

**TOWN OF GUILFORD
PURCHASING POLICY
Effective Date November 1, 2013
Adopted by Board of Selectmen**

TABLE OF CONTENTS

		Page #
Article I	PURCHASING OBJECTIVES AND AUTHORITY	3
	1.1 <u>Purchasing Policy Objectives</u>	3
	1.2 <u>Duties of the Purchasing Manager</u>	3
Article II	SPENDING LEVELS AND RELATED PROCEDURES	4
	2.1 <u>Purchases Costing Less Than \$5000.00</u>	4
	2.2 <u>Purchases Costing Between \$5000.00 & \$24,999.00</u>	4
	2.3 <u>Purchases Costing \$25,000.00 or More</u>	5
Article III	BIDS AND REQUEST FOR PROPOSAL	6
	3.1 <u>Bids</u>	6
	3.2 <u>Request for a Proposal</u>	7
Article IV	REQUEST FOR QUALIFICATION	8
Article V	LOWEST RESPONSIVE RESPONSIBLE BIDDER/PROPOSER	10
	5.1 <u>Lowest, Responsible, Responsive Bidder</u>	10
	5.2 <u>Responsive, Responsible Proposer</u>	11
Article VI	PURCHASING PROCESS EXCEPTIONS	11
	6.1 <u>Emergency Orders</u>	11
	6.2 <u>Sole Source</u>	11
	6.3 <u>Utility Services</u>	11
	6.4 <u>Consortium Bidding and State Contracts</u>	12

	6.5 <u>Professional Services</u>	12
	6.6 <u>Departments/Board Exempt From Town Purchasing Policy</u>	12
Article VII	COMPLIANCE WITH LAWS	12
	7.1 <u>Performance Bond and Payment Bond Requirements</u>	12
	7.2 <u>State of Connecticut Contractor Prequalification Program</u>	13
	7.3 <u>Prevailing Wages</u>	14
	7.4 <u>Non-Resident Contractor 5% Tax for Contracts</u>	14
	7.5 <u>Occupational Safety and Health Administration (OSHA) Training</u>	15
	7.6 <u>Affirmative Action Statements</u>	15
	7.7 <u>Equal Employment Opportunity; Minority Business Enterprises</u>	15
Article VIII	APPROVED LOCAL VENDOR	15
Article IX	REQUISITION/PURCHASE ORDERS	16
	9.1 <u>Normal Purchasing Procedures</u>	16
	9.2 <u>“Blanket” Purchase Orders</u>	16
Article X	CONTRACTS	17
	10.1 <u>Contract for Goods</u>	17
	10.2 <u>Contract for Services</u>	17
	10.3 <u>Conditions to Commencement of Work</u>	17
	10.4 <u>Change Orders</u>	17
Article XI	INSURANCE	17
Article XII	ETHICS	18
Article XIII	EXHIBITS	19

ESTABLISHMENT OF PURCHASING POLICY

The Board of Selectmen voted to rescind the Town of Guilford Purchasing Policies and Procedures previously adopted December 1, 2003 and adopted the foregoing Purchasing Policy effective November 1, 2013 in lieu thereof, in accordance with the powers granted to the Board of Selectmen by Sections 3-3(a) and 3-4(4) of the Town Charter.

ARTICLE I: OBJECTIVES AND AUTHORITY

1.1 Purchasing Policy Objectives

1.1.1 To establish the responsibility for the purchasing management function of all Town departments and commissions as being vested in the Purchasing Manager, except as otherwise required by state law or the Town Charter. The Town Purchasing Manager is not responsible for purchasing management function of the Board of Education, except: (i) a purchase financed by Town bond issuance; (ii) the purchase of utilities, when deemed in the best interests of the Town and the Board of Education, as determined by the Board of Selectmen and Board of Education; or (iii) as otherwise delegated by the Board of Education in accordance with Section 3-4 (a) (4) of the Town Charter.

1.1.2 To procure materials, supplies, equipment and services necessary for the proper and efficient operation of the general Town government. Services include professional and construction contracts.

1.1.3 To award bids to the responsible bidder supplying the lowest responsive, responsible bidder.

1.1.4 To promote consolidation and initiating “cooperative purchasing” so as to take maximum advantage of quantity discounts.

1.1.5 To conduct purchasing without regard to the political affiliation, race, sex, age, religion, national origin, disability, familiar relationship or business associations of vendors, contractors or consultants and to abide by the Town Code of Ethics set forth in Chapter 31 of the Town Code.

1.1.6 To require Town departments and commissions (and the representative(s) of the Board of Education, as applicable), to assist the Purchasing Department in carrying out these responsibilities by adhering to these purchasing policies and procedures.

1.2 Duties of the Purchasing Manager

The Purchasing Manager has the responsibility for the procurement of materials, equipment, supplies and services necessary for the proper and efficient operation of the general Town government. Town departments and commissions (and representative(s) of the Board of Education, as applicable), shall assist the Purchasing Department in carrying out this responsibility by adhering to these purchasing policies and procedures.

ARTICLE II: SPENDING LEVELS AND RELATED PROCEDURES

2.1 Purchases Costing Less Than \$5000.00

2.1.1 **Three Quotes.** When a department purchases material, equipment, supplies, or services, which in total are expected to cost between \$2000 and \$4990.00, the department shall obtain three (3) telephone quotes. Written/internet quotes are optional. The \$4999.00 limit pertains to the total cost, not the unit cost. For purchases with a cost of less than \$2000, no quotes are required.

2.1.2 **Specifications.** A department shall provide each vendor with the same specification in order to ensure uniformity of quotes. A department shall not share the quote of one vendor with another prospective vendor prior to obtaining quotes from all vendors. Negotiation of price does not occur with requests for quotations.

2.1.3 **Selection.** The department head shall select the lowest responsive, responsible vendor, pursuant to Article V.

2.1.4 **Requisition.** A requisition for less than \$5000.00 shall be submitted to the Purchasing Department for issuance of a purchase order in accordance with the procedures set forth in Article IX.

IMPORTANT NOTE: Notwithstanding the foregoing, if a department reasonably anticipates additional purchases of the same or substantially similar items within a six-month period, then this method of purchasing shall not be permitted and the department shall follow the procedures required for the spending level equal to the sum of the purchases reasonably anticipated within such six-month period.

2.2 Purchases Costing Between \$5000.00 and \$24,999.00

2.2.1 **Three Written Quotes.** When a department needs to purchase material, equipment, supplies, or services, which in total are expected to cost between \$5000.00 and \$24,999.00, the department shall obtain written/internet quotes from at least three (3) vendors. If, after using reasonable efforts, a department is unable to obtain three written quotes, then the department shall contact the Purchasing Department to obtain a list of additional vendors from whom to obtain additional quotes.

2.2.2 **Specification.** A department head shall be responsible for preparing the specification necessary to obtain the quotes. A department shall provide each vendor with the same specification in order to ensure uniformity of quotes. A department shall not share the quote of one vendor with another prospective vendor prior to obtaining written quotes from all vendors. Negotiation of price does not occur with requests for quotations.

2.2.3 **Selection.** The department head shall select the lowest responsive responsible vendor. It is the responsibility of each department head to obtain any necessary approvals from his/her commission, if applicable. For estimates within the range of \$7,500 to \$24,999, the department head shall select the lowest responsible vendor from the three written estimates and then, make a recommendation to the BOS for its approval/disapproval, subject to successful contract negotiations.

2.2.4 **Requisition, Contract, Insurance.** A department shall submit a requisition together with the three written quotes to the Purchasing Department for issuance of a purchase order in accordance with the procedures set forth in Article IX. Depending upon the type of services or goods to be purchased, contracts and insurance may be required pursuant to Article X and XI, respectively.

IMPORTANT NOTE: Notwithstanding the foregoing, if a department reasonably anticipates additional purchases of the same or substantially similar items within a six-month period, then this method of purchasing shall not be permitted and the department shall follow the procedures required for the spending level equal to the sum of the purchases reasonably anticipated within such six-month period.

2.3 **Purchases Costing \$25,000.00 or More (“Bid Threshold”)**

2.3.1 **Threshold.** Services or goods including material, equipment and supplies which individually (unit cost) or in the aggregate (unit cost x quantity) exceed the Bid Threshold shall be purchased through the competitive bid (Bid)/Request for Proposal(RFP) process inviting bids or proposals after due notice. Departments shall give the Purchasing Department at least two week’s notice of an upcoming bid, when feasible. Notwithstanding the foregoing, the Bid Threshold may be increased by the Board of Selectmen if Connecticut General Statutes (C.G.S.) Section 7-148v is subsequently amended to increase the current bid threshold of \$25,000. (It is noted that certain municipalities may currently have bid thresholds in excess of \$25,000 due to municipal Charter and/or ordinance provisions which predated the enactment of C.G.S. Section 7-148v.)

2.3.2 **Annual List of Bids.** Prior to the commencement of each fiscal year, departments shall provide the Purchasing Department with a tentative list of all Bids/RFPs/ Request for Qualification (RFQs) which are anticipated for the upcoming fiscal year and the approximate schedule of the same.

2.3.3 **Source of Funds.** Departments shall provide the Purchasing Department with the source of funds for the proposed purchase. If a source of funds is a federal or state grant, a department shall provide copies of the grant documents and any requirements pertaining to the grant to the Purchasing Department.

2.3.4 **Specifications.** Departments shall be responsible for providing the Purchasing Department with a draft bid specification, which specifications may require the approval of the department’s commission, as applicable. A department may need the expertise of a vendor or independent consultant to draft the specification. If a department contacts a vendor to aid in the preparation of a specification, the department may not accept or consider a Bid/RFP from the vendor(s) who aid in the preparation of the specification.

2.3.5 **Hiring of Consultant.** A department may require the expertise of an architectural or engineering design firm to draft complicated specifications, review bids/proposals and recommend to the department the lowest most responsive responsible bids/proposals. The determination of whether or not to hire a consultant shall be made initially by the department and commission, as applicable, but subject to final approval by the Purchasing Department and the First Selectman. The selection of the

consultant shall be subject to the purchasing procedures set forth in Article II (quotes), Article III (Bid/RFPs) and Article IV (RFQs), as applicable, depending on the anticipated cost to hire the consultant and the nature of the work.

2.3.6 Standing Building Committee (SBC). Notwithstanding the foregoing, if the Bid/RFP is either (i) a Town or School building construction project; or (ii) a purchase/project financed by Town bond issuance, then the SBC shall be required to review and approve of the specifications in accordance with the **Board of Finance Regulations adopted October 21, 1996, as amended**. With respect to those purchases/projects which require SBC approval of the specification, the SBC shall determine whether or not outside expertise is required to draft the specification.

2.3.7 Board of Finance (BOF). The BOF will also be required to review the specifications with respect to those purchases/projects in which the bond resolution authorizing the appropriation to fund such purchases/projects require BOF review.

2.3.8 Additional Pre-Bid Approvals. Department heads shall obtain any additional pre-bid approvals which may be required, including their respective Commission's approval, as well as approvals from the Historic Commission, Planning and Zoning Commission, (including C.G.S Section 8-24 mandatory referrals), and other Commissions, as applicable. Evidence of such approvals shall be submitted to the Purchasing Department at the time of delivery of the specifications for purposes of preparation of the Bid/RFP documents.

2.3.9 Preparation of Bid/RFP Documents. Once the final specification is submitted to the Purchasing Department, the Purchasing Department shall prepare the Bid/RFP documents using the Bid/RFP process, set forth in Article III.

ARTICLE III: BIDS AND REQUESTS FOR PROPOSALS

3.1 Bid

3.1.1 Bid Defined. A Bid is the Town's competitive solicitation of prices for a commodity or project projected to meet or exceed the Bid Threshold based on specifications established by or for the Town of Guilford. Bids are developed when the commodity/project in question can be clearly specified and there is no service component, or a minimal service component is required. Examples for which Bids are issued are construction projects and commodities such as the supply of gasoline, office supplies, police vehicles and trucks. The Purchasing Department will determine whether to issue a Bid or a RFP.

3.1.2 Preparation of Bid Documents/Bid Bond. Once the final specification is received by the Purchasing Department pursuant to the provisions set forth in Article II hereof, the Purchasing Department shall issue an Invitation to Bid in the form attached hereto as **Exhibit A**, as the same may be amended by the Purchasing Department from time to time. A bid surety in the form of a bid bond or cashier's check in the amount of 10% of the base bid will be required for all bids. When the value of the Bid is contemplated to be \$250,000 or greater, the Vendor Information & Signatory Form, **Exhibit D**, shall be included as part of the Bid.

3.1.3 Notice. A legal notice shall be published by the Purchasing Department in a newspaper with local circulation in the Town at least seven (7) days preceding the last date set for receipt of bids/proposals (until such time that state law no longer requires notices to be published in the newspaper.) In addition, a notice shall be posted on the Town website as a courtesy to bidders and on the State Department of Administration's (DAS) State Contracting Portal, if required by law and otherwise, at the discretion of the Purchasing Department. CGS Section 4b-91 requires bid notices to be published on the DAS website for public building and public work construction projects which exceed \$500,000, which projects are funded in whole or in part with State funds. CGS Section 4b-91 does not apply to projects administered by the DOT.

3.1.4 Courtesy Notice. A department shall provide the Purchasing Department with a list of responsible prospective vendors and their contact information, including email addresses. Once a legal notice has been published, the Purchasing Department may distribute courtesy notices by email to the list of vendors provided by a department. The Purchasing Department is not required to send courtesy notices. It is the responsibility of the prospective bidders to monitor the applicable websites/newspapers for upcoming Bids/RFPs and addendums thereto.

3.1.5 Bid Opening. Bids that are received in the First Selectman's office on the second floor of the Town Hall by the deadline and meet all requirements are considered responsive. The Purchasing Manager or his/her designee shall open the bids at a public meeting room and read the bids aloud. Bidders are welcome to attend the bid opening. An assistant to the Purchasing Manager shall record the bids on a bid summary sheet. The Purchasing Department has the authority to waive minor defects if deemed in the best interest of the Town. Bid surety requirements cannot be waived.

3.1.6 Recommendation to BOS. The department head shall review the bids and recommend a vendor/firm to be awarded to his/her commission, if applicable. If a consultant is hired to draft the bid specification, as set forth above, the consultant shall review the bids and submit a letter of recommendation to the department head and his/her commission, if applicable. A consultant shall be required to submit a non-conflict non-collusion affidavit prior to making such recommendation.

3.1.7 BOS Approval/Rejection. The department and its commission, as applicable, shall forward a letter of recommendation to the BOS and present the recommendation to the BOS for its approval/disapproval, subject to successful contract negotiations, if applicable. The award will be made to the lowest responsive responsible bidder. Negotiation of price does not occur with Bids. The Town of Guilford reserves the right to reject any and all bids not deemed to be in the best interest of the Town, or to accept that bid which appears to be in the best interest of the Town. The Purchasing Department shall send award letters to all bidders and return bid security checks to unsuccessful bidders, as applicable.

3.2 REQUESTS FOR PROPOSAL

3.2.1 RFP Defined. A RFP is the Town's competitive solicitation for proposed services, methodologies and/or solutions to highly technical or service oriented projects for a proposal projected

to meet or exceed the Bid Threshold. RFPs are developed for projects that cannot be clearly specified, in which case the Town solicits from proposers the different approach that each would take to achieve the stated result. Examples of RFPs include technology, training, financial consulting, GPS update projects, concession services, etc.

3.2.2 Preparation of RFP Documents. Once the final specification is received by the Purchasing Department pursuant to the provisions set forth in Article II hereof, the Purchasing Department shall prepare a Request for Proposal. A sample Request for Proposal is attached as **Exhibit L**.

3.2.3 Notice/Bid Opening/Recommendation to BOS. The provisions set forth in Sections 3.1.3, 3.1.4, 3.1.5 and 3.1.6 shall be followed with respect to RFPs.

3.2.4 BOS Approval/Rejection. The department and its commission, as applicable, shall forward a letter of recommendation to the BOS and present the recommendation to the BOS for its approval/disapproval, subject to successful contract negotiations, if applicable. Award of the RFP will be made to the most responsive responsible proposer. With RFPs, price may not be the primary consideration. The ability of the proposer to deliver successfully the stated outcome of the scope of the work and provide the specified service component is the most important with price being secondary or equal in importance. Negotiation of price may occur with RFPs. The Purchasing Department shall send award letters to all respondents and return bid surety checks to unsuccessful respondents, as applicable.

ARTICLE 4: REQUEST FOR QUALIFICATION

4.1.1 RFQ Defined. A Request for Qualification (RFQ) is the method by which companies are chosen based on the ranking of their qualifications specific to chosen criteria established by a selection panel comprised primarily of Town employees for projects or services projected to meet or exceed the Bid Threshold. A RFQ is used where the project or service requirements are so unique that it is required that selection criteria be primarily influenced by the bidder's knowledge and experience in similar or related projects or service.

4.1.2 Two Types of RFQ. Two types of RFQ processes can be utilized by Town departments, a two-step process consisting of RFQ followed by a RFP or a one-step combined RFQ/RFP. The funding source and the professional services to be hired may dictate which RFQ process should be used. For instance, pursuant to CGS Section 10-287 a two-step RFQ process for architectural and construction management services for certain school building construction is required. Failure to comply with such requirements may result in loss of state reimbursement for the project.

4.1.3 Selection Panel. With all RFQ processes, a selection panel shall be formed by the department head after consultation with the First Selectman and the department's commission, as applicable. The initial purpose of the selection panel shall be to establish the specific criteria and assign weights by which responses received shall be evaluated. The specific criteria and related weights to be used in the evaluation process by the selection panel should be provided to the Purchasing Department to incorporate into the RFQ documents. Depending on the funding source, the RFQ selection panel process may be a condition to the receipt of such funding. For instance, the DOT mandates a

Qualifications Based Selection (QBS) process, which requirements may be obtained from the DOT. It is the responsibility of each department to determine the requirements of their funding source.

4.1.4 **First Step RFQ.** With the two-step process, the RFQ is issued first followed by the RFP. The Purchasing Department will issue the RFQ document in the form attached as **Exhibit M**, which form may be modified by the Purchasing Department from time to time. Bid sureties are not required with RFQs. When a RFQ process is contemplated for a procurement with an anticipated total cost of \$250,000 or greater, the Vendor Information & Signatory Form, **Exhibit D**, shall be included as part of the RFQ qualification submittal.

4.1.5 **RFQ Notice and Opening.** The provisions set forth in Sections 3.1.3, 3.1.4 and 3.1.5 shall be followed with respect to either RFQ process, except that there are no bid amounts to be read aloud. At the RFQ opening, the Purchasing Manager or his/her designee shall read aloud the names of the respondents and the assistant to the Purchasing Manager shall record the names of each respondent on the summary sheet and whether or not they have included the necessary affidavits, and if applicable, separate sealed fee proposals.

4.1.6 **Selection Panel RFQ Review.** Upon receipt of the RFQs, the selection panel will evaluate and determine whether the RFQ responses were responsive and which firms will be prequalified to enable them to proceed to the second step in the process. Each member shall complete his/her criteria sheet independently by numerical scoring and the scores of each member shall be combined which results in a ranking of all firms' qualifications.

4.1.7 **Second Step RFP.** The RFP document issued as the second step in the RFQ process excludes the request for a firm's qualifications and includes pricing sheets and contract format for the work. The RFP document is sent by the Purchasing Department to those final firms selected by the selection committee as a result of the RFQ process. The Purchasing Department will issue the RFP document in the form attached as **Exhibit N**, which form may be modified by the Purchasing Department from time to time, which RFP will include a request for sealed fee proposals.

4.1.8 **Selection Panel RFP Review.** The sealed fee proposals as well as any supporting documentation required by the RFP will be distributed to the selection committee for their review. Each member of the same selection panel who evaluated the RFQ shall evaluate independently by numerical scoring all pricing proposals received using the weighting previously established. The selection panel may choose to interview the firms at any stage. The combined scoring shall result in a ranking of all firms. The numerical scoring of each selection panel member shall be kept as part of the records related to each RFQ/RFP process.

4.1.9 **Combined RFQ/RFP.** With the one-step RFQ process, the RFQ/RFP document consists of the Town's standard terms and conditions, affirmative action affidavit, non-conflict non-collusion affidavit, the scope of work and timeframe, specific conditions relating to the work, the request for documentation of a firm's specific credentials and qualifications including experience, insurance coverage requirements for the work, pricing sheets and criteria and associated weighting to be used to evaluate and rank proposals. The Purchasing Department will issue the one step RFQ/RFP document in the form attached as **Exhibit O**, which form may be modified by the Purchasing Department from

time to time.

4.1.10 Selection Panel Review of Combined RFQ/RFP. With the combined RFQ/RFP process, the firm's pricing information shall be submitted in a separate sealed envelope at the same time as the rest of the RFQ submittal. The pricing envelope shall not be opened until the selection panel has evaluated the qualification criteria and developed a combined scoring of all selection panel members.

4.1.11 SBC Review. If the project requires SBC to review the responses in accordance with the BOF Regulations referenced in Section 2.3.7 hereof, the selection panel shall recommend a firm to the SBC and the SBC shall then make a recommendation to the BOS. Otherwise if SBC involvement is not required under the BOF Regulations, the selection panel shall submit a letter of recommendation to the BOS directly.

4.1.12 BOS Approval/Rejection. The department and its commission, as applicable, shall forward a letter of recommendation to the BOS for its approval/disapproval, subject to successful contract negotiations, if applicable. The award will be made to the most responsive responsible proposer. Negotiation of price is permitted in the RFQ/RFP process. The Town of Guilford reserves the right to reject any and all proposals not deemed to be in the best interest of the Town, or to accept that proposal which appears to be in the best interest of the Town. The Purchasing Department shall send award letters to all bidders and return bid surety checks to unsuccessful bidders, as applicable.

IMPORTANT NOTE: If the BID/RFQ/RFP project is funded in whole or in part by state or federal funds, then the department head should consult with the funding agency as well as the Town Attorney to determine which specific laws may apply. Failure to follow those laws may result in forfeiture of state or federal funding.

ARTICLE V: LOWEST RESPONSIVE, RESPONSIBLE BIDDER/PROPOSER

5.1 Lowest Responsive, Responsible Bidder

All contracts based on Bids and written quotes below the Bid Threshold shall be awarded to the lowest responsive, responsible bidder. Multiple factors are used to determine the "lowest responsive, responsible bidder." In addition to price, the Town shall consider, but not be limited to the following:

- a. Compliance to the specifications, and the terms, conditions and instructions of the bid documents/quote request.
- b. The ability and capacity of the bidder to perform the work or provide the services required.
- c. The character, integrity, reputation and experience of the bidder.
- d. The quality and satisfaction of any previous work or services performed for the Town.
- e. The financial resources available to provide the insurance and bond requirements of the bid.
- f. The number and scope of any conditions or exceptions included in the bid or quote.
- 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, if applicable.

5.2 Responsive, Responsible Proposer

All contracts based on RFQ/RFP shall be awarded to responsive, responsible proposers. Multiple factors are used to determine the selection of the awarded responsive, responsible proposer. In addition to price and the criteria established in Section 5.1, the Town shall consider, without limitation, the following:

- a. The content and quality of the RFQ/RFP and how well it addresses the needs of the criteria of the RFQ/RFP.
- b. The success of the negotiation process with the proposer.

ARTICLE VI: PURCHASING PROCESS EXCEPTIONS

6.1 Emergency Orders

Emergency orders are purchases of materials or services which, if not provided immediately, can result in injury or damage to property or human life. In a true emergency, which requires immediate procurement of materials or services, the department head shall obtain prior approval from the First Selectman. In an emergency which potentially qualifies for assistance from the Federal Emergency Management Agency (FEMA), the department shall follow FEMA guidelines with respect to any purchases, after consultation with the Finance Department and the First Selectman. On the next working day, the department head shall submit a requisition to the Purchasing Department with a written explanation of the emergency.

6.2 Sole Source

Sole sourcing is a procurement process that occurs when there is only one source of supplier or when there may be more than one viable supplier, but the Town determines that it is in the best interest of the Town not to utilize the bidding/quote process and selects a particular vendor based upon the vendor's special ability to provide unique spare parts or unique repair services. The department head shall submit a requisition to the Purchasing Department with a written explanation of the necessity of a sole source. If the amount of the requisition exceeds the Bid Threshold, the department shall be required to obtain the prior approval of the Board of Selectmen.

6.3 Utility Services

Utility services include electricity, telephone, water, oil and natural gas. To the extent permitted due to deregulation of these industries, these services may be bid out by the Town. To the extent permitted under State and local laws, regulations and policies, the Town and Board of Education shall consolidate its purchasing power and purchase utilities together through the Town Purchasing Department in order to obtain the most competitive pricing. The Town shall use reasonable efforts, to join with other municipalities in the purchase of utilities in an effort to obtain competitive pricing, when deemed feasible, in the sole discretion of the Board of Selectmen.

6.4 Consortium Bidding and State Contracts

6.4.1 **Consortium/State Bidding.** The Town has the right to purchase directly off of State Contracts which are published on the DAS procurement website as well as the General Administration (GSA), to extent permitted by federal law. The Town may also participate in consortium bidding offered by the Capital Region Council of Governments (CRCOG), South Central Regional Council of Governments (SCROG) or similar consortiums or cooperatives, as well as bids offered by the Connecticut Council of Governments (CCM). Reverse auctions offered by CCM and CRCOG shall likewise be a permissible means to purchase goods and utilities. If a department wishes to participate in a consortium bid, the department head should contact the Purchasing Department who will work with the department and the applicable consortium in order to follow the consortium bid guidelines.

6.4.2 **BOS Approval.** If a department wishes to purchase off of a State contract or participate and award under consortium bidding, and the amount of the purchase exceeds the Bid Threshold, the department head shall obtain the approval of the Board of Selectmen.

6.4.3 **Requisition.** Once a department head elects to purchase off of a State Contract or through consortium bidding, and the department head has obtained Board of Selectmen approval, as applicable, the department shall submit a requisition to the Purchasing Department which shall identify the State contract number or consortium bid number on the requisition together with a copy of the relevant pages of the State contract or consortium bid award which provides evidence of (i) the awarded vendor(s); and (ii) the inclusion of goods on the State contract/consortium bid.

IMPORTANT NOTE: It is the responsibility of each department to determine that the State contract/consortium bid actually includes the precise items being purchased. It is not acceptable to negotiate the price with the awarded vendors under either the State Contract or the consortium bids.

6.5 Professional Services

Legal services shall be procured by the Board of Selectmen. All other professional services shall be procured through the Town RFQ/RFP process, unless the Board of Selectmen, on a case by case basis, deems it is in the best interests of the Town to waive the RFQ/RFP process.

6.6 Departments/Boards Exempt from Town Purchasing Policy

The following entities are exempt from following the Town Purchasing Policy, unless otherwise required by state or local laws, including future revisions to the Town Charter:

- (i) Board of Education, except as otherwise noted in the Purchasing Policy;
- (ii) Guilford Free Library Association, Inc, as authorized by Town Meeting held on the first Monday of October, 1933 (See also CGS § 11-33); and
- (iii) Probate Court.

ARTICLE VII: COMPLIANCE WITH LAWS

7.1 Performance Bond and Payment Bond Requirements

7.1.1 Performance Bond Defined. A Performance Bond is a promise by a surety company to the owner that the surety will complete the bonded project and, to some extent, pay the owner's damage from defaults by the contractor. Surety bonds also provide evidence of a contractor's financial strength and experience, since a surety company will not underwrite a bond unless the contractor has the assets to reimburse the surety for any payments the surety may be required to make.

7.1.2 Payment Bond Defined. CGS Section 49-41 requires that the Town ensure that payment bonds a/k/a labor and materials bond in the amount of the contract are provided for public works projects over \$100,000. A payment bond does not protect the owner for losses. Rather, it is the surety company's promise to the owner that the surety will properly resolve all claims of unpaid subcontractors and suppliers. Connecticut law currently does not allow mechanics' liens on public property; payment bonds provide the same sort of security for payment as a mechanic's lien. When a contract for construction, alteration, remodeling, repair or demolition of any public building is estimated to cost more than \$500,000 additional laws/requirements apply.

7.1.3 Bonds Required. For a bid or proposal greater than \$100,000, the awarded contractor will be required to furnish a Performance Bond and a Payment Bond for 100% of the bid on an AIA bond form or other form acceptable to the Town within seven business days of notice of award. The Town reserves the right to require Performance Bonds and Payment Bonds for bids which are less than \$100,000 if deemed in the best interest of the Town. The bonds must be duly executed and acknowledged by said contractor as principal and by a surety company qualified to do business under the laws of the State of Connecticut and satisfactory to the Town. The contractor shall pay the premiums for such bonds.

7.2 State of Connecticut Contractor Prequalification Program

7.2.1 When Required. CGS Section 4b-91 requires all bidders for the construction, alteration, remodeling, repair or demolition of any public building or any other public work by a public agency (includes a municipality) that is paid for, in whole or in part, with state funds and that is estimated to cost more than \$500,000, except a public highway or bridge project or any other construction project administered by the State Department of Transportation (DOT), shall be prequalified with the State pursuant to CGS Section 4a-100. Once a contractor is prequalified, it is issued a prequalification certificate by DAS, which certificate is in effect for one year. Prequalification projects shall also be noticed on the DAS Contracting Portal. Legal notices should contain the classification of the type of work being sought (for example, masonry, mechanical, etc.) as well as a statement that the DAS Prequalification Certificate and Update (Bid) Statement must accompany the bid proposal. Subcontractors' work, the cost of which may exceed \$500,000, are also required to be prequalified.

7.2.2 Required Documentation. Any bid for a project that requires prequalification must include a copy of the bidder's Prequalification Certificate showing the aggregate work capacity rating required under the contract and the Update (Bid) Statement showing renewal of certificate and/or change in aggregate work capacity. Bids which do not include a copy of the Prequalification Certificate and the Update (Bid) Statement are invalid.

7.2.3 Performance Evaluation. A department head will also be required to provide the prequalified contractor with a performance evaluation at 50% completion and another to both the contractor and the DAS Prequalification Unit at 100% completion within 70 days of project completion, as required by state statute. Note that failure to provide these evaluations may result in loss of state funds. For more information on the prequalification process, department heads should contact the DAS Prequalification Unit at 860-713-5280.

7.3 Prevailing Wages

7.3.1 When Required. In accordance with CGS Section 31-53, projects are subject to the payment of minimum prevailing wages where the total cost of all work to be performed by all contractors and subcontractors in connection with new construction of any public works project is \$400,000 or more and where the total cost of all work to be performed by all contractors and subcontractors in connection with any remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project is \$100,000 or more.

7.3.2 Pre-Bid Documentation. A department head or his/her consultant, if applicable, is responsible for (i) requesting Prevailing Wage Rates from the State within a time period which will enable the Purchasing Department to advertise the bid within 20 days of the Town's receipt of the Prevailing Wage Rates, as required by Connecticut DOL; and (ii) providing the Purchasing Department with a copy of Prevailing Wage Rates to be attached to the Bid document.

7.3.3 Certified Payrolls. For qualifying projects, all contractors and subcontractors shall submit to the Finance Department certified weekly payrolls for all contracts meeting the stated monetary limits. The certified payrolls shall be submitted to the Finance Department with the contractor's monthly certificate for payment. Department heads are responsible for ensuring that the Finance Department has received these.

7.4 Non-Resident Contractor 5% Tax For Contracts

7.4.1 Guarantee Bond to DRS. CGS Section 12-430(7) requires non-resident contractors who perform services or furnish materials, or both, for the construction, alteration or improvement of any project in which the contract price is at least \$250,000, to furnish the State Department of Revenue Services (DRS) a Guarantee Bond for 5% of the total cost of the work, issued under a contract using Form AU-766, Guarantee Bond. This form is available on the State DRS website. Form AU-766 must be submitted for each additional change order or supplement issued against the contract. Non-resident contractors must have completed and submitted to the DRS Form REG-1, Business Tax Registration Application, to register with the DRS and have been issued a Connecticut Tax Registration Number. This form is available on the DRS website. Non-resident contractors have 120 days from the commencement of the contract to file the Guarantee Bond with the State. Commencement of the contract, as defined by law, "means the time when the non-resident contractor signs the contract, but, in any event, occurs no later than when the work under the contract actually starts."

7.4.2 Potential Town Liability for Withholding Tax. Please note that compliance with the provisions of CGS Section 12-430(7) relieves the person (Town) doing business with a nonresident

contractor from liability for the nonresident contractor's withholding tax liability or liability or use tax on materials and consumables.

7.4.3 Certificate of Compliance. As soon as the guarantee bond is filed with the DRS, the non-resident contractor shall submit the copy of such Guarantee Bond together with the non-resident contractor's Connecticut Tax Registration Number to the Town department for whom the project is required. After the non-resident contractor receives its Certificate of Compliance from the DRS confirming that the Guarantee Bond requirement has been met, the non-resident contractor shall submit a copy of the same to the department, for whom the work is being performed, with a copy to the Purchasing Department. The department shall then complete the form entitled, Notification of Receipt of Certificate of Compliance and forward to the Finance Department.

7.5 Occupational Safety and Health Administration (OSHA) Training

CGS Section 31-53b requires each contract for a public works project with a projected cost of \$100,000 or more to contain a requirement that any person performing the work of a mechanic, laborer or worker has completed at least a 10 hour OSHA construction safety program.

7.6 Affirmative Action Statements

Affirmative Action Statements shall be included in all Bid/RFP/RFQ responses from bidders/proposers. If a project is funded in whole or in part by State funds, CGS Sections 46a-68c through 46a-68k apply. These Sections trigger affirmative action plan requirements for contractors and the filing of compliance reports with the State by contractors. CGS Section 46a-68g prohibits contracting agencies (Town) from entering into contracts with any bidder or prospective contractor who is not in compliance.

7.7 Equal Employment Opportunity (EEO); Minority Business Enterprises (MBE)

If a project is funded in whole or in part by state or federal funds, there may be a requirement that the Town require bidder compliance with CGS Section 4a-60 and applicable State regulations. On these projects it will depend upon which set-aside requirements are imposed by the funding agency. If no set-aside requirement is imposed, a statement that the contractor is required to undertake good faith efforts to include subcontractors and suppliers who are minority business enterprises will suffice. If there is a set-aside goal, the Town must comply with the Small Contractors Set-Aside Program and the hiring goals identified by the State Commission on Human Rights and Opportunities (CHRO.) If the funding source of a department's project has such requirements, bidders shall provide a Bidder's EEO Affidavit (see **Exhibit C**) and the Bidder's Minority Business Enterprises Utilization Form (see **Exhibit H**). A federal form EEO-1 form is acceptable in lieu of the Town EEO Affidavit.

ARTICLE VIII: APPROVED LOCAL VENDOR

An approved local vendor is a business, located in Guilford, which has been selected by one or more departments for the purchase of certain commodities and certain limited services. Approved local vendors are to be used only when the completion time is a primary concern for the Town and utilizing

the request for quotes or bidding process is not a realistic way to secure supplies for a current project being performed by Town employees.

Approved local vendors may be used for purchases costing up to \$5000 in any fiscal year, without issuing a request for verbal or written quotes. Blanket Purchase Orders will be used for this type of purchase. Only authorized individuals will be permitted to pick up supplies and parts. Department heads will designate and authorize those individuals.

Approved local vendors will supply the Town with the following types of products:

- Electrical Supplies
- Hardware
- Lumber
- Nursery Supplies and Shrubbery
- Paint and Painting Supplies
- Plumbing Supplies
- Small Hand Tools
- Printing

ARTICLE IX: REQUISITIONS/PURCHASE ORDERS

9.1 Normal Purchasing Procedures

9.1.1 The department head will designate and authorize staff personnel to prepare department purchase requisitions. Purchase requisitions will be prepared by the authorized individual on a form provided by the Finance Department.

9.1.2 All requisitions must have a written approval by the department head. The department head shall not authorize a requisition without sufficient funds in the account to be charged. The requisition will be converted to a purchase order and released for approval by the Purchasing Department and the First Selectman.

9.2 “Blanket” Purchase Orders

9.2.1 The use of “blanket” purchase orders will be a negotiated process between vendors and the department head, with the prior approval of the Finance Department. The Finance Department will make the determination as to applicable vendors.

9.2.2 Specific gross amount limitation will be stated based on past average payments made to the vendor.

9.2.3 Only authorized individuals will be permitted to pick up supplies and parts under a blanket purchase order. Department heads will designate and authorize those individuals.

9.2.4 Blanket purchase orders will state the “open period” for the current fiscal year only. The open period will not exceed the 12 month fiscal period and in some case the open period required may be less than one year. In all cases the open purchase order will be closed out at the end of the fiscal year, as directed by the Finance Department and if required, reissued for the new fiscal year.

ARTICLE X: CONTRACTS

10.1 Contract for Goods

For the purchase of goods, the purchase order shall serve as the contract, unless the Purchasing Manager deems it to be in the best interest of the Town to have a contract prepared, given the nature and cost of the goods. A department shall not sign proposals, estimates or any similar document provided by a selected vendor as the same may constitute a legal contract and generally will contain provisions most favorable to the vendor.

10.2 Contract for Services

For the purchase of services, a services contract must be obtained from the Purchasing Department, in a form approved by an attorney. The Purchasing Department must receive the fully executed contract and the required insurance, described in Article XI below, prior to the services being provided.

10.3 Condition to Commencement of Work

A department is responsible to confirm with the Purchasing Department whether the Purchasing Department has received the executed contract and the required insurance, prior to the department head permitting any work do be done or prior to the department head issuing a notice to proceed, as applicable.

10.4 Change Orders

All change orders to the original scope of a contract shall be documented. A written change order, signed by both the contractor and the department head, shall be prepared by the contractor which describes the work being added or subtracted from the contract and the projected change of cost to the project. The department head shall submit to the Purchasing Department the change order together with a requisition in the amount of the change order. If the change order exceeds the lesser of 5% of the original bid price or \$25,000, the department head shall obtain the prior approval of the Board of Selectmen. For those projects which are subject to SBC review, change orders shall also comply with the SBC’s requirements. **Depending on the funding source and the nature of a project, change orders may be subject to further limitations under state or federal law.**

ARTICLE XI: INSURANCE

The Town requires that all vendors contracted to perform services have a current certificate of

insurance naming the Town of Guilford as an “additional insured.” The insurance limits determined by the Town’s insurance agent are set forth in the Invitation to Bid. If professional services are hired, the insurance requirements set forth in **Exhibit E** apply, as the same may be revised from time to time. This information shall be included in quotes, bids, requests for proposals and contracts as appropriate.

If the Town has hired a project manager or an architect or design professional, it is the responsibility of the professional consultant(s) to verify that the insurance levels are adequate with the Town’s insurance agent and incorporate modifications as necessary in the bids, and RFP/RFQ proposals, as applicable. This information will be communicated directly to the Purchasing Manager.

ARTICLE XII: ETHICS

The Town has established a Code of Ethics (Code) which is set forth in Chapter 31 of the Town Code. The Board of Ethics has been created pursuant to the Town Charter and is charged with the administration of the Code. Pursuant to Section 31-3 of the Code:

“Any independent contractor, professional person or representative of an entity engaged by and receiving compensation from the Town or any of its boards, commissions, authorities, committees or officials and who is in a position to influence any decision of any board, commission, authority, committee or official, shall be bound to avoid the prohibited activity set forth in Section 31-5 of the Code. Any complaint received claiming a violation of the Code by a Consultant shall be processed by the Board of Ethics in accordance with Section 31-6, Paragraph D of the Code. A Consultant shall be entitled to all of the rights of an official under Section 31-6.”

Consultants and bidders shall be required to complete the Non-Collusive Non-Conflict Affidavit, in the form set forth on **Exhibit B**.

ARTICLE XIII: EXHIBITS

- A. Invitation to Bid**
- B. Non-Collusive Non-Conflict Affidavit**
- C. Equal Employment Opportunity (EEO) / Affirmative Action Affidavit**
- D. Vendor Information and Signatory Form (for contracts in excess of \$250,000)**
- E. Town Insurance Requirements (Professional)**
- F. Legal Status Disclosure Form**
- G. Statement of References**
- H. Contractor Minority Business Enterprises (MBE) Form**
- I. Sample Payment Bond Form**
- J. Sample Performance Bond Form**
- K. Sample Voting Matrix**
- L. Sample RFP (No RFQ Required; see Section 3.2)**

- M. RFQ Form (First Step in Two Step Process)**
(Note: State Law May Require Two Step Process; May Be Dictated by

Funding Source)

- N. RFP Form (Second Step in Two Step RFQ Process)**
 - O. One Step RFQ/RFP Form**
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