier's check in lieu thereof in the amount of five percent (5%) of the amount bid. Such bid bond shall be required on public works projects.

**21-5-11 Award of Bids.**

(1) Except as noted in § 21-5-9, within 30 days of the bid opening, the Council shall award the bid to the lowest responsive responsible bidder.

(2) If the low bid is rejected, a full and complete statement of the findings and reasons shall be prepared by the City Manager, approved by the City Council and filed with the other papers relating to the transaction.

**21-5-12 Performance Bonds.** Before entering into a

contract the Purchasing Agent may require a performance bond in such amounts as he shall find reasonably necessary to protect the best interests of the City and to assure complete, proper, and full performance of the contract. A performance bond shall be required on public works projects.

*History: 4/84, 9/84, 12/94, 05/00*

**21-5-13 Exemptions to Competitive Bidding Requirements.**

(1) Whenever the requesting department head and the City Purchasing Agent concur that a particular product surpasses competing products in terms of quality, serviceability, and longevity, such a product may be purchased notwithstanding that a competing product could be procured for less cost.

(2) If the City Purchasing Agent determines the supplies, materials or equipment can be purchased at any public auction, closeout sale, bankruptcy sale or other similar sale, and if a majority of the Council at a regular or special meeting concurs in such determination and makes a finding that a purchase at any such auction or sale will be made at a cost below the market cost in the community, a contract or contracts may be let, or the purchase made without complying with the competitive bidding requirements of this Chapter.

*History: 4/84, 9/84, 12/94, 05/11*

**21-5-14 Purchases of Real Property.**

Negotiations for purchases of real property shall be directed by the City Manager or his representative. The final purchase price must be approved by the Council.

*History: 4/84, 9/84, 12/94*

**21-5-15 Emergency Purchases.**

(1) Definition of Emergency Conditions. An emergency condition is a situation which creates a threat to public health, welfare, or safety as may arise by reason of floods, epidemics, riots, equipment failures, or other reason as may be determined by the City Purchasing Agent. The existence of this condition creates an immediate and serious need for supplies, services, or construction that cannot be met through normal procurement methods.

(2) Scope of Emergency Procurements. Emergency procurement shall be limited to only those supplies, services, or construction items

necessary to meet the emergency.

(3) Authority to Make Emergency Procurements. The Purchasing Agent may delegate to any employee to make emergency procurements of up to an amount set forth in the delegation.

(4) Source Selection Methods.

(a) General. The source selection method used shall be selected with a view to the end of assuring that the required supplies, services, or construction items are procured in time to meet the emergency. Given this constraint, competition that is practicable shall be obtained.

(b) Determination of Emergency Procurement. The Purchasing Agent shall make a written determination stating the basis for an emergency procurement and for the selection of the particular supplier. The determination shall be sent promptly to the City Council.

*History: 4/84, 9/84, 12/94; 05/11*

**21-5-16 Prohibited Practices.**

(1) Gratuities. Gratuities are prohibited as stated in Utah Code Ann. § 10-3-1304, 63G-6-1001 and 1002, as amended.

*History: 05/11*

(2) Personal purchases. Purchases of supplies or equipment for the personal use of an official or employee of the City shall be made only when the item or items are required parts of a worker's equipment and are necessary to the successful performance of the duties of such City official or employee. Other personal purchases shall not be permitted and shall be cause for disciplinary action.

*History: 4/84, 9/84, 12/94*

**21-5-17 City Force Construction.** Notwithstanding anything in this title to the contrary, the City shall retain the discretion to accomplish public works projects and other new improvements using its own personnel and equipment without requiring bids as allowed by Utah law.

*History: 4/84, 9/84, 12/94*

**21-5-18 Change Orders of Contracts.** The City Manager is authorized to approve change orders to prevent work stoppage in an amount not to exceed 10% of any contract, when such added expense is in the best interest of the City. Change orders exceeding this amount must be approved by the Council. Change orders are to be reported to the Council at a subsequent Council meeting.

*History: 05/00; 05/11*

**21-5-19 Pre - Qualification of Bidders, and Suppliers.** Where deemed appropriate by the City, bidders, or

suppliers may be pre-qualified for particular types of supplies, services, and construction to determine the responsibility of such bidder or supplier.

(1) Standard of responsibility. Factors to be considered in determining whether the standard of responsibility has been met by a bidder or supplier include:

(a) 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;

(b) A satisfactory record of performance;

(c) A satisfactory record of integrity and reliability;

(d) Legal qualifications to contract with the City; and,

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

(2) Information pertaining to responsibility. The bidder or supplier shall supply information requested by the City concerning the responsibility of such bidder or supplier. If such information is not supplied, City shall base the determination of responsibility upon any available information or may find the bidder or supplier nonresponsible if such failure, as determined by City, is unreasonable.

*History: 05/11*

**21-5-20 Disposition of Real Property.** The process outlined in Title 28, Chapter 3, shall be followed when dealing with the disposition of real property.

*History: 05/11*

**21-5-21 Disposition of Capital Assets and Supplies.** No buildings, improvements, equipment, or other assets classified as a capital asset per § 21-3-1, or supplies with an aggregate value of Three Thousand Dollars (\$3,000.00) or more, shall be transferred, traded, sold, salvaged, discarded, or destroyed, except as provided in this Title. Buildings, improvements, equipment, or other assets not classified as a capital asset per § 21-3-1, may be disposed at the direction of the City Manager as deemed appropriate without regard to this Title, yet with the objective of obtaining optimum value for the City.

*History: 05/11*

**21-5-22 Identification, Review, and Approval for Disposal.**

(1) Department directors shall, at the direction of the City Manager, identify surplus capital assets within their departments and report the surplus to the City Manager. The City Manager shall review the reports with department directors to determine whether the property is in fact surplus and the method of disposal of the surplus property.

(2) Upon written approval of the City Manager such property may be disposed of as directed and in a manner consistent with this Chapter.

*History: 05/11*

**21-5-23 Methods of Disposal.** Capital assets and supplies with an aggregate value of Three Thousand Dollars (\$3,000.00) or more and determined to be surplus under the criteria set forth in this Title shall be disposed of by any of the following methods:

(1) Interdepartmental transfer. Transfers between departments within may be made without regard to monetary value exchange. The book value of the asset at the time of transfer will be shifted to the receiving department/division on the fixed asset schedules.

(2) Trade-in. Surplus capital assets may be traded for other property or equipment being purchased.

(3) Sale. The City Manager may conduct sales of surplus capital assets by:

(a) Sealed bid or public auction, unless stated otherwise in this Title, in accordance with § 21-5-24, of this Chapter. Notice of the sale or auction shall be given by publication in a newspaper of general circulation in the City at least five (5) days prior to the opening of bids or the date of the auction.

(b) Through a private auction company.

(4) Salvage, discard, or destruction. Capital assets shall not be salvaged, discarded, or destroyed without the express authorization of the Council.

(5) Replacement. Capital assets approved for replacement in the annual budget by the Council may be disposed by any of the means set forth in this Chapter without further action of the Council. Department directors, with approval of the City Manager, may trade the item for the replacement item without further application of this Chapter. All other disposal means must comply with the provisions of this Title.

(6) Irrevocable transfer. Capital assets may be disposed by contributing, donating, or making a gift of the property to another governmental unit, civic, or nonprofit

organization in accordance with § 21-5-26, of this Chapter.

*History: 05/11*

**21-5-24 Conveyance for Value.**

(1) Every transfer, sale, or trade of property classified as a capital assets per § 21-3-1, or supplies with an original purchase price to the City of Three Thousand Dollars (\$3,000.00) or more, shall be based upon the highest and best economic return to the City, except that special consideration may be given to other units of government, other public organizations, quasi-public organizations, or nonprofit organizations. If a transfer is made to a qualifying governmental, public, quasi-public, or nonprofit entity, the value of the item transferred may be determined by the City Manager, or by a method specified by the City Manager and shall be conducted in conformance with § 21-5-26 and this Chapter.

(2) The highest and best economic return to the City, as referred to in this Title, shall be determined by one or more of the following methods:

(a) Sealed competitive bid;

(b) Public auction;

(c) Valuation by qualified and disinterested consultant;

(d) Other professional publications, auctions and valuation services; or,

(e) An informal market survey in the case of items possessing readily discernible market value.

(3) The sale of capital assets shall be directed by the Treasurer and shall be by sealed bid or public auction pursuant to § 21-5-23(3). The City Manager may waive the sealed bid or auction requirement when the value of the property has been valued by an alternate method specified under this Subsection, and:

(a) The value of the property is considered negligible in relation to the cost of sale by bid or at public auction;

(b) Sale by bidding procedures at public auction are deemed unlikely to produce a competitive offer; or,

(c) Circumstances indicate that bidding or sale at public auction will not be in the best interests of the City.

*History: 05/11*

**21-5-25 Disposition of Proceeds.** All revenue derived from sales of personal property shall be credited to the general fund of the City, except when the property is owned and was purchased by an enterprise fund or an internal service fund, in which case the revenues shall be credited to the enterprise or internal service fund which owned the property.

*History: 05/11*

**21-5-26 Irrevocable Transfer by Contribution, Donation, or Gift to Qualifying Entities.**

(1) If determined to be in the best interest of the City, capital assets may be disposed by contribution, donation, or gift to another governmental unit, civic, or nonprofit organization, which meets the following criteria:

- (a) The entity has obtained an exemption pursuant to Section 501(C)(3), Internal Revenue Code, from the Internal Revenue Service;
- (b) The entity exists primarily to serve the needs of the public; and,

(c) The property is to be used for bona fide public purposes with only incidental benefit to the nonprofit entity.

(2) Written requests for transfer to a qualifying agency shall be made to the City Manager. The City Manager shall determine the value of the property to be transferred as directed in § 21-5-24.

*History: 05/11*

**21-5-27 Conveyance Documents.** The City Treasurer will convey any capital asset by signing and executing the appropriate title, bill of sale, or other document.

*History: 05/11*

**21-5-28 Validity of Actions.** No provision of this Title shall be construed to require or to invalidate any conveyance by the City nor to vest rights of action of any kind against the City, its Officers, or employees.

*History: 05/1*

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