LEBANON DIVERSITY, EQUITY, AND INCLUSION COMMISSION
DECEMBER 13, 2022 - 6:00 PM
COUNCIL CHAMBERS, CITY HALL OR REMOTE VIA VIRTUAL PLATFORM LEBANONNH.GOV/LIVE

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1. Call to Order

A. The December 13, 2022, Diversity, Equity & Inclusion Commission (DEI) Meeting is hereby called to order.

2. Approval of Minutes

A. November 15, 2022

3. Old Business: None

4. New Business

A. Share feedback on Strategic Plan – LebanonNH.gov/StrategicPlanBoard

B. Share feedback on Administrative Purchasing Policy and the companion Council Policy

C. Discussion about inclusiveness of holiday recognition and celebration - Councilor Wilkie

D. Committee liaison reporting:

1. Heritage Commission
2. Arts & Culture Commission
3. Hartford Committee on Racial Equity and Inclusion (HCOREI)

5. Open to the Public

Any member of the public who desires to speak on any item may do so when the item is taken up by the Commission and will be allowed to speak on the subject for not more than three minutes. (Note: Speakers are asked to state their name, ward of residence, and to use the microphone provided.)

6. Future Agenda Items

A. Discuss City Historian writeup for History page – Nicole Ford Burley will share after she has had time to consult with a number of sources

B. REAL training follow-up, how is internal process working? – Each of the subgroups come to DEI Commission meeting to report. Also, review results of employee survey.

C. DEI for business – Councilor Wilkie

D. Housing statement – Invite Community Loan Fund to DEI Commission meeting

E. Community Safety Review – Councilor Wilkie, should internal process be complemented by an outside assessment?

F. Review of discrimination survey results and goal setting – Chair Emily Walton and Vice-Chair Bise Wood Saint Eugene

G. Trans and Queer youth services – Tia Winter

H. Consider DEI aspects of population growth due to climate change

I. Goal setting for 2023

1. Continue with educational initiatives

   a. Monthly observances and celebrations - Can we be more inclusive by linking to a static calendar like this? https://diversity.fsu.edu/resources/monthly-observances-and-celebrations
   b. Respond to events with informational statements

2. Continue with Listening Sessions

   a. Volunteers, dates, and locations?

3. Continue community events. Partner with community groups (Upper Valley BIPOC Network, JAG Productions, LOH)

   a. PRIDE (June)
   b. Juneteenth (June 19)
   c. Frederick Douglass reading (July 4)
   d. Multicultural Festival (August)

7. Other Business

8. Adjournment

Meetings are open for in-person and remote attendance. Members of the public that wish to attend remotely may do so by going to LebanonNH.gov/Live where you will find instructions on how to enter the meeting. Members of the public will be able to participate and ask questions through the City's virtual platform or by phone. Please note: Should technical difficulties occur during the meeting that disrupts virtual or phone connection(s), the meeting will continue without remote access capabilities.

DRAFT

CITY OF LEBANON
DIVERSITY, EQUITY, & INCLUSION COMMISSION
November 15, 2022— 6:00pm
COUNCIL CHAMBERS, CITY HALL or
Remote Via Microsoft Teams: LebanonNH.gov/LIVE

MEMBERS PRESENT: Richard Ford Burley (Secretary); Nancy Graham (Public Representative); Keiselim Montas (Public Representative); Alisha Robinson (Public Representative); Bise Wood Saint Eugene (Vice-Chair) (via telepresence); Emily Walton (Chair); Devin Wilkie (City Council Representative); Simone Whitecloud (Public Representative Alternate) (via telepresence); Tia Winter (Public Representative)

MEMBERS ABSENT: Karen Liot Hill (City Council Representative); Karen Zook (City Council Alternate)

STAFF PRESENT: Shaun Mulholland (City Manager)

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1. CALL TO ORDER

Chair Emily Walton calls the November 15, 2022 Diversity, Equity & Inclusion Commission (DEI) Meeting to order at 6:00pm.

2. APPROVAL OF MINUTES

A. October 18, 2022

A MOTION by Devin Wilkie to approve the minutes of the meeting, as presented. Keiselim Montas seconds The Motion.
****The Motion is approved unanimously.***

3. OLD BUSINESS

4. NEW BUSINESS

A. Review land acknowledgment language for DEI Commission website and City Council.

Nancy Graham reads the text of the recommended land acknowledgement and accompanying guidance.

A MOTION by Chair Emily Walton to forward the land acknowledgement and accompanying guidance on to the City Council and ask that they forward it to all the other boards and committees in the city. Devin Wilkie seconds The Motion.
****The Motion is approved unanimously.***

B. Secure commitments for discrimination survey outreach and distribution of QR code.

Chair Emily Walton reports back on progress made since the last Commission meeting, then distributes publicity leaflets for Commission members to hand out when canvassing. Commission members commit to go out into the community and distribute them.

C. Open discussion of goal setting for 2023.

Commission members brainstorm plans and goals for the Commission in 2023. Members agree to bring items to Chair Emily Walton as needed for inclusion in future agendas.

5. OPEN TO THE PUBLIC

No discussion.

6. FUTURE AGENDA ITEMS

7. OTHER BUSINESS

A. December meeting rescheduled

The December meeting of the DEI Commission is rescheduled to December 13, 2022, from 6-7pm, as it is determined that a quorum would be impossible on the originally scheduled date.

8. ADJOURNMENT

Chair Emily Walton adjourns the meeting at 6:45pm.

City of Lebanon
New Hampshire

ADMINISTRATIVE POLICIES & PROCEDURES

PROCUREMENT ADMINISTRATION POLICY

Policy Number	Effective Date	Last Revision	Page No.
ADM-110			Page **1** of **14**
Approved by:			

SECTION 1.0: PURPOSE

To establish additional administrative procedures and dollar thresholds and guides the methods of source selection in accordance with the City Council's Purchasing Policy; and to establish a consistent procedure for the orderly and expeditious processing of contracts, agreements or other instruments of obligation binding the City in the purchase of supplies, services and construction items.

SECTION 2.0: SCOPE

This Policy applies to all departments and functional areas of the City.

SECTION 3.0: DEFINITIONS

Contract is a written agreement, relative to services, products, tenancy, that is intended to be enforceable by law.

Change Order is a written alteration to a contract or purchase order in accordance with the terms of the contract unilaterally directing the contractor to make changes.

Modification is a written alteration to a provision of any contract accomplished by mutual agreement of the parties to the contract.

Memorandum of Agreement (MOA): An MOA is a document written between parties to cooperatively work together on an agreed upon project or meet an agreed upon objective. The purpose of an MOA is to have a written formal understanding of the agreement between parties.

Memorandum of Understanding (MOU) is a document describing the broad outlines of an agreement that two or more parties have reached.

Purchase Agreements are contracts, agreements or other instruments of obligation binding the city in the purchasing of supplies, services and construction items that are formal documents and not price quotations or purchase orders.

Purchase Orders authorize a vendor to release goods or services to the City and informs him/her that funds are available to pay for the goods or services. A purchase order becomes a binding obligation when the vendor demonstrates his/her acceptance through initiation of some action to fill the order.

Purchase Requisitions establish the need and provide justification for any supplies, services and construction items and should be completed, with appropriate substantiating documentation attached, in its entirety to include justification, suggested suppliers and/or contractors, quantity, specifications, account code for funding, vendor number when applicable, shipping, delivery and production timetables and details, and pricing.

RFI-Request For Information- is a formal process for gathering information from a potential suppliers of a good or service.

RFP-Request For Proposals- is a formal process to announce a project, describes it, and solicits bids from qualified contractors/vendors to complete the project.

RFQ-Request For Qualifications- is a formal process for requesting and receiving information from learned experts to determine their ability and demonstrated competence to provide services to the City.

LGBT Owned Business Enterprise means a business enterprise that is 51 percent owned, managed, operated, and controlled by one or more lesbian, gay, bisexual, or transgender (LGBT) individuals.

Local Owned Business Enterprise means a business principally located within the City of Lebanon and whose management and daily operation is controlled by the qualifying party(s).

Minority Owned Business Enterprise is a business which is at least fifty-one percent (51%) owned by one or more persons who is a member of a minority group and whose management and daily operation is controlled by the qualifying party(s). Minority groups are defined 42 USC 7141 as Asian Americans, Native Hawaiians, a Pacific Islander, African American, Hispanic, Puerto Rican, Native Americans and Alaska Natives.

Small Owned Business Enterprise is a business which (a) is at least fifty-one percent (51%) owned by one but not more than 10 persons (b) the owner has a personal net worth less than $10 million a year; (c) is located within the Claremont-Lebanon, NH-VT micropolitan statistical area and finally (d) has been in business a minimum of 1 year.

Veteran Owned Business Enterprise is a business which is at least fifty-one percent (51%) owned by one or more veterans and whose management and daily operation is controlled by the qualifying party(s).

Women Owned Business Enterprise is a business which is at least fifty-one percent (51%) owned by one or more women and whose management and daily operation is controlled by the qualifying party(s).

SECTION 4.0: POLICY DETAIL

As the principal contracting officer of the City, all purchase agreements require City Manager approval; are subject to and contingent on City Manager approval; and shall be entered into subject to the provisions of this policy and the City's Purchasing Policy CC-103 as revised.

SECTION 5.0: PROCEDURES

5.1 Duties and Authority

The City Manager or Deputy City Manager in the absence of the City Manager shall approve purchase agreements equal to or greater than $5,000; department heads have authority to commit the City in purchasing-related agreements of less than $5,000 unless otherwise authorized in this policy. Department heads may authorize their personnel to make retail and other purchases via credit card as long as those purchases are less than $5,000 and in conformance with the provisions of the Credit Card Policy, ADM-106 as revised.

5.2 Purchasing Thresholds

Use of purchase orders are required for purchases of $5,000 or more. Purchase orders must be issued for purchases equal to or greater than $5,000; City Manager or in the absence of the City Manager, Deputy City Manager approval is required. Purchase orders may be issued for purchases of less than $5,000 without City Manager or Deputy City Manager approval. Certain purchases are not readily adaptable to the use of purchase orders. Exceptions from this Policy shall be considered on a case-by-case basis by the City Manager and incorporated as part of this policy by reference.

Purchasing Type	Approval Levels	Approving Authority
Small Purchases	**< or =$5,000**	**Dept Heads**

Medium Purchases	**$5,000-$50,000**	**City Manager**
Large Purchases	**> or=$50,000**	**City Manager**
Software Purchases	**All software programs**	**Software Review Committee**

5.3 Purchasing Types

There are four levels of purchasing requirements. Small purchases, medium purchases, large purchases and software purchases.

5.3.1 Small Level Purchases

Small purchases are considered informal procurement actions. Procurement requirements shall not be artificially divided so as to constitute a small purchase.

Total price is $5,000 or less, it shall be made after adequate inquiry based on the department head or his/her designee's knowledge of a reasonable price and satisfactory quality.

5.3.2 Medium Level Purchases

Products and services that have a total price more than $5,000 but less than $50,000. When the total price is greater than $5,000, and not more than $50,000, purchases shall be made using written price or rate quotations from an adequate number of suppliers/providers. If available, a minimum of three quotations from qualified suppliers/providers shall be obtained. Such price and rate quotations, the date of such quotations and the names of suppliers shall be documented.

5.3.3 Large Level Purchases

Large purchases are considered formal procurement actions and shall solicited in a formal bid process unless the product or service is on a formal bid contract such as a state bid list. Large purchases involve products, projects or services that exceed $50,000.

5.3.4 Purchasing of Software or Software as a Service

Computer and cyber-related purchases must be approved beforehand by the Cyber Services Dept. Software programs installed on a local hard drive may interact negatively with existing programs. All employees must therefore consult with the Cyber Services Dept. before purchasing or installing any software. The Software Review Committee shall review and approve all requests for the purchase of software or software as a service. This requirement is an additional requirement to the other requirements for purchasing.

5.3.5 Emergency Purchasing

The City Manager may suspend provisions of this policy and implement streamlined purchasing provisions when an emergency is declared by the City Manager in accordance with the City's Emergency Operations Plan.

5.4 Development of Specifications for a Quote, Bid or RFP

5.5 Bond Requirements

The City has three types of bond requirements for contractors of services or products procured by the City.

5.5.1 Payment Bonds

Contracts entered into with the City for the construction, repair or rebuilding of public buildings, public highways, bridges or other public works shall if said contract involves an expenditure of $125,000 or may if it involves an expenditure of less amount, obtain as a condition precedent to the execution of the contract, sufficient security, by bond or otherwise, in an amount equal to at least 100 percent of the contract price, or of the estimated cost of the work if no aggregate price is agreed upon, conditioned upon the payment by the contractors and subcontractors for all labor performed or furnished, for all equipment hired, including trucks, for all material used and for fuels, lubricants, power, tools, hardware and supplies purchased by said principal and used in carrying out said contract, and for labor and parts furnished upon the order of said contractor for the repair of equipment used in carrying out said contract.

5.5.2 Performance Bonds

The liens given by RSA 447:5-14, inclusive, shall attach to any money due or to become due from the City virtue of any contract for any public work or construction, alteration, or repair, in the performance of which contract the lienor participated by performing labor, providing professional design services, or furnishing materials or supplies. Such liens shall not attach, however, unless filed within 90 days after the completion and acceptance of the project by the contracting party, whether such contracting party is the City.

5.5.3 Bid Bond

A bid bond protects the City in a construction bidding process. It is a guarantee that the bidder, provide to the City to ensure that if the bidder fails to honor the terms of the bid, the City will be compensated. A bid bond is typically obtained through a surety agency, such as an insurance company or bank, and it helps guarantee that a contractor is financially stable and has the necessary resources to take on a project. Bid bonds are generally 5% to 20% depending upon the project.

5.6 Insurance Requirements

Insurance requirements will vary depending upon the types and dollar value of services being provided. There are several key components that must be considered and where appropriate added to contract language.

1. Listing the City as an additional insured party. The Certificate of Insurance (COI) must clearly indicate the City is an additional insured party for the particular coverage area.
2. Some services or products may should have language that indemnifies the City for liability and legal representation regarding claims that might be filed against the City as a result of the actions or omissions of the contractor.
3. Environmental insurance coverage is an important coverage area for work that poses a risk of contamination or the need to for environmental cleanup.
4. Cyber breach or cyber security coverage for providers providing software as a service, those collecting and retaining personal identifying information or other private/sensitive information.
5. Workers Compensation insurance coverage for contractors providing services to the City. WC coverage only required for contractors that have employees. If the contractor is the sole employee and the owner of a company WC coverage is not required under present state statutes.
6. Coverage limits for liability insurance and other coverage areas must be considered. The City has templated language which includes standard insurance coverage limits. The City Manager may waive some of the

templated limits at the request of a department director when appropriate depending upon the project or service provided.

7. Builder's Risk insurance must be provided with an insurance certificate to the City naming the City as the payee for building construction projects.
8. Contractors utilizing vehicles as a component of the service provided must show proof of automobile insurance.
9. Professional liability insurance for architects, engineers, surveyors, or other industry professionals must be provide, naming the City as an additional insured.

The City's insurer provides templated language for indemnification and insurance requirements. It is incumbent upon departments to ensure contractors working for the City have updated certificates of insurance that are active, not expired, when the contractor is performing work for the City.

5.7 Contracts

Contracts and other agreements are important documents to ensure the City and the supplier/provider are clear as to that the responsibilities are of each of the parties involved in the agreement.

5.7.1 Signatory for Contracts, Agreements and Memorandums of Understanding relative to purchasing

The City Manager is the only official authorized to execute contracts or agreements regarding the purchasing of services or other agreements which create a financial liability on the City short or long term (beyond the present budget year).

5.7.2 Change Orders

Change orders to contracts may be executed according to change order clauses provided for in the original contract provided the change order does not materially change the scope of the original procurement. All change orders must be approved by the City Manager or designee.

5.8 Conflicts of Interest

No employee, officer or agent (E/O/A) operating on behalf of the City shall participate in the selection, award, and/or administration of a contract if a conflict of interest with regards to tangible personal benefit, real or reputed, would be involved (references F and H). In addition to an E/O/A, this further includes his/herspouse/partner, and family members.

It is a violation of this policy for any person identified above to;

1. Sell goods and/or services, regardless of the amount, to any customer department without participating in a competitive quote process solicited by the City.
2. Knowingly misrepresent a vendor's prices, quality, or services to obtain concessions.
3. Participate in the evaluation or recommendation of a solicitation process if the person holds an interest in any business or undertaking which maybe directly and substantially affected to its' economic benefit by an official action to be taken.
4. Assist a vendor in:
a. preparing their response to a Bid, RFP, Quote, or Statement of Qualifications, or
b. to share procurement-sensitive information related to a competitive procurement with vendors without providing it to all vendors through an addendum process. Procurement-sensitive information includes, but is not limited to, Requirements, Specifications, Statements of Work, or Evaluation Criteria.
5. Participate in the evaluation or recommendation of a solicitation process if a vendor would be perceived as having an unfair advantage because of activities or relationships with a member of the evaluation team or decision-maker.
6. Fail to adhere to ADM-108 Ethics Policy or Council Ethics Policy CC-108 as applicable.

5.9 Waivers of Purchasing Procedures

There are occasions in which departments may request a waiver of the purchasing process, described below. A purchase order, approved insurance and a contract if for services greater than $50,000, are required for all waivers of the purchasing process. Note: Unless an alternate period of time is identified in the waiver approval, a waiver may be used once.

5.9.1 Quote Waiver (for goods or services ranging between $5,000.01 - $50,000).

A waiver of the Informal (quotation) process ($5,000.01 - $50,000.00, three (3 quotes), which may be requested by a department when they have compelling reasons. Such a request must be requested in writing to the City Manager, and must include all details of the requested purchase, including scope of work /pricing document (quotation, proposal) from the vendor for which the waiver is sought, and a thorough fact-based explanation as to why the City Manager should consider waiving the informal solicitation process. If approval is obtained, both the department's written request, including any referenced documents and the City Manager's approval, must be attached to the requisition for a purchase order.

5.9.2 Bid Waiver (for goods or services $50,000.01 or greater)

A waiver of the formal solicitation process ($50,000.01 or greater, Bids and RFPs) may be requested by the department when they have compelling reasons. Such a request must be made in writing to the City Manager, and must include all details of the requested purchase, including a scope of work /pricing document (quotation, proposal) from the vendor for which a waiver is sought and a thorough fact-based explanation as to why the City Manager should consider waiving the formal solicitation process. If approval is obtained, both the department's written request , including any referenced documents and the City Manager's approval, must be attached to the requisition for a purchase order.

5.9.3 Sole Source (greater than $5,000)

A waiver of the informal or formal solicitation process (quotes, bids and RFPs, anything greater than $5,000) in the form of a Sole Source may be requested by the department when there is only one vendor able to provide the good or service. Such a request must be requested of the City Manager, in writing, and must include all details of the requested purchase, including a scope of work /pricing document (quotation, proposal) from the vendor for which a Sole Source is sought, documentation of Sole Source justification including a thorough explanation and documentation detailing the nature and proof of the Sole Source. If approval is obtained, both the department's written request, including any referenced documents and the City Manager's approval, must be attached to the requisition for a purchase order.

5.10 Debarred or Suspended Vendors

The City will not award a solicitation to a vendor that has been debarred or suspended by the federal, state or the City. The City Manager may suspend or debar a vendor from providing goods or services to the City for violations of law.

5.11 Equipment Leasing and/or Purchases

Leasing of vehicles or equipment must be approved in advance by the City Manager. The City Manager or Deputy City Manager when designated is the only official authorized to enter into a lease agreement. Contractual language for lease or lease to own must either contain a non-appropriation clause or require approval from the City Council with a supermajority vote.

5.12 Sustainability Preferences

Staff will work to reduce or eliminate the negative environmental effects of all purchasing decisions to the degree feasible. This includes the following:

1. Consult and use green purchasing authorities – Energy Star, LEED, etc.
2. Base purchasing decisions on life-cycle costs of products and services
3. Evaluate the environmental performance of vendors and products
4. Require that contractors minimize waste and maximize recycling
5. Inform contractors and service providers about the City's Environmental Purchasing Policy
6. Understand the toxicity and environmental harm of products to be purchased and seek to find benign alternatives
7. Maximize recycled content and recyclability of purchased materials
8. Include relevant Environmental Purchasing language in the City's procurement software

A separate Environmentally Preferable Procurement Guidelines will be created to help City staff to achieve these objectives.

5.13 Cooperative Purchasing

This section details the use of piggybacking and cooperative purchasing.

5.13.1 Piggybacking

Piggybacking is defined as a form of intergovernmental cooperative purchasing in which a governmental entity has completed a solicitation (RFQ,RFI, RFP) with a competitive process similar to the City's, and identifies that the same pricing and terms of contract may be extended to other governmental entities. If agreeable to the originating governmental entity(either identified in their solicitation or obtained in writing from their Purchasing Director/Manager) and the award vendor, another governmental entity may use the same pricing and contract terms.

1. The City may piggyback on another governmental entity's competitively procured solicitation to obtain goods or services, providing the following requirements are met:

a. Proof of competitive procurement
b. Agreement from both the governmental entity and the vendor to piggyback
c. Vendor agrees to provide Larimer County the pricing they originally bid
d. More than one (1) vendor responded to the solicitation
e. Contract / Contract Renewal occurred within the last 12 months
f. Award vendor agrees to meet our insurance requirements
g. If any portion of the City purchase is Federally funded, or if your purchase is funded by any other type of grant, contact the City Manager's Office first, as it may not be allowable to piggyback.

2. Other governmental entities may piggyback on the City's solicitations to acquire goods and services, providing the following requirements are met:

a. The City Manager agrees; either as identified by the presence of piggyback/cooperative language in the solicitation, or obtained in writing from the City Manager;
b. The governmental agency shall deal directly with any vendor concerning the placement of Purchase Orders, freight charges, contracting and disputes, invoicing, and payment; and
c. The City shall not be held liable or responsible for any liability, claims, costs, damages, demands, actions, losses, judgments or expenses incurred by the vendor or any government entity relating to such use.

5.13.2 Cooperative Purchasing

Cooperative Purchasing is defined as a Formal Procurement conducted by a government Purchasing Cooperative on behalf of a governmental group with a common need, to aggregate demand and obtain lower prices. Some cooperatives cater only to specific forms of government, such as school districts or local government, so the cooperative's regulations must be reviewed thoroughly to ensure a City can utilize the contract. If any portion of the City purchase is Federally-funded, or if your purchase is funded by any other type of grant, contact the City Manager's Office first, as it may not be allowable to use a cooperative.

5.14 Requisition and Purchase Orders

5.15 Purchase Order Exceptions

The following purchases do not require a purchase order;

Utility Bills	Principal & Interest Payments on Bonds
Advertising	Welfare Payments
Travel	Legal & Audit Fees
Vehicle Allowance	Insurance Premiums
Subsistence & Support to Persons	Postage
Rents & Leases (after initial approval)	Designated Budgetary Transfers between Funds including to CRFs
Payroll Related Payments	Maintenance Agreements and Service Contracts for their 2nd and subsequent payments
Judgements & Claims	Subscription Renewals
Budgeted payments to Outside Human Service Agencies, Outside Recreation Organizations, Advance Transit, etc…	Remittance of Property Taxes Levied and Collected on Behalf of the School District, County or State
Annual Dues	Salt & Winter Sand

5.16 Procurement Records

All determinations and other written records pertaining to the solicitation, award or performance of a contract shall be maintained for the City in procurement software or appropriate records database. All procurement records shall be retained and disposed of by the City according to RSA 33-A, the records retention guidelines, Internal Revenue requirements, applicable grant requirements and schedules of the City.

5.17 Procurement Software System

All RFPs, RFQs and RFIs processes shall be conducted within the procurement software system.

1. Proposals must be submitted through the software system.
2. All contracts will be entered into the procurement software system to include insurance certificates and bonds.
3. Proposals, awards and contracts shall be available for public inspection through the procurement software program on the City's website unless they are exempted under applicable provisions of federal, state or local law.

5.18 Bulk Purchases

Whenever feasible, procurements shall be done in bulk to take full advantage of discounts. Purchasing departments shall be responsible for anticipating their needs in a timely fashion in order to consolidate and expedite procurement of the same type of items. A lead purchasing department(s) shall be identified for procurement of commodities or services that are most common in the City. The lead purchasing department shall accomplish the bulk citywide procurement action based on requirements identified by other departments. Capital outlay requirements shall be planned and scheduled for periodic bulk procurement actions based on approved budget quantities.

SECTION 6.0: REFERENCES (Charter/Code/State Statues)

1. NH RSA 31:3 General Powers and Duties of Towns
2. NH RSA 44:2 Cities and Wards, Provisions Applicable
3. City Charter Section 419:35 Purchasing Procedure
4. City Charter Section 419:37 Financial Control
5. City Charter Section 419:38 False Certification, Penalty
6. City Charter Section 419:39 Unauthorized Payment, Penalty

7. City Charter Section 419:20 Dealings of Council and City
8. City Charter Section 419:63 Private Use of Public Property
9. City Council Procurement Policy CC-103
10. Credit Card Policy ADM-106
11. Ethics Policy ADM-108
12. City Council Ethics Policy CC-108

SECTION 7.0: POLICY & PROCEDURE REVISION HISTORY

	Section	Revisions	Date
Original Adoption		06-01-A	6/10/2006
Amendment		08-02-A	7/5/2008
Amendment	All	ADM-110	
Amendment			

City of Lebanon
New Hampshire

COUNCIL POLICY			
Procurement Policy			
Policy Number	*Effective Date*	*Last Revision*	*Page No.*
CC-103		**06-02-C**	Page **1** of **8**
Approved by:			

SECTION 1.0: PURPOSE

This policy was created to establish purchasing procedures as required in § C419:35 **Purchasing Procedure.** The intent of this policy is to ensure the fair and equitable treatment of all persons who interact with the purchasing system of the City; to maximize fully practicable the purchasing value of public funds; to obtain in a cost-effective and responsive manner the materials, services and construction services required by the City to better serve the City's businesses and residents.

SECTION 2.0: SCOPE

This Policy applies to all departments and functional areas of the City.

SECTION 3.0: DEFINITIONS

Responsible Bidder or Offeror means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good fair performance.
Responsive Bidder means a person who has submitted a bid which conforms in all material respects to the Invitation for Bids.
Services means the furnishing of labor, time or effort by a contractor, not involving the delivery of a specific product other than reports which are merely incidental to the required performance.

SECTION 4.0: POLICY DETAIL

4.1 *General Application*

This Policy applies to the expenditure of public funds for public purchasing irrespective of the source of the funds. When purchasing involves the expenditure of federal or state grant or contract funds, purchasing shall be conducted in accordance with any mandatory applicable federal and state law and regulations. This Policy also applies to the disposal of City supplies. Nothing in this Policy shall prevent the City from complying with the terms and conditions of any grant, gift, bequest or cooperative agreement.

4.2 *Exceptions*
Certain purchases are not readily adaptable to the open market and formal competitive selection process. Exceptions from this Policy shall be considered on a case-by-case basis by the City Manager.

4.3 *Competition*

Fair and open competition reduces the opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically. Since the marketplace is different for various supplies, services and construction items this Policy authorizes a variety of source selection techniques designed to provide the best competition for all types of purchasing. It also permits less formal competitive procedures where the amount of the contract does not warrant the expense and time otherwise involved.

4.4 *Purchasing Methods*

Unless otherwise deemed in the best interest of the City all City contracts shall be awarded by one of the following methods: Competitive Sealed Bidding; Sole Source Purchasing; Emergency Purchasing; Special Purchases; and Purchasing Consultative and Professional Services Including Legal, Architectural and Engineering Services.

SECTION 5.0: PROCEDURES

5.2 City Manager Authority

The City Manager may make amendments to, or approve deviations from, this Policy if deemed in the best interest of the City. Certain purchases are not readily adaptable to the open market and formal competitive selection process. Exceptions from this Policy shall be considered on a case-by-case basis by the City Manager.

5.3 City Manager Duties

The City Manager shall develop, implement and maintain a purchasing system which shall be consistent with the provisions of the City Charter, City Code of Ordinances and City Council Policy which shall meet the following objectives:

A. To procure materials, supplies, equipment and services other than professional, at the lowest cost consistent with the quality and service rendered.

B. To establish clearly the responsibility for the purchasing functions as being vested in the City Manager.

C. To exercise positive financial control over purchases.

D. To provide an efficient means for procurement of materials, supplies, or equipment which avoids duplication and overstocking.

E. To establish and maintain standards of quality in materials, supplies, equipment and services other than professional, based on suitability for use.

5.4 Competitive Sealed Bidding

Purchasing by the City shall be made on the basis of competitive bids where practical. Competitive bidding is deemed generally impractical for the following sorts of purchases:

A. Goods or services valued at less than $50,000.

B. Professional or other services involving special skills, training, experience, and/or discretion;

C. Goods or services required in an emergency;

D. Goods or services available from a single source.

5.5 Bidding Process

A. For purchases by competitive bidding, a notice inviting bids shall be added to the City's procurement portal at least seven days preceding the last day set for the receipt of bids. Other forms of notice likely to come to the attention of prospective bidders may also be given.

B. The notice shall generally describe the goods to be purchased and shall state how to obtain bid forms, specifications and other available information, the period for submitting bids, and the time and place for the opening of the bids.

C. All bids shall be submitted to the City through the City's procurement portal.

D. No bids shall be opened until the appointed time.

E. At the time and place stated in the public notice all bids shall be opened by the appropriate City staff member. All bid openings shall be open to the public and all bids shall be available for examination.

5.6 Awards

Awarding of bids shall be best on the lowest and most qualified responsible bidder. In determining the lowest and most qualified bidder the City Manager may consider;

A. Price, quantity and quality of the goods or services offered;

B. The capacity, skill, financial resources of the bidder to perform fully and properly;
C. The character, integrity, reputation, judgement, experience and efficiency of the bidder;

D. The quality of the bidder's performance on previous contracts with the City and others;

E. Any conditions attached to the bid.

5.7 Protested Solicitations and Awards

A. **Right to Protest.** Any actual or prospective bidder who is allegedly aggrieved in connection with the solicitation or pending award of a contract may protest to the City Manager.
B. **Notice.** A notice of protest must be submitted no later than 5:00 p.m., on the fifth full business day after posting of the award recommendation. The protest must be in writing and must identify the protesting party and the project

number and title and shall include a factual summary of the basis of the protest.

The formal written protest shall; identify the protesting party and the solicitation involved; include a clear statement of the grounds on which the protest is based; refer to the statutes, laws, ordinances or other legal authorities which the protesting party deems applicable to such grounds; and specifically request the relief to which the protesting party deems itself entitled by application of such authorities to such grounds.

A formal written protest is considered filed with the City when it is received by the City Manager's Office. Accordingly, a protest is not timely filed unless it is received within the times specified above. Failure to file a formal written protest within the time period specified shall result in relinquishment of all rights of protest by the vendor and abrogation of any further bid protest proceedings.

These procedures shall be the sole remedy for challenging an award of bid. Bidders are prohibited from attempts to influence, persuade or promote through any other channels or means.

The time limits in which protests must be filed as specified herein may be altered by specific provisions in the RFP/RFQ.

C. **Authority to Resolve**. The City Manager shall attempt to resolve the protest in a fair and equitable manner and shall render a written decision to the protestant.
D. **Stay of procurement during protests.** In the event of a timely protest, the City Manager shall not proceed further with the solicitation or with the pending award of the contract until a determination that the award of the contract without delay is necessary to protect substantial interests of the City.

5.8 Sustainability Objectives

The City is a large consumer of goods and services, and our purchasing decisions have a substantial impact on the environment, both locally and globally. By including environmental considerations in our procurement decisions, along with the traditional concerns with price, performance, and availability, we will remain fiscally responsible while promoting practices that improve employee and public health and safety, reduce pollution, and conserve natural resources. The City Manager shall establish a framework to maximize environmental benefits and minimize the environmental impact resulting from the City's activities.

5.9 Disadvantaged Business Enterprises

The City will take the following steps to enhance the opportunities for local, small, veteran, minority, LGBTQ+ and women's owned business enterprises buy taking the following steps;

A. Allowing local, small, veteran, minority, LGBT and women's owned business enterprises to be placed on solicitation lists which will notify them of opportunities to bid on City projects.

B. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

C. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.

D. Ensure bidding and solicitation processes are in compliance with CO 185 Welcoming Lebanon.

5.10 Purchasing Authorization Limits

The City Manager shall establish (see Purchasing Administration Policy ADM-110) purchase limits that are practicable, provide that competition is obtained and that the small purchase system is not abused. Reasonable steps shall be taken to ensure that local businesses (businesses that maintain their principal office and place of business in the City) qualified to provide required supplies, services and construction are notified of relevant solicitations.

5.11 Purchasing Consultative And Professional Services Including Legal, Architectural And Engineering Services

General. It is the policy of the City to negotiate consultative and professional services contracts including legal, architectural, engineering, human resources, cyber services, data processing, planning, auditing, public relations services, etc., based on demonstrated competence and qualification for the type of service required at fair and reasonable prices.

Discussions and Selection of the Most Qualified Firms. The City shall hold discussion with the firms selected regarding the proposed contract to: determine each firm's general capabilities and qualifications for performing the contract; and explore the scope and nature of the required services and the relative utility of alternative methods of approach. After discussions the City shall reevaluate and select, in order of preference, contractors which it deems to be the most highly qualified to provide the required services. The procurement of Engineering, Architectural and Survey services shall generally follow procedures outlined by the American Council of Engineering Companies of New Hampshire, Qualification Based Selection Process https://www.acec-nh.org/?s=QBS+Process . Additionally, the provisions of RSA 21-I:22 *Selection of Engineers, Architects and Surveyors* should be used as a guideline. These guidelines may also be used for selection of other consultative and professional services.

Negotiation of Contract. The City shall negotiate a contract with the most qualified firm for the required services at compensation determined to be fair and reasonable to the City. Contract negotiations shall be directed toward: making certain that the firm has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services; determining that the firm will make available the necessary personnel and facilities to perform the services within the required time; and agreeing upon compensation which is fair and reasonable, taking into account the estimated value, scope, complexity, and nature of the required services. If fair and reasonable compensation, contract requirements, and contract documents can be agreed upon with the most qualified firm, the contract shall be awarded to that firm.

5.12 Emergency Purchasing

The City Manager may suspend provisions of this policy and implement streamlined purchasing provisions when an emergency is declared by the City Manager in accordance with the City's Emergency Operations Plan.

SECTION 6.0: REFERENCES (Charter/Code/State Statues)

1. NH RSA 31:3 General Powers and Duties of Towns
2. NH RSA 44:2 Cities and Wards, Provisions Applicable
3. NH RSA 447:16 Bond Required
4. NH RSA 21-I:22 (Used as a guideline only) Selection of Engineers, Architects and Surveyors
5. City Charter Section 419:35 Purchasing Procedure
6. City Charter Section 419:37 Financial Control
7. City Charter Section 419:38 False Certification, Penalty
8. City Charter Section 419:39 Unauthorized Payment, Penalty
9. City Charter Section 419:20 Dealings of Council and City
10. City Charter Section 419:63 Private Use of Public Property
11. American Council of Engineering Companies of New Hampshire, QBS Process
12. Purchasing Administration Policy ADM-110
13. US Department of Commerce, Economics and Statistics Administration US Census Bureau
14. 42 USC 1741 Office of Minority Economic Impact

SECTION 7.0: POLICY & PROCEDURE REVISION HISTORY

	Section	Revisions	Date
Original Adoption		99-04-C	4/7/99
Amendment		06-02-C	4/5/06
Amendment		06-02-C	8/13/15
Amendment	All	CC-103	
Amendment			