

BILL NO. 44 -2014  
AN ORDINANCE

AMENDING THE ADMINISTRATIVE CODE, CHAPTER 5, SECTION RE3117-005a-  
Ex A – PURCHASING POLICIES.

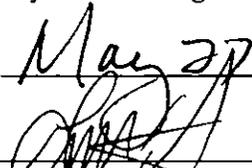
Whereas the Council of the City of Reading hereby ordains as follows:

**Section 1.** Amending the Administrative Code, Chapter 5, Section Re3117-005a-Ex A – Purchasing Policies, as attached in Exhibit A.

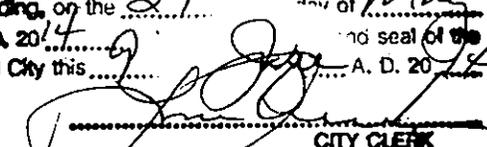
**Section 2.** All ordinances or resolutions, or parts of ordinances or resolutions, insofar as they are inconsistent with this Ordinance are hereby repealed.

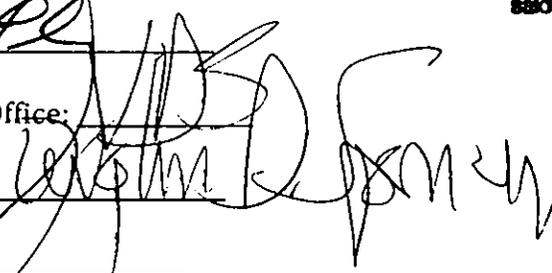
**Section 3.** The provisions of this Ordinance shall be severable and if any of its provisions shall be held to be unconstitutional or illegal, the validity of any other remaining provisions of the Ordinance shall not be affected thereby. It is hereby expressly declared as the intent of the City Council of the City of Reading that this Ordinance would have been adopted had such unconstitutional or illegal provision or provisions had not been included herein.

**Section 4.** This ordinance shall become effective ten (10) days after its adoption, in accordance with Sections 219 & 221 of the City of Reading Home Rule Charter.

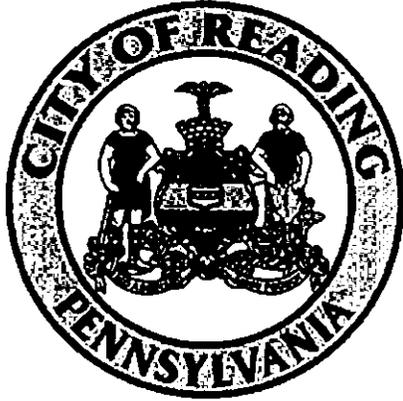
Enacted: May 27, 2014  
  
\_\_\_\_\_  
President of Council

Attest:   
\_\_\_\_\_  
City Clerk  
(Adm Services & Council Staff)

I, **UNDA A. KELLEHER**, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Ordinance passed by the Council of the City of Reading, on the 27 day of May, A. D. 2014, and seal of the said City this 27 day of May, A. D. 2014.  
  
\_\_\_\_\_  
CITY CLERK

Submitted to Mayor: \_\_\_\_\_  
Date: 5/28/14  
Received by the Mayor's Office: \_\_\_\_\_  
Date: 5/28/14  
Approved by Mayor:   
Date: 6/6/14  
Vetoed by Mayor: \_\_\_\_\_  
Date: \_\_\_\_\_

# **CITY OF READING**



## **Purchasing Policy & Procedures Manual**

## Forward

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The purpose of this manual is to provide all departments, divisions, offices and agencies with the procedures and policies to be used in the procurement of goods and services and to provide for the fair and equitable treatment of all persons involved in public purchasing by the City of Reading; to maximize the purchasing value of public funds; and to provide safeguards for maintaining a procurement system of quality and integrity.

The purchasing function involves the procurement of materials, supplies, equipment, and services at best value, consistent with the quality needed to meet the required standards established and approved by the City of Reading. Our goal is the promotion of the best interest of the City of Reading through intelligent action and fair dealings, resulting in obtaining maximum savings for the City.

Rules and regulations are necessary for the proper operation of the purchasing function and it is essential that all who are involved in the purchasing operation be well informed. This manual was developed to aid all employees directly or indirectly associated with the function of purchasing.

The objectives of the Purchasing Division are as follows:

1. To deal fairly and equitably with all vendors wishing to do business with the City of Reading.
2. To provide professional procurement services for all customers within the City.
3. To assure adherence to all laws, regulations, and procedures related to City procurement.
4. To maximize competition for all procurements of the City.
5. To purchase goods and services at the best value, if not lowest price, consistent with quality performance and delivery requirements, from capable vendors meeting the City's needs.

# Section 1

## Purchasing Division

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### Responsibilities, Function & Objectives

#### 1.01 PURPOSE:

The purpose of this regulation is to formalize the City of Reading purchasing policy by delineating the specific authorities and responsibilities that are the components of the purchasing process.

#### 1.02 APPLICABLE TO:

All departments, divisions, offices and agencies.

#### 1.03 GENERAL PURCHASING POLICY:

1. Overall authority and responsibility for City Purchasing is centralized in the Purchasing office within the Administrative Services Department.
2. The purchasing policy is applicable to all offices and encompasses more than just the service function of ordering and buying goods and services. Functions such as planning and scheduling purchases, seeking competition, assuring the preparation of proper specifications, and enforcing compliance with all purchasing regulations and procedures are part of the purchasing program.

#### 1.04 PURCHASING COORDINATOR:

1. Authorities. The purchasing coordinator shall have the authority to:
  - A. Purchase or contract for all materials, supplies, equipment and contractual services for all City departments with the exception of:
    - ◆ Books, subscriptions
    - ◆ Business meeting expenses
    - ◆ Charitable contributions
    - ◆ Dues
    - ◆ Items that can legitimately be purchased via the petty cash process
    - ◆ Postage
    - ◆ Tuition
    - ◆ Travel – meals, mileage, transportation
    - ◆ Utility services that are not regulated by the PUC

(1) In case of an emergency, purchase authority is delegated to the individual departments, divisions, offices or agencies when the purchasing coordinator is unavailable i.e., after normal working hours, (see Administrative Procedures, "Emergency Purchase Procedure").

(2) It is a violation of this regulation for any official or employee of the City to purchase other than the commodities or services exempted, as stated above, in a way that circumvents the purchasing coordinator. Violation of this regulation will result in appropriate disciplinary action, including reimbursement to the City for any payments made for purchase in violation of this regulation.

B. The purchasing coordinator shall have the authority to review all requisitions for the purchase of materials, supplies, equipment and services not exempted from this regulation for quality and cost.

(1) The purchasing process begins with the user's formulation of specifications that identify and describe the product or service to be purchased.

(2) The purchasing coordinator will assure that the specifications meet the user's needs, but do not call for features or a level of quality not necessary for the item's use.

(3) If there is a lack of agreement between the purchasing coordinator and the department, division, office or agency concerning any specifications, the purchasing coordinator will refer the case and all supporting documentation to the Administrative Services Director for determination.

C. Prepare, in cooperation with departments, divisions, offices or agencies, standard written specifications for supplies and/or services not exempted by this regulation especially those common to various City departments, divisions, offices or agencies.

D. Place orders for all supplies, materials, equipment or services, not exempted by this regulation, by the issuance of a purchase order.

E. Dispose of surplus or unused materials, supplies or equipment after they have been declared as surplus by the Administrative Services Director.

Disposal shall be on an annual or more frequent basis as deemed necessary by the Managing Director in accordance with City purchasing regulations. The sale of any surplus by a City employee, without the approval of the Managing Director, constitutes a violation of this regulation and will result in appropriate disciplinary action.

F. Enforce all purchasing regulations and procedures.

1.05 HEADS OF DEPARTMENTS, DIVISIONS, OFFICES AND AGENCIES:

1. Responsibilities. The individual head of a department, division, office or agency or their designees have the responsibility to:
  - A. Furnish the purchasing coordinator with all necessary information to assure that the purchase will be correct in all details.
  - B. Ensure that specifications are not restrictive and do not call for features or a level of quality unnecessary for an item's use.
  - C. Provide a valid written justification when requesting a proprietary item or issuing a restrictive specification.
  - D. Provide a list of suggested vendors. This may assist the purchasing coordinator in finding the item requested. It does not limit the purchasing coordinator to contacting those vendors.
  - E. Ensure that there is no commitment of the City to the purchase of any item, except those covered by the Emergency Purchase Procedure and Section 1.04.1.A of this Policy.
  - F. Notify the purchasing coordinator immediately if any material, supplies, or equipment is inferior in quality or in any way unsatisfactory.
  - G. Notify purchasing quarterly, of any surplus, obsolete or scrap material or equipment that exist in their departments, divisions, offices and agencies.

1.06 EXCEPTIONS TO PURCHASING POLICY:

Where these regulations conflict with requirements stipulated and/or mandated for the use of federal or other grant funds, the requirements governing the expenditure of those funds shall prevail.

## Section 2

### General Guidelines

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#### 2.01 REQUISITION PROCESS

1. Preparing a Requisition. User must determine the item/ service needed and communicate an accurate and complete description. The requisition process is initiated by the user's completion of a requisition via the City's computer system.
2. Dollar Limits Covering Vendor Solicitation<sup>1</sup>. With the exception of professional services, the purchasing coordinator follows the following guidelines concerning the dollar limits covering vendor solicitation.
  - A. Purchases up to \$4,000.00 - Purchases in this category require one (1) verbal quote.
  - B. Purchases of \$4,000.01 to \$9,999.99 - Purchases in this category require three (3) verbal or written quotes.
  - C. Purchases of \$10,000.00 and up - Purchases in this category require a formal solicitation.
3. Dollar Limits Covering Professional Services Solicitation. For professional services, the purchasing coordinator follows the following guidelines concerning the dollar limits covering vendor solicitation:
  - A. Purchases up to \$4,000.00 - Purchases in this category require one (1) verbal quote.
  - B. Purchases of \$4,000.01 to \$9,999.99 - Purchases in this category require three (3) verbal or written quotes.
  - C. Purchases of \$10,000.00 to \$34,999 - Purchases in this category require three written quotes and keeping the formal bidding process as an option unless otherwise required by law.
  - D. Purchases of \$35,000.00 and up - Requires a formal solicitation through advertising which requires a vendor to submit sealed bids accompanied by a bid surety, unless surety is waived at the time the solicitation is issued.

The Managing Director may waive formal bidding procedures only when purchases must be made for an emergency declared by the Mayor and authorized by Council resolution, professional services required via a list from an insurance company or arbitration agreement; repair of any public work during an emergency; patented or copyrighted property; public utilities under tariffs on file with another governmental agency.

#### 2.02 APPROVAL AUTHORITY

1. Contracts of up to \$34,999.99 are approved by both the Managing Director and the Mayor.

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<sup>1</sup> Per Charter Section 915 B (1) and B (2)

2. Purchases and contracts of \$35,000.00 and higher must be approved by City Council.
3. To place an item on the City Council agenda, the department will forward all necessary documentation to the Purchasing Coordinator. The Purchasing Coordinator will prepare the request and submit it to the City Clerk for inclusion on the Council Consent Agenda.
4. All City contracts must be reviewed for form and content and signed by the City Solicitor before any City funds may be paid for said contract.
5. All City contracts must utilize the City's standard contract terms and conditions. This requirement may be waived on an individual basis if the Managing Director determines that the use of alternate contract terms and conditions are in the best interest of the City.

#### 2.03 EXCLUSIONS

The following purchases are excluded from competitive bidding requirements:

1. Procurement of dues and memberships in trade or professional organizations; subscriptions for periodicals; advertisements; postage; used equipment; abstracts of titles for real property; title insurance for real property; real property; water, sewer, and electrical utility services; copyrighted materials; patented materials; art and artistic services; employment agreements; medical services; fees and costs of job-related travel; seminars; tuition; registration; and training.
2. Purchases from State of Pennsylvania or Federal GSA Contracts as well as contracts awarded by any local, state, or national government agency, cooperative purchasing organizations or purchasing associations.
3. Items purchased for resale to the general public.
4. Weather related events or other undeclared emergency situations.

Such purchases, transactions, and expenditures listed above shall be authorized by the Purchasing Coordinator. Certain procurements within the above categories may be obtained by competitive means when it is determined that adequate sources for the goods or services required are available.

# Section 3

## Emergency Purchase Procedure

### 3.01 PURPOSE:

The purpose of this procedure is to establish the proper purchasing procedure in times of emergency.

### 3.02 APPLICABLE TO:

All departments, divisions, offices and agencies.

### 3.03 DEFINITION:

1. An emergency is defined as an unanticipated situation requiring immediate action to avoid the loss of life, limb or property.

### 3.04 POLICY:

1. There will be no commitment of City funds to purchase goods or services outside the normal purchasing procedure, unless the need meets the criteria as defined above in Section 3.03.1.
2. The Mayor has the authority to declare a State of Emergency as provided for by Pennsylvania statutes and to subsequently suspend all standard operating purchasing procedures, as per Title 35 Pennsylvania Emergency Management laws and after the Declaration of Emergency has been adopted by Council.

### 3.05 EMERGENCY PURCHASING PROCEDURE DURING NORMAL WORK HOURS:

<u>Responsibility</u>	<u>Action</u>
Department, division, office or agency representative	1. If an emergency occurs during normal working hours, the department, division, office or agency receives permission from the Managing Director to request the purchasing coordinator to order the materials and/or services necessary. The department, division, office or agency may suggest a vendor with whom he/she is familiar and considers reliable.
Purchasing Coordinator	2. The purchasing coordinator, if time permits, will contact vendors and receive price quotes.  3. The purchasing coordinator obtains the price for each item, the total amount, the date, and location of delivery. The purchasing coordinator verbally places the order with the vendor.  4. The purchasing coordinator informs the vendor that a confirming purchase order will follow and that the vendor should send the invoice to accounts payable

	<p>once the purchase order is received.</p> <p>5. The purchasing coordinator informs the department, division, office or agency of the vendor, prices, total amount, etc. in order that a requisition can be prepared.</p>
Department, division, office or agency	<p>6. The department, division, office or agency prepares a confirming emergency requisition for processing immediately upon notification of pertinent data by the purchasing coordinator.</p> <p>7. The department, division, office or agency shall issue a memo referencing the purchase order and describing the nature of the emergency.</p> <p>8. The department, division, office or agency shall <b>not</b> wait for an invoice from the vendor prior to completing a requisition form.</p>

3.06 EMERGENCY PURCHASING PROCEDURE AFTER NORMAL WORK HOURS:

<u>Responsibility</u>	<u>Action</u>
Department, division, office or agency	<p>1. The department, division, office or agency, or if unavailable the on-site supervisor, is responsible for authorizing an order with a vendor if an emergency occurs after normal working hours.</p> <p>2. The department, division, office or agency shall call the purchasing coordinator the following work day with details of the emergency purchase.</p> <p>3. The department, division, office or agency shall complete a confirming emergency requisition.</p> <p>4. The department, division, office or agency's action is subject to review by the purchasing coordinator and the Managing Director to determine compliance with this regulation.</p>

## Section 4

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### Sole Source Purchases

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#### 4.01 DEFINITION

Sole source purchases are defined as purchases of supplies, or equipment that meet all of the following criteria:

- A. It is the only item that will produce the desired results or possess a unique performance capability and
- B. It is available from only one source and
- C. It is patented or copyrighted.

Professional services are not eligible for sole source purchasing requirements.

#### 4.02 PROCEDURE

Sole source purchases are exempt from competitive requirements upon certification by the Purchasing Coordinator stating the conditions and circumstances necessitating the purchase via a Sole Source Justification Form. This certification shall set forth the purpose and need in addition to why the item is the only one that will produce the desired results. The Sole Source Justification Form must be signed by the Managing Director to be deemed "approved".

Sole Source Justification Forms shall expire annually on December 31<sup>st</sup>. Sole Source contracts shall not be eligible for automatic renewal/extension and must be re-certified by the Purchasing Coordinator before a renewal/extension may occur.

## Section 5

### Blanket Purchase Orders

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#### 5.01 PURPOSE:

The purpose of this issuance is to explain the nature of blanket order purchases and to define the specific procedures for establishing blanket orders, making purchases with blanket orders, and renewing and closing blanket orders.

#### 5.02 APPLICABLE TO:

All departments, divisions, offices or agencies.

#### 5.03 BLANKET ORDER PURCHASE:

1. General. A blanket order purchase is a special type of purchase order issued by the purchasing coordinator and designed to reduce the administrative effort and costs of placing recurrent orders for necessary items or services, such as heating fuel or repairs to office equipment.

Blanket orders normally call for an undetermined quantity of a product to be delivered or a service to be provided on a continuing basis from a single vendor. In some cases, the quantity may be estimated at an agreed upon unit price.

Only one blanket order at a time may be issued to a specific vendor, from a standard account. A single blanket order may however cover one or more types of items or services.

A blanket order may be issued any time during a calendar year, unless otherwise determined by the Director of Administrative Services. Blanket orders will be invalid after December 31st of the year issued.

2. Types of Blanket Orders. Two types of blanket orders exist:

A. Regular Blanket Orders (B) - referred to as merely blanket orders, are established with a vendor for a fixed dollar amount, but do not necessarily indicate the specific items or services to be purchased, their quantity, or unit price. The description is to state generally what is to be purchased, i.e. "various automotive replacement parts such as but not limited to filters, spark plugs, belts." Statements such as "Supplies as may be needed from time to time" are unacceptable

B. Blanket Orders with Price Agreements (BA) - Blanket orders with price agreements are regular blanket orders where the unit price of the items or services are agreed upon with the vendor for a stated period of time, i.e. fuel oil for the year. Items and prices should be clearly stated in the description along with date of quote or contract award and period of agreement.

#### 5.04 PROCEDURES FOR ESTABLISHING BLANKET ORDERS:

The correct procedure to establish a blanket order is defined below. Blanket order requisitions are initiated and forwarded via the City's computer system.

<u>Responsibility</u>	<u>Action</u>
Department, division, office or agency	1. Determine the items or services to be purchased on a recurring basis; Initiates a requisition
Controller	2. Reviews the requisition; determines if sufficient funds are available in specified account. If specified account has insufficient funds, notifies user to request a transfer from another account.
Director of Administrative Services	3. Examines blanket order for budget authorization. If questions arise, contacts the department, division, office or agency for clarification or explanation. If approved, forwards to purchasing.
Purchasing Coordinator	4. Distributes copies to appropriate offices and mails vendor copy.

5.05 PROCEDURES FOR BUYING ITEMS AGAINST A BLANKET ORDER:

Once a blanket order is established, the department, division, office or agency may approve the purchase of items covered by the blanket order.

The correct procedure to buy items against a blanket order is defined below.

<u>Responsibility</u>	<u>Action</u>
Department, division, office or agency	1. Department, division, office or agency approves all blanket order purchases before they are made. Authorized employee must present proper City identification to vendor. Single item purchases over \$500 must be pre-approved by the purchasing coordinator.
Accounts Payable	2. Upon receipt of invoice from vendor, a copy is forwarded to the using department, division, office or agency.
Department, division, office or agency	3. Confirms accuracy of invoice, including price and availability of funds. Ensures that purchase order number and code are on the invoice. Obtains signature from the department, division, office or agency and forwards with receiving slip to accounts payable for payment.
Accounts Payable	4. Pays bill from the account used to establish the blanket order. Confirms accuracy of price with that listed on purchase or contained in contract or price agreement with vendor. Reduces blanket order amount accordingly.

5.06 PROCEDURES FOR RENEWING A BLANKET ORDER:

When a purchase is desired against a blanket order and insufficient funds are available from the blanket order, there are two options:

- ◆ If the purchase is the last one to be made against the blanket order, the department, division, office or agency may request accounts payable to add up to \$1,000 additional funds to cover the last purchase. If more than \$1,000 is required, the department, division, office or agency should issue a separate requisition for the purchase.
- ◆ If more than \$1,000 is required to make the purchase and additional purchases are desired against a blanket order on a continuing basis, a renewal must be made.

In case of a renewal, the department, division, office or agency completes a new requisition. The procedure, herein, is the same as previously stated for requesting a new blanket order.

5.07 CLOSING A BLANKET ORDER:

A department, division, office or agency may desire to close a blanket order even though funds are still reserved.

To close an existing blanket order the department, division, office or agency contacts either purchasing or accounts payable with instructions to cancel it. Accounts payable removes the reservation and transfers the remaining funds into the same standard account of the department, division, office or agency.

A department, division, office or agency shall not have more than one blanket order with the same vendor, in the same expenditure code, unless one blanket order falls below \$25.

## Section 6

### **Payment for items and services without a purchase order**

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#### 6.01 PURPOSE:

The purpose of this administrative communication is to:

1. Define the categories of purchases for which payment is authorized by use of the Accounts Payable Approval form.
2. Explain the procedure whereby payment to vendors is authorized by use of the Accounts Payable Approval form.

#### 6.02 APPLICABLE TO:

All departments, divisions, offices or agencies

#### 6.03 CATEGORIES OF PURCHASES MADE NOT REQUIRING A PURCHASE ORDER:

Certain categories of purchases do not require the department, division, office or agency to follow the requisition/purchase order process, and the orders are not placed by the purchasing coordinator as outlined in Administrative Procedure "Requisition and Purchase Order Process".

Categories of purchases that do not require a purchase order are as follows:

- ◆ Arbitration costs
- ◆ Association dues
- ◆ Books and subscriptions
- ◆ Business meeting expenses
- ◆ Charitable contributions
- ◆ Debt service & related fees
- ◆ Insurance
- ◆ Items under one hundred dollars (\$100) that can legitimately be purchased via petty cash
- ◆ Postage
- ◆ Tuition
- ◆ Travel expenses for job related purposes - including meals, lodging and transportation (travel policy must be followed)
- ◆ Utility services (e.g. heat, electricity, phone services regulated by the PUC)
- ◆ Worker's compensation disbursements

Only the expenses and services listed above may be purchased with payment authorized by the Accounts Payable Approval form

6.04 SPECIFIC PROCEDURES FOR PAYMENT WITH AN ACCOUNTS PAYABLE APPROVAL FORM:

1. Authorization to Pay by the Accounts Payable Procedure.

<u>Responsibility</u>	<u>Action</u>
<p>Department, division, office or agency</p>	<p>1. Determines if adequate funds are available in the appropriate account for the expense.</p> <p>a. If adequate funds are not available in the appropriate account, initiates a budget transfer.</p> <p>2. Determines if items or services may be purchased by the accounts payable process. If so, contacts vendor directly and gives necessary information for purchase.</p> <p>3. Receives goods or services.</p> <p>4. After receiving goods or services and determining them to be satisfactory, completes an accounts payable approval form as an authorization for payment.</p> <p>5. Forwards copy of the accounts payable approval form and vendor invoice to the Director of Administrative Services for authorization.</p>
<p>Director of Administrative Services</p>	<p>6. Reviews accounts payable approval form and if approves, signs accordingly and forwards with the invoice to Accounts Payable. Additional signature authorizations as per City policy are applied during this step.</p>
<p>Accounts Payable</p>	<p>7. Audits accounts payable approval form to verify funds are available in the account(s) specified.</p> <p>a. Returns to the department, division, office or agency for transfer if funds are not available in account(s) specified.</p> <p>8. Insures that proper payment is made to vendor.</p> <p>9. Notifies the department, division, office or agency of payment through issuance of monthly report of payments.</p> <p>10. Forwards original copy plus vendor invoice to accounting for filing.</p>

## Section 7

### **Bid Solicitation, Evaluation, and Award Procedure**

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7.01 PURPOSE:

The purpose of this issuance is to define and explain the procedures followed in the invitation/solicitation, opening, evaluation and award of bids for purchases of \$35,000 and greater.

7.02 APPLICABLE TO:

The Purchasing office of the City of Reading and all departments, divisions, offices or agencies.

7.03 DEFINITIONS:

1. Bid - the formal offering of a price by a vendor for a specific construction project, commodity or product costing over \$10,000.00 and requiring bid surety.
2. Bid Solicitation - a type of vendor solicitation used that requires the City to advertise for equipment, supplies and services desired and requires vendors to submit sealed bids.
3. Invitation to Bid - a document prepared by purchasing and sent to bidders for the purpose of soliciting bids on goods and services.
4. Mailing List - a current list of vendors offering supplies, equipment and services maintained by purchasing.
5. Public Work of the City - includes any service provided by the City on an ongoing basis for the welfare and protection of property and persons within its political bounds.
6. Responsible Bidder - a type of vendor that possesses at least, but not limited to the following - adequate production facilities, sound financial standing and a sufficient experience in the business of producing and/or supplying goods or services.
7. Responsive Bidder - a type of vendor that complies with all specifications put forth by the invitation to bid.
8. Sole Source Supplier - a supplier who is the only vendor able to furnish a certain item that is copyrighted or patented, excluding any professional services.
9. Specifications - requirements and/or instructions that must be properly addressed and followed by bidders.
10. Vendor - a supplier of goods or services.
11. Verbal Solicitation - a type of vendor solicitation which involves an oral price statement from a vendor to the purchasing coordinator for a particular commodity or service.
12. Written Vendor Solicitation - a type of vendor solicitation that requires a written price quotation from the vendor to the purchasing coordinator.

7.04 GENERAL POLICY:

1. Central purchasing authority and responsibility in the City rests with the City purchasing coordinator and the City purchasing office.
2. The bidding process is a public process that is subject to public scrutiny and review. All purchasing procedures and regulations shall be written and made available for public review.
3. Any deviation from normal operating practices shall require proper documentation and approval by the Managing Director.
4. Projects or contracts which are federally funded must comply with provisions set forth by the United States Department of Labor, the United States Department of Housing and Urban Development, and the Office of Federal Contract Compliance Programs.
5. The Department of Community Development is responsible for monitoring contracts involving federal funds, including labor compliance.

7.05 PURCHASES REQUIRING BID SOLICITATION

1. All purchases of \$35,000 and up require bid solicitations except those listed below:
  - A. Public utility service under tariffs on file with the Pennsylvania Public Utility Commission.
  - B. Any items purchased through Federal or City programs that have different bidding requirements mandated by a grant program.
  - C. Purchases made through intergovernmental cooperation as governed by 1972, P.L.762, No.180:53 P.S.481 as amended and Act 31 of 1971 the City's cooperative purchasing program, a City law of general application.
2. Bid solicitations or RFP's are not mandatory for the items listed in 7.05.1 (above); however, requests by departments, divisions, offices or agencies to bypass the bid solicitation or RFP procedure must have valid justification. All such requests shall be in writing and receive approval by the Managing Director on a case by case basis.

7.06 MAILING LIST:

1. General. The bidders list is a current list of suppliers of various categories of commodities. The purchasing coordinator shall develop and maintain the mailing list.
2. Membership. The mailing list consists of:
  - ◆ Vendors with whom there has been a satisfactory, past relationship.
  - ◆ Vendors added by the purchasing coordinator as a result of research in trade journals, other documents or by consultation with user departments.
  - ◆ Vendors who contact purchasing in response to newspaper advertisements or in

anticipation of the City's future needs.

- ◆ Vendors who have never provided goods or services to the City and who request to be added to the City's mailing list, may be added on a probationary basis.
- ◆ Vendor that has proven to be acceptable either through a positive experience with the City or through acceptable reference checks.

The purchasing coordinator will review and update each commodity group at least once every two (2) calendar years.

3. Removal. Vendor files shall be located in purchasing. It is the responsibility of the department, division, office or agency to notify purchasing by memorandum of any supplier that does not act in a responsible manner.

A bidder may be removed from the mailing list when:

- ◆ There are three (3) or more consecutive no responses to a request for quotation, within a one (1) year period.
- ◆ There is failure to submit a bid for an annual contract for two (2) consecutive years.
- ◆ Consistent inability to meet specifications and delivery dates.
- ◆ General failure to keep commitments.
- ◆ Consistent complaints by users about the quality of the product or service.

Evidence of such failures of performance shall be documented by the department, division, office or agency and forwarded to the purchasing coordinator and the Director of Administrative Services for review. If the Director of Administrative Services determines that removal from the list is justified, the vendor shall be notified in writing explaining the reasons for removal.

4. Reinstatement. A vendor can be reinstated to the mailing list upon receipt of a letter of application that explains their interest in City purchasing if the reason for removal was the vendor's failure to reply to the Invitation to Bid.

If the vendor was removed for inability to meet specification, meet delivery dates or for offering a poor quality item, the vendor must take steps to show the purchasing coordinator that the problem has been or is being corrected. The purchasing coordinator will file the documentation submitted by the vendor in the appropriate vendor file and if acceptable will reinstate the vendor to the mailing list.

#### 7.07 SOLICITATION PROCEDURE.

1. Product or Service Determination. The department, division, office or agency determines the need for a product or service and is responsible for budgeting the item. Purchasing can assist in deciding upon a reasonable figure for the particular item.

2. Authorization. A memo requesting the purchasing coordinator to advertise for bids for a specific item or service shall be initiated by the department, division, office or agency and approved by the Managing Director and Director of Administrative Services.

3. Requisition. The department, division, office or agency will initiate a requisition.

7.08 PREPARING SPECIFICATIONS. The specifications that are included in the Invitation to Bid are prepared by the department, division, office or agency, with guidance from the purchasing office. Specifications are required in all bid solicitation situations, and optional based upon the need in all other cases as determined by the purchasing office. The City strongly discourages restrictive specifications that can favor certain vendors.

1. When the department, division, office or agency decides to prepare the specifications, the department, division, office or agency should contact various suppliers of the product or service and request manufacturer's specifications. The purchasing office can provide guidance in this part of the procedure.

All department, division, office or agency should be wary of salespersons who may attempt to influence how the City's specifications are drafted. The department, division, office or agency should be aware that the City benefits the most when there is good competition among numerous vendors.

2. The department, division, office or agency reviews all the manufacturer's specifications and prepares the City specifications so that as many suppliers as possible will be able to meet the requirements without sacrificing quality. The specifications should include all essential requirements to insure that the item meets the department, division, office or agency's needs, but simultaneously containing only those features that are necessary for an item's intended use.

3. The department, division, office or agency attaches the drafted City specification to the manufacturers' specifications used, and forwards to the purchasing office.

4. Purchasing will review the drafted specifications to assure that as many vendors as possible can successfully meet the requirements and respond to the Invitation to Bid. If the purchasing coordinator feels that the specifications as drafted will not support competition, necessary changes will be made in coordination with the department, division, office or agency. If the purchasing coordinator and the department, division, office or agency cannot agree on a common ground, they will meet with the Director of Administrative Services to make the final determination of how the specifications will read.

5. The purchasing office may, with the cooperation of the department, division, office or agency, organize a pre-bid conference with potential vendors for the purpose of reviewing draft specifications for completeness, accuracy and fairness.

#### 7.09 INVITATION TO BID

1. General. The Invitation to Bid which is issued by purchasing establishes the criteria for determining the responsive bidder by outlining the procedure bidders must follow to be considered for the bid award. The Invitation to Bid or a copy of the newspaper ad or internet posting outlining the bid solicitation may be sent to vendors in that particular category of the mailing list.

2. Procedural requirements included in the bid packet outline standard instructions to be followed

for bidding, delivery and, completion schedules, payment, invoicing procedures, and conditions for inspections and acceptance of purchased items.

3. Notice Inviting Bids.

A. Public notice shall be given for all bid solicitations. Acceptable methods of public notice include: publishing an advertisement two times, each publication on a different day, in at least one newspaper of general publication, posting of the bid solicitation to the City website, publication in a specialty-interest publication, or other methods as may be deemed acceptable by the purchasing coordinator. The bids shall not be opened until at least ten days have elapsed after the first advertisement.

B. City Web Site. All bid solicitations published on the Purchasing section of the City web site shall include at least:

- ◆ A description of the equipment, supplies, products or services to be purchased.
- ◆ Where the bid form and specifications can be obtained.
- ◆ The deadline and location for submission.
- ◆ Reference to prevailing wages if applicable.

C. Mailing List. The purchasing coordinator shall maintain a mailing list of current suppliers. Vendors on the mailing list will be directed to the City website, where they can find relevant information on open bids.

4. Bid Security. Purchasing shall require a bid security that serves the purpose of protecting the interest of the City, unless otherwise determined by the Managing Director at the time of bid publication. The bid security will be required equally of all bidders.

A. Security Amount. All bids shall be accompanied by cash, certified check, a bond with corporate surety or at the City's option, an irrevocable letter of credit in the amount of ten percent (10%) of the bid.

7.10 BID RECEIPT, OPENING AND TABULATION.

1. Receipt. All bids shall be submitted in a sealed envelope, marked with the bid number and delivered to the Purchasing Office by the date and time of the bid opening or the deadline as advertised.

Upon receipt, the bid envelope shall be stamped with the date and time received and placed in a locked filing cabinet until the time of the opening. All bids shall remain sealed until the time of the bid opening.

2. Opening. All bids submitted in response to the City's Invitation to Bid shall be opened by the purchasing coordinator and witnessed by the City Clerk or their designees at the time and date advertised in the legal notice. The bid opening shall be held in a public forum and may be attended

by the news media, concerned citizens and interested vendors.

3. Tabulation. All bids shall be tabulated. The tabulation becomes a permanent record of all bids received, showing the bidder's name, items and prices. Bids considered invalid, i.e. submitted without security, will be listed on the schedule as such.

The tabulation shall be filed in the purchasing office for seven (7) years, or as may be specified in the Records Retention Schedule, to be used as evidence of competitive practices and serve as a source of information if questions do arise.

#### 7.11 BID EVALUATION AND AWARD:

1. No Bids. If a situation occurs that no bids are received by Purchasing, the purchasing coordinator shall:

A. Review the specifications to insure that they are not overly restrictive or unrealistic and after being duly authorized, re-issue the Invitation to Bid with or without adjusted specifications.

B. If again bids are not received, the City may enter into a contract for purchase of the item within forty-five (45) days of the second advertisement thereof, in accordance with PA Act 1979-78.

Regardless of action, the purchasing coordinator shall document in writing the steps taken and reasons for the action.

2. Other Situations.

A. Late Bids. Late bids, regardless of the circumstances, are unacceptable.

B. Tie Bids. Only on rare occasions are bids received from responsible vendors for the same amount or unit price, with quality and service being equal. In such instances, the contract shall be made by drawing lots in a public forum.

This tie bid procedure will only be followed when the tie bidders are all responsible bidders and equal in quality and service, as well as price.

C. Alternate Bids. By City policy, alternate bids are not encouraged. As a rule, if a bid is not responsive to the Invitation to Bid, it should be rejected. However, if the alternate bid reflects the only product or service the firm has to offer and if the bid is advantageous to the City through lower cost for a quality item, the purchasing coordinator shall consult with the appropriate department, division, office or agency and the purchasing committee prior to making the final recommendation. In all cases, the purchasing coordinator shall:

Document the decision on accepting or rejecting an alternate bid with reasons for the decision.

Be sure that all respondents to an Invitation to Bid have received opportunities equal to that of the alternate bidder.

D. Adjustments Due to Errors. If a mistake is discovered after opening, only those deviations

that do not give a bidder an unfair advantage over his/her competitors will be permitted. These include, but are not limited to multiplication errors in completing totals from unit prices (the unit price will prevail) and an obvious misplacement of decimal points.

E. Withdrawal of Bids. If the bidder discovers an error after submittal, but prior to opening, he/she will be permitted to make formal changes or withdraw the bid before the bid opening without revealing the bid amount.

A new sealed bid should be delivered in person or by mail, prior to the deadline advertised in the legal notice.

A bidder to a construction contract may withdraw a bid from consideration after the bid opening without forfeiture of the ten percent (10%) bid surety, if the bid was submitted in good faith and the bidder submits credible evidence that a clerical mistake or an unintentional omission of a substantial quantity of work, labor, material or services was made in direct compilation of the bid and the reason for the price being substantially lower, as opposed to a judgment error.

3. Rejection of Bids. City Council or the Managing Director whichever applies, shall have the authority to reject a single bid or all bids for reasons including but not limited to the following circumstances:

- ◆ Unreasonably high bid prices
- ◆ Late arrival
- ◆ Alternate bids
- ◆ Error corrections that would give an unfair advantage
- ◆ Suspicion of collusion among bidders
- ◆ Substantial non-conformance with bid specifications
- ◆ Failure of the bid to meet the criterion of being the lowest responsive and responsible bidder

4. Bid Award.

A. It is the policy of the City to make awards to the vendor who meets the specifications for the items or services to be purchased at the lowest cost. Factors such as delivery time, quality, operating and maintenance costs, service, etc., as well as initial price, should be taken into consideration in determining the lowest cost vendor.

B. The department, division, office or agency shall review all bids and make a recommendation to the purchasing manager by completing the "Recommendation to Award Contract" form.

If the purchasing coordinator has technical or operational concerns regarding the recommendation of the head of the department, division, office or agency, the award will be referred to a purchasing committee, comprised of the Managing Director, the Director of Administrative Services, and the City Solicitor or his designee, for determination. In the case where the Administrative Services Department or Law Department has issued the bid, the Managing Director shall designate one or more neutral parties

C. The Director of Administrative Services shall review the recommendation to ensure an award is compatible with the budget.

D. The Managing Director shall approve all recommendations.

E. Both the Mayor and the Managing Director shall have final approval of contracts below

\$35,000.

F. City Council shall award or reject all contracts exceeding \$34,999.99.

G. A purchase order shall be initiated after the contract award; however, it shall not be issued until the contract documents have been finalized.

H. The successful vendor after receiving the contract documents has ten (10) working days to sign and return with the necessary bonds.

I. If the selected vendor fails to deliver a bond or items bid within the time limits specified, the purchasing coordinator may choose to recommend rescinding the award and re-advertise for bids. In such event, the delinquent bidder shall be responsible for the costs of re-bidding and the amount of any increase in the contract price thereby resulting. The purchasing coordinator shall properly document the action, the reasons for the action and retain the vendor bid surety not as a penalty, but as liquidated damages for inability to comply with the contractual agreement.

J. Local Preference: For all competitive solicitations in which objective factors are used to numerically evaluate the responses from vendors by the selection committee, and price is one of several of the criteria for award among otherwise qualified vendors, where a non-local business is the highest ranked proposer and the ranking of a local proposer is within ten (10%) of the ranking obtained by the non-local proposer, the highest ranked local proposer (within 10%) may be considered for negotiations with the City. If the City determines that it is, in its sole and exclusive discretion, unable to negotiate an acceptable contract, then it shall proceed to negotiate with the next highest ranked proposer, whether local or non-local.

The City has the sole discretion in determining whether a business meets the criteria to qualify for a local business preference and reserves the right to revoke this preference at any time if the City determines the business no longer meets the following criteria:

1. The principal place of business is located in the City of Reading; and
2. The business has held a valid City business license for at least one (1) year prior to the date of application; and
3. The business maintains its status as a local bidder throughout the term of the contract; if it fails to do so, the City, in its sole discretion, may terminate the contract.

## Section 8

### **Purchasing of Professional Services**

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#### 8.01 PURPOSE:

The purpose of this regulation is to outline the process involved for preparing specifications, letting of Request For Proposals (RFP's), awarding contracts and payment of bills for professional services.

#### 8.02 APPLICABLE TO:

All departments, divisions, offices or agencies.

#### 8.03 POLICY:

1. For the purpose of this regulation the term "professional" is defined as those persons or firms marketing services requiring advanced academic or technical training skills. Examples of professional services include work done by the following contractors but is not necessarily limited to these services:

- ◆ Accountants
- ◆ Architects
- ◆ Attorneys
- ◆ Bond Underwriters
- ◆ Engineers
- ◆ Insurance Consultants, Agents, and/or Brokers
- ◆ Investment Advisors
- ◆ Physicians

2. Professional service contracts are not to be confused with standard contracts which seek a price or costs for particular work detailed in specifications. Professional contracts seek expertise through an RFP and pricing or cost may not be of "primary" importance.

3. A professional contract, while it is based upon work performed in response to task specifications and the need for a finished product as outlined by the City and agreed to by a contractor, it is one that by its very nature cannot be awarded solely based upon the selection of the lowest bidder.

4. Factors other than price alone must be carefully weighed in the review of proposals and the award of such contracts. These factors include the professional qualifications/certifications, special skills, experience, and familiarity of the contractor with the work requested, all of which have impacts on the quality of the product/service to be delivered.

#### 8.04 PREPARING REQUESTS FOR PROPOSALS (RFP'S) FOR CONTRACTS GREATER THAN \$35,000.

##### 1. When to prepare an RFP.

A. When it is estimated that the cost of a purchase of professional services shall meet or exceed

\$35,000, the RFP process must be initiated and the vendor must be retained through a written contract. Competitive proposals increase the ability to fully evaluate both the benefit and costs of the services being sought.

B. Notwithstanding any other provisions to the contrary if the Managing Director so determines, no RFP shall be required for an employee engaged in providing professional services to the City who terminates employment with the City and shall then be engaged as an independent contractor. In addition, no RFP shall be required for an independent contractor whose engagement terminates, if the Managing Director desires to continue the engagement by the City.

C. For all contracts expected to exceed \$34,999.99 and for all contracts that are multi-phased (e.g., feasibility study and design, multiple contract renewals/extensions within a one-year period) department, division, office, agency or person designated by the Managing Director shall prepare a RFP specifically for the extent of the work effort that can be defined at that particular time. The RFP should solicit information pertaining to the contractor's qualifications and costs (including appropriate hourly rates, etc.) for as many phases as appropriate. Costs and qualification information should then be utilized to select the contractor. For any subsequent phases of the contract that have not been specifically defined in the initial RFP, a new RFP should be drafted and circulated to secure competitive proposals from interested contractors.

## 2 How to write an RFP:

The Request For Proposal shall clearly describe the desired services and may include, but not be limited to, the following information:

- ◆ General background information pertinent to the requested services.
- ◆ Nature and scope of requested services including minimum tasks and activities to be performed together with prescribed completion schedule.
- ◆ Methodology and technical approach to be used in accomplishing the requested work.
- ◆ Description of reports required.
- ◆ Documentation of qualifications and experience in similar work and resumes of staff members to be assigned to the engagement.
- ◆ Compensation information including detailed cost information itemizing hours and rates of each class of staff to be utilized, and out-of-pocket expenses such as travel, telephone, publication and duplication.
- ◆ Estimated utilization of City resources necessary to complete the engagements.
- ◆ Information as to the City's evaluation and selection process.
- ◆ Minority Business Enterprise (MBE)/Woman Business Enterprise (WBE) participation.

## 8.05 CONTRACTS BETWEEN \$10,000 AND \$34,999:

1. The department, division, office, agency or person designated by Managing Director to handle the assignment, shall request written proposals from at least three (3) firms. Proposals shall include the fee in the form of a unit cost and the total maximum cost to be charged. After analysis, a recommendation shall be presented to the purchasing coordinator, Director of Administrative Services and Managing Director for final approval.

2. Upon written request, unsuccessful firms shall be given a written explanation as to the reasons

for the selection.

3. The department, division, office or agency should take precautions to project the total cost of professional service contracts that are multi-phased. An RFP must be prepared for those multi-phased contracts when the total cost of which could exceed \$34,999.99.
4. Once final approval for a contract less than \$35,000 has been granted by the Administrative Services Director and the Managing Director, the department, division, office, agency or person designated by the Managing Director to handle the assignment shall meet with a representative from the City Solicitor's office to draft the required contracts.
5. Multiple contracts valued below \$35,000 which occur during a single year and provide for the same or a substantially similar service; or for which services are provided by the same individual or vendor shall be considered to be multi-phased. These contracts shall be subject to the approval requirements of a contract that exceeds \$34,999.99.
6. No contract valued at less than \$35,000 shall be eligible for payment by the City without the contract having been signed by the City Solicitor.
7. The City Solicitor shall provide final review for form and content and signature on the contract. Contracts without Solicitor signature will not be eligible for payment.

8.06 THE PURCHASING COORDINATOR'S RESPONSIBILITY:

For purposes of consistency, the purchasing coordinator shall be appointed to all committees designated to prepare RFP's, review all documents prior to issuance and evaluate submissions.

The Administrative Services Director shall authorize the advertising for professional services by the purchasing coordinator, who will advertise in local newspapers of general circulation, regional metropolitan newspapers, trade journals, if applicable, and the City website.

1. The advertisement shall give notice that an RFP is available for review by interested firms. Basic information describing the requested services, where the document can be obtained and the deadline and location for submission shall be included.
2. At the discretion of the purchasing coordinator or the department, division, office or agency a mandatory pre-proposal conference may be held with all interested firms to clarify any questions.

8.07 SELECTION OF PROFESSIONAL SERVICE CONTRACTS GREATER THAN \$34,999.99

1. The proposals of those firms responding to an RFP are reviewed by a selection committee designated by the Managing Director or his designee.
  - A. The selection committee shall consist of the purchasing coordinator, the City Solicitor (non-voting member), three designees of the department, division, office or agency, and the designee of the Administrative Services Director. All committee members must sign and return, to the purchasing coordinator, the Confidentiality Statement and No Conflict of Interest Statement prior to receiving any non-public information regarding the applicable RFP.

B. The selection process shall be based on the objective criteria contained in the RFP (Section 8.04.2) and not on the lowest bid.

Examples of the evaluation criteria include: size and experience of the firm on similar projects, client references, demonstrable understanding of the requested work, the ability and/or commitment to meet the prescribed completion schedule, and the cost estimates.

C. The recommendation of the selection committee shall be to the firm with highest total points.

D. The selection committee has the responsibility to negotiate the most favorable cost, terms and conditions to the City of Reading. The negotiating process may involve one or more RFP responses, and may continue until the actual award of the contract.

E. A meeting with the purchasing coordinator and the representative of the Solicitor's office will be available for a firm who is dissatisfied after not being recommended for award of the contract.

2. The selection committee shall submit a written report on the process and its recommendation, to be reviewed with the Administrative Services Director.

3. Prior to formal acceptance, the RFP and the proposal shall be submitted to the Solicitor's staff for review.

4. The Administrative Services Director and the selection committee will prepare a recommendation for the Managing Director to present to City Council for final approval where such approval is required by the Charter and/or by the Administrative Code. ~~and/or the purchasing policies.~~

5. The Administrative Services Director shall advise the purchasing coordinator to formally notify the successful firm.

6. No contract valued at greater than \$34,999.99 shall be eligible for payment by the City unless the contract is approved by Council and signed by the Mayor and City Solicitor.

7. The City Solicitor shall provide final review of the contract for form and content. The City Solicitor's signature shall only be affixed to the contract after this review is complete. Contracts lacking Solicitor approval will not be eligible for payments.

#### 8.08 RENEWAL OF PROFESSIONAL SERVICE CONTRACTS:

The City shall have the option to renew a professional services contract for one (1) year beyond the established contract period, based upon a continuation of the current contract price or the re-negotiation of a new price. This does not preclude the City from requesting a term contract with multiple 1-year renewal periods, as long as the total contract term does not exceed five (5) years. However, if a contract does not originate with multiple 1-year renewal periods, it shall only be eligible for a one (1) year extension at the current or re-negotiated price.

## Section 9

### **Non-Collusion and Bid Rigging**

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- 9.01 DEFINITION OF BID-RIGGING - The concerted activity of two or more persons to influence the winning bidder of a contract.
- 9.02 PROHIBITED ACTIVITIES - It is unlawful for any person to conspire, collude, or combine with another in order to commit or attempt to commit bid-rigging. Unlawful bid-rigging includes but is not limited to:
- A. Agreeing to sell items or services at the same price.
  - B. Agreeing to submit identical bids.
  - C. Agreeing to rotate bids.
  - D. Agreeing to share profits with a contractor who does not submit the low bid.
  - E. Submitting prearranged bids, agreed-upon higher or lower bids or other complementary bids.
  - F. Agreeing to set up territories to restrict competition.
  - G. Agreeing not to submit bids.
- 9.03 SIMULTANEOUS BIDS - It is **not** unlawful for the same person to simultaneously submit bids for the same work or a portion thereof, as a proposed prime contractor and subcontractor.
- 9.04 NON-COLLUSION AFFIDAVITS - All Bid's and RFP's should include the requirement for bidders and vendors to provide a non-collusion affidavit with their bids/proposals. A form of a non-collusion affidavit is found in the Appendix of Forms. The non-collusion affidavit must state whether or not the person has been convicted or found liable for any act prohibited by federal or state law in any jurisdiction involving conspiracy or collusion with respect to bidding on any public contract within the last five years. The non-collusion affidavit should provide that the person's statement on the affidavit that he has been convicted or found liable for any act prohibited by federal or state law in any jurisdiction involving conspiracy or collusion with respect to bidding on any public contract within the last five years does not prohibit the City from accepting a bid from or awarding a contract to that person but it may be grounds for:
- A. Rejection of the bid/proposal on the basis of lack of responsibility; and/or
  - B. Suspension or disbarment

9.05 INVESTIGATION. If suspicion exists that a bidder may have engaged in bid-rigging or collusion activity, the purchasing coordinator will refer the matter to the City Solicitor who may, if the Solicitor also finds suspicious facts, forward the matter to the Office of the Berks County District Attorney.

## Section 10

# Allowable Contract Types

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### 10.01 GENERAL.

1. The selection of an appropriate type of contract and contract costs are related and should be considered together. The objective is to negotiate a contract type and price that includes reasonable contractor risk and provides the contractor with the greatest incentive for efficient and economical performance. When there is a need for using other than a firm fixed-price contract, it must be determined, before award of the contract, whether the contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated and is adequate to allocate costs in accordance with generally accepted accounting principles. This may be particularly critical where a cost-reimbursement type of contract is being considered and all current or past experience with the contractor has been on a fixed-price basis.

A contract may be one of the following types or a combination of the types identified below. **COST-PLUS-A-PERCENTAGE-OF-COST CONTRACTS ARE PROHIBITED.**

### 10.02 FIRM, FIXED-PRICE CONTRACTS. Firm, fixed-price contracts are of several types designed to facilitate proper pricing under varying circumstances.

1. Established-Price Types. The established-price type of contract provides for a firm price or, under appropriate circumstances, may provide for an adjustable price for the supplies, services, or construction which are being procured. In providing for an adjustable price, the contract may fix a maximum or minimum price. Unless otherwise provided in the contract, any such maximum or minimum price is subject to adjustment only if required by the operation of any contract clause which provided for equitable adjustment, escalation, or other revision of the contract price upon the occurrence of an event or contingency. Established-price contract types are generally created through line item specific bid pricing or established catalog bid pricing.

2. Basic Established-Price Contract. The basic established-price contract provides for a price which is not subject to an adjustment by reason of the cost experience of the contractor in the performance of the contract. This type of contract places maximum risk upon the contractor. Because the contractor assumes full responsibility, in the form of profits or losses, for all costs under or over the firm fixed-price, he or she has a maximum profit incentive for effective cost control and contract performance. Use of the basic established-price contract is suitable for use in procurements when reasonably definite work statements, specifications, and performance requirements are available and whenever fair and reasonable costs can be established at the outset.

3. Established-Price Contract With Escalation. The established-price contract with escalation provides for the upward and downward revision of the stated contract price upon the occurrence of certain contingencies which are specifically defined in the contract. The risks in a basic established-price contract are reduced by the inclusion of escalation provisions in which the parties agree to revise the stated price upon the happening of a prescribed contingency. Where escalation is agreed upon, upward adjustments shall be limited to the establishment of a reasonable ceiling, and provisions

will be included for downward adjustments in those instances where the prices or rates shall fall below the base levels provided in the contract. The escalation generally covers the increase in labor costs due to an increase in the minimum wage or union contract negotiations, or other costs such as fuel, which are beyond the direct control of the contractor.

4. **Established-Price Plus Incentive Contract.** The established-price plus incentive contract is a firm, fixed-price type of contract with provisions for adjustment of profit and establishment of the final contract price by a formula based on the relationship which final negotiated total cost bears to total target costs. Established-price plus incentive contracts are appropriate when the supplies, services, or construction being procured are of such a nature that assumption of a degree of cost responsibility by the contractor is likely to provide him with a positive profit incentive for effective cost control and contract performance.

5. **Prospective Price Redetermination at a Stated Time or Times During Performance Contract.** This type of contract provides for an established-price for an initial period of contract performance and for prospective price redetermination either upward or downward at a stated time or times during the performance of the contract. This type of contract is appropriate in the procurement of supplies, services, or construction where it is possible to negotiate fair and reasonable established prices for an initial period but not for subsequent periods of contract performance.

This type of contract should not be used unless:

1. It has been established through negotiations that a basic established-price contract does not fulfill the requirements established by the conditions surrounding the procurement.
2. The contractor's accounting system is adequate for price redetermination purposes.
3. The prospective pricing period can be made to conform with the operations of the contractor's accounting system.
4. Reasonable assurance exists that price redetermination action will be taken promptly at the time or times specified.
5. It has been approved by the Administrative Services Director.

#### 10.03 TIME AND MATERIALS CONTRACT.

The time and materials contract provides for the procurement of supplies, services, or construction on the basis of:

1. Direct labor hours at specified fixed hourly rates (which rates include direct and indirect labor, overhead, and profit).
2. Material at cost which could include handling and administrative expenses. This type of contract does not afford the contractor any positive profit incentive to control the cost of the materials or to manage his labor force effectively. The time and materials contract is used only where it is not possible at the time of placing the contract to estimate the extent or duration of the work or to anticipate costs with any reasonable degree of confidence. This type of contract is usually used for procurement

of repairs, maintenance or overhaul work, and work to be performed in emergency situations. If this type of contract is used, the contract must show a ceiling price which the contractor exceeds at his own risk. For all agreed upon work not completed at the ceiling price, the Contractor must complete the agreed upon work at their own expense.

3. Labor-Hour Contract. The labor-hour type of contract is a variant of the time and materials type of contract differing only in that materials are not supplied by the contractor.

4. Unit Price Contract. The unit prices for the supplies, services, or construction to be provided are established in the contract with an estimated total amount. The contractor is paid in accordance with the unit price.

5. No-Fee Contract. A contract where supplies, services, or construction are provided at no cost to the City.

#### 10.04 COST-REIMBURSEMENT CONTRACT.

The cost-reimbursement type of contract provides for payment to the contractor of allowable costs incurred in the performance of the contract to the extent prescribed in the contract. This type of contract establishes an estimate of total cost for the purpose of obligation of funds and a ceiling which the contractor may not exceed (except at his own risk) without prior approval and subsequent amendment of the contract. The cost-reimbursement contract is suitable for use only when the uncertainties involved in contract performance are of such magnitude that cost of performance cannot be estimated with sufficient reasonableness to permit use of any type of fixed-price contract. In addition, it is essential that the contractor's cost accounting system is adequate for the determination of costs applicable to the contract and appropriate surveillance by agency personnel during performance will give reasonable assurance that inefficient or wasteful methods are not being used.

1. Cost-Sharing Contract. A cost-sharing contract is a cost-reimbursement type contract under which the contractor receives no fee but is reimbursed only for an agreed portion of its allowable costs. A cost-sharing contract is suitable for those procurements which cover research projects which are jointly sponsored by the City and the contractor with benefit to the contractor in lieu of full monetary reimbursement of costs. In consideration of this benefit, the contractor agrees to absorb a portion of the costs of performance. This type of contract is used for jointly sponsored research and development work with nonprofit educational institutions or other nonprofit organizations or other research and development work where the results of the contract may have commercial benefit to the contractor.

2. Cost-Plus-Incentive-Fee Contract. The cost-plus-incentive-fee contract is a cost-reimbursement type contract with provisions for a fee which is adjusted by formula in accordance with the relationship which total allowable costs bear to target costs. Under this type of contract, there is negotiated initially a target cost, a target fee, a minimum and maximum fee, and a fee adjustment formula. After performance of the contract, the fee payable to the contractor is determined in accordance with the formula. The provision for increase or decrease of fee is designed to provide an incentive for maximum effort on the part of the contractor to manage the contract effectively.

3. Cost-Plus-A-Fixed-Fee Contract. The cost-plus-a-fixed-fee contract is a cost reimbursement type of contract which provides for the payment of a fixed fee to the contractor. The fixed fee, once negotiated, does not vary with actual cost, but may be adjusted as a result of any subsequent changes in the work or services to be performed under the contract. Because the fixed fee does not vary in relation to the contractor's ability to control costs, the cost-plus-a-fixed-fee contract provides the contractor with only a minimum incentive for effective management control of costs. This type of contract is usually used for the performance of research or preliminary exploration or study where the level of effort required is unknown. The fixed fee shall not exceed 10 percent of the estimated cost of the contract, exclusive of the fee, as determined at the time of entering into such contract. Payment schedules for reimbursing contractors will be designed to provide the City with a measure of assurance that contractor performs the work or services satisfactorily before complete payment is made.

10.05 PERFORMANCE BASED CONTRACT. The performance based contract is one which incorporates an incentive to the contractor to surpass stated performance targets by providing for increases in fee or profit to the extent such targets are surpassed and for decreases to the extent such targets are not met. The incentive feature (providing for increases or decreases, as appropriate) is applied to performance targets rather than performance requirements. The incentive should relate to specific performance areas or milestones which have been very carefully established and specified in the contract. Performance incentives present complex problems in contract administration and should be approached with caution.

## Section 11

### **Bid Protests**

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- 11.01 WHO MAY FILE THE PROTEST. Any bidder, offeror, prospective bidder, prospective offeror, or a prospective contractor who is aggrieved in connection with the solicitation or award of a contract may file a protest. Protests relating to cancellation of invitations for bids or requests for proposals and protests relating to the rejection of all bids or proposals are not permitted.
- 11.02 TIME FOR FILING.
1. If a protest is submitted by a prospective bidder or prospective offeror, the protest must be filed before bid opening time or proposal receipt date.
  2. If a protest is filed by a bidder or offeror or a prospective contractor, the protest must be filed within seven days after the protesting bidder or offeror or prospective contractor knew or should have known of the facts giving rise to the protest EXCEPT THAT IN NO EVENT MAY A PROTEST BE FILED LATER THAN SEVEN DAYS AFTER THE DATE THE CONTRACT WAS AWARDED. Date of filing is the date of receipt of protest.
  3. Untimely filed protests must be disregarded by the purchasing coordinator.
- 11.03 FORM OF PROTEST.
1. A protest must be in writing and filed with the purchasing coordinator.
  2. A protest must state all grounds upon which the protesting party asserts that the solicitation or award was improper. Issues not raised by the protesting party before the purchasing coordinator are deemed waived and may not be raised on appeal.
  3. The protesting party may submit with the protest any documents or information deemed relevant.
  4. The written protest shall be accompanied by a cashier's check in the amount of five percent (5%) of the contract award amount, or if the amount of the contract cannot be reasonably determined at the time, then in the amount of One Thousand Two Hundred Fifty Dollars (\$1,250.00), made payable to the City of Reading. The purpose of this protest bond shall be to reimburse the City for all administrative costs associated with the appeal process. Failure to submit a protest bond shall be deemed a waiver of the bid protest and is a jurisdictional deficiency in the protest that will forfeit the right of the bidder to maintain the protest.
- 11.04 NOTICE OF PROTEST. If award has been made, the purchasing coordinator shall notify the successful bidder or contractor of the protest. If the protest is received before award and substantial issues are raised by the protest, all bidders and offerors who appear to have a substantial and reasonable prospect of winning the award shall be notified and may file their agreement/disagreement with the purchasing office within five days after receipt of notice of protest.
- 11.05 STAY OF PROCUREMENT. The purchasing coordinator shall immediately decide upon receipt of the protest whether or not the solicitation or award shall be stayed, or if the

protest is timely received after the award, whether the performance of the contract should be suspended. The purchasing office shall not proceed further with the solicitation or with the award of the contract, and shall suspend performance under the contract if awarded, unless the Administrative Services Director makes a written determination that the protest is clearly without merit or that award of the contract without delay is necessary to protect the substantial interests of the City.

#### 11.06 PROCEDURES.

1. Purchasing Coordinator Response. Within 15 days of the receipt of a protest, the purchasing coordinator shall submit a written response to the Administrative Services Director. The response may include any documents or information that the purchasing coordinator deems relevant to the protest.
2. Protesting Party Reply. Within 10 days of the date of the purchasing coordinator response, the protesting party may file a written reply.
3. Review. The Director of Administrative Services or designee shall:
  - A. Review the protest and any response or reply.
  - B. Request and review any additional documents or information deemed necessary to render a decision.
  - C. Give the protesting party and the department head reasonable opportunity to review and address any additional documents or information requested.
  - D. In their sole discretion, conduct a hearing.
  - E. Within 60 days of the receipt of the protest, issue a written determination stating the reasons for the decision.
  - F. If additional time is required to investigate the protest, inform the protesting party of the additional time needed to render a determination and obtain the protesting party's consent.
4. "Clearly Without Merit" determinations. If the Administrative Services Director determines, upon receipt, that the protest is clearly without merit and does not stay the procurement, the purchasing coordinator shall immediately issue the decision as required by 11.08, below.

11.07 SETTLEMENT. The Director of Administrative Services, in consultation with the City Solicitor, has the authority to settle and resolve bid protests.

11.08 DECISION. The Director of Administrative Services or designee shall promptly, but in no event later than 60 days from the filing of the protest, issue a written decision. The decision shall:

1. State the reasons for the decision.
2. If the protest is denied, inform the protesting party of its right to file an appeal in Berks County Court within 15 days of the mailing date of the decision.

3. If it is determined that the solicitation or award was contrary to law, enter an appropriate order under 11.09. or 11.10., below.

4. The purchasing coordinator shall send a copy of the decision to the protesting party and any other person determined by the Administrative Services Director to be affected by the decision.

11.09 REMEDY BEFORE EXECUTION OF CONTRACT. If, before execution of a contract, it is determined that a solicitation or proposed award of a contract was in violation of law, the purchasing coordinator may do one of the following:

1. Cancel the solicitation;
2. Change the solicitation to comply with law;
3. Reject all bids or proposals or those parts of the bids or proposals which were affected by the violation; or
4. Change or cancel the award to comply with law.

11.10. REMEDIES AFTER EXECUTION OF CONTRACT. If, after the execution of a contract, it is determined that a solicitation or award of a contract was in violation of law:

1. If the contractor did not act fraudulently or in bad faith, the contract may be:
  - A. Ratified and affirmed provided it is determined by the purchasing agency that doing so is in the best interest of the City.
  - B. Modified to comply with the law with the consent of all parties.
  - C. Cancelled and the contractor shall be compensated for the actual expenses reasonably incurred under the contract prior to termination. Such compensation shall not include loss of anticipated profit, loss of use of money, or administrative or overhead costs.
2. If the contractor has acted fraudulently or in bad faith, the contract may be:
  - A. Declared void.
  - B. Modified to comply with law with the consent of all parties.
  - C. Ratified and affirmed, provided it is determined by the purchasing coordinator, if that action is in the best interests of the City and without prejudice to the right of the City to damages, as may be appropriate.

## Section 12

### **Petty Cash Funds**

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#### 12.01 PURPOSE:

The purpose of this regulation is to establish the policy for the use of petty cash funds and to establish the procedure for replenishing these funds.

#### 12.02 APPLICABLE TO:

All departments, divisions, offices or agencies.

#### 12.03 GENERAL POLICY:

1. Petty cash funds exist to permit departments, divisions, offices or agencies to reimburse employees for incidental purchases. Petty cash is strictly for the purpose of reimbursing employees for out-of-pocket business expenses. There will be no petty cash advances.
2. Petty cash funds shall not be used to pay invoices. All invoices shall be paid through the accounts payable system.
3. A petty cash purchase shall not exceed one hundred (\$100) dollars. At no time shall expenditures be fragmented to stay within the one hundred (\$100) dollar limit.

Departments, divisions, offices or agencies approving petty cash expenditures shall keep in mind that the City may pay higher prices by purchasing items through a number of small petty cash expenditures, rather than through a single bulk purchase via purchasing.

4. Items such as office supplies that are available from or through the purchasing office shall not at any time be purchased with petty cash funds.

Petty cash shall not be used as a substitute to the Emergency Purchase Procedure.

5. All petty cash vouchers must have valid vendor receipts attached for the exact amount to be reimbursed. For mileage reimbursement, the travel expense report form must be used. Departments, divisions, offices or agencies shall not approve petty cash vouchers without proper receipts and shall inform employees that reimbursement will not occur if the proper procedure is not followed. Employees should be aware that the City is exempt from Pennsylvania sales tax, and that such tax should not be paid.

6. A brief statement justifying the petty cash expenditure shall be included on the petty cash voucher or petty cash ledger form. Petty cash expenditures shall be charged to the correct budget account number.

#### 12.04 PETTY CASH FUNDS:

The Director of Administrative Services shall authorize the location and amount of petty cash funds. The following departments, divisions, offices and agencies maintain petty cash funds for the personnel in their offices:

- ◆ Treasurer's office for all City Hall departments, divisions, offices or agencies unless listed below:
  - Public Works
  - Police
  - Sewage Treatment

#### 12.05 RESPONSIBILITY FOR PETTY CASH FUNDS:

A specific employee, designated as custodian, shall be assigned to each petty cash fund. The custodian is responsible for the accurate accounting and control of the department, division, office or agency's fund, including following the procedure to replenish the petty cash funds.

The City Auditor shall be responsible for the annual review of petty cash purchases and, when appropriate, make recommendations to the department, division, office or agency as to what purchases should be directed through the purchasing office.

#### 12.06 PETTY CASH FUND PROCEDURES:

1. Reimbursement of Employee. The employee shall make a petty cash purchase with his/her own money. The employee shall be reimbursed the same day or the following work day by following the proper petty cash procedure:
  - A. The employee shall first obtain permission from her/his immediate supervisor to purchase the required items or services. Any questionable petty cash expenditures shall be cleared with the department, division, office or agency before making the purchase.
  - B. The employee shall purchase the items or services from a vendor at a reasonable price. The purchasing office may assist in selecting a vendor.
  - C. For those departments, divisions, offices or agencies that maintain a petty cash fund, the employee shall submit his/her receipt, which has been signed by the immediate supervisor to the custodian for reimbursement from the petty cash fund.
  - D. For those departments, divisions, offices or agencies that do not maintain a petty cash fund, the signed receipt shall be presented to the Administrative Services Director's office where a petty cash voucher will be prepared in duplicate and the proper code assigned.
  - E. The Administrative Services Director's office shall retain the duplicate copy of the voucher for audit purposes. The employee shall submit the original with the attached receipt to the City Treasurer for reimbursement.
  - F. The employee signature on the voucher acknowledges only receipt of the money, not responsibility for the purchase.
  - G. The employee shall submit the original with the necessary receipt attached to the custodian for reimbursement.
2. Replenishing the Petty Cash Fund Other than City Treasurer. The custodian of the petty cash fund, shall replenish the fund as needed through the Accounts Payable system.

- A. The custodian shall verify that the account being charged for the petty cash funds has a sufficient balance.
  - B. The custodian shall complete an Authorization to Reimburse Petty Cash Fund form.
  - C. The custodian shall keep the duplicate copy, attach all petty cash vouchers with receipts to the original, and submit to the City Accountant with a completed Accounts Payable Approval form.
  - D. The City accountant shall confirm accuracy of information, verify that there are sufficient funds in account, and submit to Accounts Payable for processing.
  - E. Accounting shall retain and file the original copy of the reimbursement form, the petty cash voucher and receipts.
  - F. Accounts Payable shall process the forms and generate a check payable to the office as a reimbursement to the respective petty cash fund, treating the reimbursement as a payment to a vendor.
3. Replenishing the City Treasurer Petty Cash Fund. The City Treasurer shall replenish the fund on a monthly basis through the Accounts Payable system.
- A. On a monthly basis, the City Treasurer shall segregate all petty cash vouchers by fund and submit to the city accountant for reimbursement.
  - B. The accounting office shall confirm the accuracy of the information, breakdown the expenditures by line item, confirm that sufficient funds are in the accounts, and submit the vouchers and an Accounts Payable Approval form to Accounts Payable for processing.
  - C. Accounts Payable shall generate a check payable to the City Treasurer as reimbursement.

Section 13

**RESERVED**

## Section 14

### Receiving shipments of materials, supplies, and equipment

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#### 14.01 PURPOSE:

The purpose of this issuance is to outline the required procedures for the receipt of materials delivered by vendors after procurement by purchase order.

#### 14.02 APPLICABLE TO:

All departments, divisions, offices or agencies.

#### 14.03 RECEIVING ORDERED MATERIAL:

1. Responsibility. Each item received must be inspected for damage and received in order to properly pay bills. These duties are the responsibility of the using department, division, office or agency personnel.

2. Receiving Shipments in Full or in Part. The receiver should check the packing slips to insure that all items were shipped as ordered. If the order is received in full, the packing slip should be signed, dated and filed with the department, division, office or agency copy of the purchase order. The signature and date is confirmation that the order was received as indicated.

If a partial shipment is received, the packing slip should indicate that the remainder of the order is on backorder. If so, the slip should be signed, dated and forwarded to Accounts Payable with a copy of the purchase order for payment. A copy of the receiving should be filed with the department, division, office or agency. If a backorder is not indicated or the complete order is not received by the agreed upon date, the purchasing coordinator should be notified within one (1) working day for follow up with the vendor.

3. Incorrect or Damaged Shipments. The person receiving items inspects them for damage and correctness of order. If an order is delivered not as specified, the department, division, office or agency shall contact the purchasing office within one (1) working day of receipt of the order. The department, division, office or agency will explain why the delivery was unacceptable and request that provisions be made for a satisfactory replacement or a supplemental delivery. The purchasing coordinator shall also be contacted immediately if the vendor cannot comply with the original order.

4. Invoices. Although the vendor is directed to send all invoices to Accounts Payable, occasionally they may be included with a shipment. The department, division, office or agency shall forward all invoices to Accounts Payable immediately for proper payment, if they are included in the shipment.

APPENDIX 1

Non-Collusion Affidavit



**CITY OF READING, PA  
RFP EVALUATION COMMITTEE  
CERTIFICATION OF CONFIDENTIALITY  
AND  
NO CONFLICT OF INTEREST**

**RFP Description** \_\_\_\_\_  
**Evaluator Name** \_\_\_\_\_  
**Date** \_\_\_\_\_

In order to ensure fairness in the evaluation of proposals submitted in response to a Request for Proposals (RFP), it is very important that proposals be evaluated in an unbiased manner and without conflict of interest, and that the contents of proposals remain confidential throughout the evaluation process. You have been selected as an evaluator not only because of your managerial/technical expertise, but also because the Purchasing Coordinator and your supervisor are not aware of any bias, business or family relationships, or any other conflicts that could affect, or which could be perceived to affect, your fair, honest and impartial evaluation of the proposals. As a public employee you are expected to: 1) discharge your duties impartially so as to assure fair, competitive access to the City of Reading procurement by responsible contractors, and 2) conduct yourself in a manner which fosters public confidence in the integrity of the City's procurement process.

***To provide needed assurance that no conflicts or bias exist, please read this document in its entirety, check all boxes, make any needed disclosures on Attachment A, sign it, make one copy for yourself and give the originally-signed copy to the Purchasing Coordinator.***

**Part I  
No Foreseeable Conflict of Interest or Bias**

I acknowledge that I have been selected to participate as a member of the Evaluation Committee for the referenced RFP.

I certify that I:

Am not a current or former employee of any of the firms in the industry that I would foresee as submitting a proposal, with the exception of

\_\_\_\_\_ [Identify any exceptions by name of business firm and complete Attachment A].

Am not a director, officer, owner, partner, agent, or representative of any of the firms in the industry that I would foresee as submitting a proposal.

- Do not hold any stock or any financial interest in any of the firms in the industry that I would foresee as submitting a proposal, with the exception of

\_\_\_\_\_ [identify any exceptions by name of business firm and complete Attachment A].

I certify that, to the best of my knowledge, my spouse and my dependent children:

- Are not current employees of any firm in the industry that I would foresee as submitting a proposal.
- Are not directors, officers, owners or partners of any firm that I would foresee as submitting a proposal.
- Do not hold stock exceeding five percent of the equity at fair market value of any of the firms in the industry that I would foresee as submitting a proposal.

I certify that I will not:

- Solicit or accept, directly or indirectly, any promise of future employment or business opportunity from, or engage, directly or indirectly, in any discussion of future employment or business opportunity with, any director, officer, owner, partner, employee, representative, agent or consultant of an offeror that submits a proposal, or their proposed subcontractors.
- Ask for, demand, exact, solicit, seek, accept, receive, or agree to receive, directly or indirectly, any money, gratuity, or other thing of value from any director, officer, owner, partner, employee, representative, agent, or consultant of an offeror that submits a proposal, or their proposed subcontractors for this project. I will advise my immediate family that the acceptance of any such gratuity may be imputed to me as a violation, and must therefore be avoided by them.

- I understand that my obligations under this certification are of a continuing nature. If at any time during the RFP process I receive a contact from an offeror that submits a proposal, or their proposed subcontractors, concerning employment or other business opportunity, the offer of a gift from an offeror that submits a proposal, or their proposed subcontractors, or I encounter circumstances where my participation might result in a real, apparent, or potential conflict, I will immediately seek the advice of the Purchasing Coordinator and Solicitor and report the circumstances to my supervisor.

## **Part II Confidentiality**

- I certify that I will not divulge nor make known, in any manner whatsoever, to any person, other than a member of the RFP evaluation committee or other individual who has signed a copy of this Confidentiality Statement for the same acquisition, any information pertaining to any and all aspects of the RFP (which has not already been made available to the public or all interested offerors) including but not limited to: the contents of offerors' proposals, the scoring method, points allotted, evaluator scores, costs, or any other confidential information regarding the RFP process.
- I understand that unauthorized sharing of information may have the result of giving an offeror an unfair advantage over another offeror and thereby render the process invalid.
- I understand that any persons who divulge such information may be subject to disciplinary action, including termination of their employment with the City if the individual is a City employee. If the individual is the employee of a consultant, the consultant may be requested to remove the employee from the project and the contract for the consultant may be terminated.

## **Part III Signature and Certification**





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## Appendix 2

### CONTRACT FOR PROFESSIONAL SERVICES

This agreement is made and entered into as of the \_\_\_\_\_ of \_\_\_\_\_, 20\_\_ between the City of Reading (hereinafter referred to as the "City", and Insert Vendor Here., hereinafter referred to as the "Contractor".

In consideration of the mutual covenants and conditions herein contained the parties agree as follows:

#### SCOPE OF WORK

*Define Scope of Work*

#### DELIVERABLES

*List all contract deliverables and their due dates.*

#### 3. TERM OF CONTRACT

The term of the Contract shall commence on Date (hereinafter the Effective Date) and shall end on Date (hereinafter the Expiration Date), subject to the other provisions of the Contract. The Contracting Officer shall issue a written Notice to Proceed to the Contractor directing the Contractor to start performance on a date which is on or after the Effective Date. The Contractor shall not start the performance of any work prior to the date set forth in the Notice to Proceed and the City shall not be liable to pay the Contractor for any service or work performed or expenses incurred before the date set forth in the Notice to Proceed. No City employee has the authority to verbally direct the commencement of any work under this Contract. The City reserves the right, upon notice to the Contractor, to extend the term of the Contract for up to three (3) months upon the same terms and conditions. This will be utilized to prevent a lapse in Contract coverage and only for the time necessary, up to three (3) months, to enter into a new contract.

#### 4. INDEPENDENT CONTRACTOR

*In performing the services required by the Contract, the Contractor will act as an independent contractor and not as an employee or agent of the City.*

#### 5. COMPLIANCE WITH LAW

The Contractor shall comply with all applicable federal and state laws and regulations and local ordinances in the performance of the Contract.

#### 6. ENVIRONMENTAL PROVISIONS

*In the performance of the Contract, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations.*

#### 7. COMPENSATION/EXPENSES

The Contractor shall be required to perform the specified services at the price(s) quoted in the Contract, Appendix A. All services shall be performed within the time period(s) specified in the Contract. The Contractor shall be compensated only for work performed to the satisfaction of the City. The Contractor shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Contract.

#### 8. INVOICES

The Contractor shall submit monthly invoices to the City for services performed during each billing period. Invoices shall be forwarded to the following contact and address:

Name  
City of Reading, Accounting Department  
815 Washington Street, Room 2-51  
Reading, PA 19601

Each invoice shall be under cover of a letter on the vendor's letterhead and itemized listing the services performed by date, hours worked, and by rate.

#### 9. PAYMENT

The City shall put forth reasonable efforts to make payment by the required payment date. The required payment date is: (a) the date on which payment is due under the terms of the Contract; (b) thirty (30) days after a proper invoice actually is received at the "Provide Service and Bill To" address if a date on which payment is due is not specified in the Contract (a "proper" invoice is not received until the City accepts the service as satisfactorily performed); or (c) the payment date specified on the invoice if later than the dates established by (a) and (b) above. Payment may be delayed if the payment amount on an invoice is not based upon the price(s) as stated in the Contract. Payment should not be construed by the Contractor as acceptance of the service performed by the Contractor. The City reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service if such post payment testing or inspection discloses a defect or a failure to meet specifications. The Contractor agrees that the City may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the City against any payments due the Contractor under any contract with the City.

#### 10. TAXES

The City is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax free purchases. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas guzzler emergency vehicles, and sports fishing equipment. The City is also exempt from Pennsylvania state sales tax, local sales tax, public transportation assistance taxes and fees and vehicle rental tax. The Pennsylvania Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this paragraph is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental, or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

## 11. WARRANTY

The Contractor warrants that all services performed by the Contractor, its agents and subcontractors shall be free and clear of any defects in workmanship or materials. Unless otherwise stated in the contract, all services and parts are warranted for a period of one year following completion of performance by the Contractor and acceptance by the City. The Contractor shall correct any problem with the service and/or replace any defective part with a part of equivalent or superior quality without any additional cost to the City.

## 12. PATENT, COPYRIGHT, AND TRADEMARK INDEMNITY

The Contractor warrants that it is the sole owner or author of, or has entered into a suitable legal agreement concerning either: a) the design of any product or process provided or used in the performance of the Contract which is covered by a patent, copyright, or trademark registration or other right duly authorized by state or federal law or b) any copyrighted matter in any report document or other material provided to the City under the contract. The Contractor shall defend any suit or proceeding brought against the City on account of any alleged patent, copyright or trademark infringement in the United States of any of the products provided or used in the performance of the Contract. This is upon condition that the City shall provide prompt notification in writing of such suit or proceeding; full right, authorization and opportunity to conduct the defense thereof; and full information and all reasonable cooperation for the defense of same. As principles of governmental or public law are involved, the City may participate in or choose to conduct, in its sole discretion, the defense of any such action. If information and assistance are furnished by the City at the Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's written authorization. The Contractor shall indemnify and hold the City harmless from all damages, costs, and expenses, including attorney's fees that the Contractor or the City may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent interests and rights in any products provided or used in the performance of the Contract. If any of the products provided by the Contractor in such suit or proceeding are held to constitute infringement and the use is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to continue use of such infringement products, replace them with non-infringement equal performance products or modify them so that they are no longer infringing. If the Contractor is unable to do any of the preceding, the Contractor agrees to remove all the equipment or software which are obtained contemporaneously with the infringing product, or, at the option of the City, only those items of equipment or software which are held to be infringing, and to pay the City: 1) any amounts paid by the City towards the purchase of the product, less straight line depreciation; 2) any license fee paid by the City for the use of any software, less an amount for the period of usage; and 3) the pro rata portion of any maintenance fee representing the time remaining in any period of maintenance paid for. The obligations of the Contractor under this paragraph continue without time limit. No costs or expenses shall be incurred for the account of the Contractor without its written consent.

## 13. OWNERSHIP RIGHTS

The City shall have unrestricted authority to reproduce, distribute, and use any submitted report, data, or material, and any software or modifications and any associated documentation that is designed or developed and delivered to the City as part of the performance of the Contract.

## 14. ASSIGNMENT OF ANTITRUST CLAIMS

The Contractor and the City recognize that in actual economic practice, overcharges by the Contractor's suppliers resulting from violations of state or federal antitrust laws are in fact borne by the City. As part of the consideration for the award of the Contract, and intending to be legally bound, the Contractor assigns to the City all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products and services which are the subject of this Contract.

#### 15. HOLD HARMLESS PROVISION

The Contractor shall hold the City harmless from and indemnify the City against any and all claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract and shall, at the request of the City, defend any and all actions brought against the City based upon any such claims or demands.

#### 16. AUDIT PROVISIONS

The City shall have the right, at reasonable times and at a site designated by the City, to audit the books, documents and records of the Contractor to the extent that the books, documents and records relate to costs or pricing data for the Contract. The Contractor agrees to maintain records which will support the prices charged and costs incurred for the Contract. The Contractor shall preserve books, documents, and records that relate to costs or pricing data for the Contract for a period of three (3) years from date of final payment. The Contractor shall give full and free access to all records to the City and/or their authorized representatives.

#### 17. DEFAULT

A. The City may, subject to the provisions of Paragraph 18, Force Majeure, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in Paragraph 19, Termination Provisions) the whole or any part of this Contract for any of the following reasons:

1. Failure to begin work within the time specified in the Contract or as otherwise specified;
2. Failure to perform the work with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the Contract terms;
3. Unsatisfactory performance of the work;
4. Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
5. Discontinuance of work without approval;
6. Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
7. Insolvency or bankruptcy;
8. Assignment made for the benefit of creditors;
9. Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due

for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;

10. Failure to protect, to repair, or to make good any damage or injury to property; or

11. Breach of any provision of this Contract.

B. In the event that the City terminates this Contract in whole or in part as provided in Subparagraph A. above, the City may procure, upon such terms and in such manner as it determines, services similar or identical to those so terminated, and the Contractor shall be liable to the City for any reasonable excess costs for such similar or identical services included within the terminated part of the Contract.

C. If the Contract is terminated as provided in Subparagraph A. above, the City, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the City in the manner and to the extent directed by the Issuing Office, such partially completed work, including, where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract as has been terminated. Except as provided below, payment for completed work accepted by the City shall be at the Contract price. Except as provided below, payment for partially completed work including, where applicable, reports and working papers, delivered to and accepted by the City shall be in an amount agreed upon by the Contractor and Contracting Officer. The City may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Contracting Officer determines to be necessary to protect the City against loss.

D. The rights and remedies of the City provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

E. The City's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the City of its rights and remedies in regard to the event of default or any succeeding event of default.

#### 18. FORCE MAJEURE

Neither party will incur any liability to the other if its performance of any obligation under this Contract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but aren't limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes.

The Contractor shall notify the City orally within five (5) days and in writing within ten (10) days of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the contract is prevented or delayed and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The Contractor shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the City may reasonably request. After receipt of such notification,

the City may elect either to cancel the Contract or to extend the time for performance as reasonably necessary to compensate for the Contractor's delay.

In the event of a declared emergency by competent governmental authorities, the City by notice to the Contractor, may suspend all or a portion of the Contract.

#### 19. TERMINATION PROVISIONS

The City has the right to terminate this Contract for any of the following reasons. Termination shall be effective upon written notice to the Contractor.

A. **TERMINATION FOR CONVENIENCE:** The City shall have the right to terminate the Contract for its convenience if the City determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.

B. **NON-APPROPRIATION:** The City's obligation to make payments during any City fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the City shall have the right to terminate the contract. The contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under this contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid for any appropriations available for that purpose.

C. **TERMINATION FOR CAUSE:** The City shall have the right to terminate the Contract for Contractor default under Paragraph 17, Default, upon written notice to the Contractor. The City shall also have the right, upon written notice to the Contractor, to terminate the Contract for other cause as specified in this Contract or by law. If it is later determined that the City erred in terminating the Contract for cause, then, at the City's discretion, the Contract shall be deemed to have been terminated for convenience under the Subparagraph 19.a.

#### 20. CONTRACT CONTROVERSIES

A. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum.

B. The contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.

#### 21. ASSIGNABILITY AND SUBCONTRACTING

A. Subject to the terms and conditions of this Paragraph 21, this Contract shall be binding upon the parties and their respective successors and assigns.

B. The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

C. The Contractor may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

D. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this Contract.

E. For the purposes of this Contract, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the Contractor provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.

F. Any assignment consented to by the Contracting Officer shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.

G. A change of name by the Contractor, following which the Contractor's federal identification number remains unchanged, shall not be considered to be an assignment hereunder. The Contractor shall give the Contracting Officer written notice of any such change of name.

## 22. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

During the term of the Contract, the Contractor agrees as follows:

A. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this City who is qualified and available to perform the work to which the employment relates.

B. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract on account of gender, race, creed, or color.

C. The Contractor and each subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.

D. The Contractor and each subcontractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.

E. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.

### 23. CONTRACTOR INTEGRITY PROVISIONS

It is essential that those who seek to contract with the City observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the City procurement process. In furtherance of this policy, Contractor agrees to the following:

A. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that governs contracting with the City.

B. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Contractor employee activity with the City and City employees, and which is distributed and made known to all Contractor employees.

C. Contractor, its affiliates, agents and employees shall not influence, or attempt to influence, any City employee to breach the standards of ethical conduct for City employees set forth in the City of Reading Code of Ethics, available on the City's website at [ReadingPA.gov](http://ReadingPA.gov) and *Public Official and Employees Ethics Act, 65 Ph.C.'s. §§1101 et seq.*; the *State Adverse Interest Act, 71 P.S. §776.1 et seq.*; or to breach any other local, state or federal law or regulation.

D. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a City official or employee or to any other person at the direction or request of any City official or employee.

E. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a City official or employee or to any other person, the acceptance of which would violate any statute, regulation, statement of policy, management directive or any other published standard of the City or Commonwealth of Pennsylvania.

F. Contractor, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the contract, except as provided in the contract.

G. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project, unless the financial interest is disclosed to the City in writing and the City consents to Contractor's financial interest prior to City's execution of the contract. Contractor shall disclose the financial interest to the City at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.

H. Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor under this contract without the prior written approval of the City, except as required by the *Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104*, or other applicable law or as otherwise provided in this contract. Any information, documents, reports, data, or records secured by Contractor from the City or a third party in connection with the performance of this contract shall be kept confidential unless disclosure of such information is:

1. Approved in writing by the City prior to its disclosure; or
2. Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior City approval; or
3. Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or
4. Necessary for purposes of Contractor's internal assessment and review; or
5. Deemed necessary by Contractor in any action to enforce the provisions of this contract or to defend or prosecute claims by or against parties other than the City; or
6. Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain: or
7. Otherwise required by law.

J. Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the City contracting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:

1. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
2. Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Contractor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual or entity associated with:
  - A. obtaining;
  - B. attempting to obtain; or
  - C. performing a public contract or subcontract.

Contractor's acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence.

3. Violation of federal or state antitrust statutes.
4. Violation of any federal or state law regulating campaign contributions.

5. Violation of any federal or state environmental law.
6. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.
7. Violation of the *Act of June 2, 1915 (P.L. 736, No. 338)*, known as the *Workers' Compensation Act, 77 P.S. 1 et seq.*
8. Violation of any federal, state, or City law prohibiting discrimination in employment.
9. Disbarment by any agency or department of the federal government or by any other state.
10. Any other crime involving moral turpitude or business honesty or integrity.

Contractor acknowledges that the City may, in its sole discretion, terminate the contract for cause upon such notification or when the City otherwise learns that Contractor has been officially notified, charged, or convicted.

K. When Contractor has reason to believe that any breach of ethical standards as set forth in law or in these provisions has occurred or may occur, including but not limited to contact by a City officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the City contracting officer or City Solicitor in writing.

L. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these contractor integrity provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract.

M. Contractor shall cooperate with the City Solicitor in its investigation of any alleged City employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the City Solicitor, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the City Solicitor to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refers to or concern this contract.

N. For violation of any of these Contractor Integrity Provisions, the City may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and disbar and suspend Contractor from doing business with the City. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the City may have under law, statute, regulation, or otherwise.

O. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Paragraph.

1. "Confidential information" means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through an act or omission of Contractor; or e) has not been independently developed by Contractor without the use of confidential information of the City.
2. "Consent" means written permission signed by a duly authorized officer or employee of the City, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or contractual terms, the City shall be deemed to have consented by virtue of execution of this contract.
3. "Contractor" means the individual or entity that has entered into this contract with the City, including those directors, officers, partners, managers, and owners having more than a five percent interest in Contractor.
4. "Financial interest" means:
  - A. Ownership of more than a five percent interest in any business; or
  - B. Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
5. "Gratuity" means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.
6. "Immediate family" means a spouse and any unemancipated child.
7. "Non-bid basis" means a contract awarded or executed by the City with Contractor without seeking bids or proposals from any other potential bidder or offeror.
8. "Political contribution" means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the City of Reading or for paying debts incurred by or for a candidate or committee before or after any election.

#### 24. CONTRACTOR RESPONSIBILITY PROVISIONS

- A. The Contractor certifies, for itself and all its subcontractors, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any subcontractors, nor any suppliers are under suspension or disbarment by the City or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid, a written explanation of why such certification cannot be made.
- B. The Contractor also certifies, that as of the date of its execution of this Bid/Contract, it has no tax liabilities or other City obligations.
- C. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the

Contractor shall have an obligation to inform the City if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other City obligations, or if it or any of its subcontractors are suspended or disbarred by the City, the Commonwealth of Pennsylvania, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or disbarment.

D. The failure of the Contractor to notify the City of its suspension or disbarment by the City, Commonwealth of Pennsylvania, any other state, or the federal government shall constitute an event of default of the Contract with the City.

E. The Contractor agrees to reimburse the City for the reasonable costs of investigation incurred by the City Solicitor for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the City, which results in the suspension or disbarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or disbarment.

## 25. AMERICANS WITH DISABILITIES ACT

A. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. § 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting this contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the City of Reading through contracts with outside contractors.

B. The Contractor shall be responsible for and agrees to indemnify and hold harmless the City of Reading from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the City of Reading as a result of the Contractor's failure to comply with the provisions of Subparagraph A above.

## 26. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right to terminate the Contract without liability or in its discretion to deduct from the Contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

## 27. APPLICABLE LAW

This Contract shall be governed by and interpreted and enforced in accordance with the laws of the City of Reading and of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The

Contractor agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

## 28. INTEGRATION

The Contract, including all referenced documents, constitutes the entire agreement between the parties. No agent, representative, employee or officer of either the City or the Contractor has authority to make, or has made, any statement, agreement or representation, oral or written, in connection with the Contract, which in any way can be deemed to modify, add to or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Contract. No modifications, alterations, changes, or waiver to the Contract or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties. All such amendments will be made using the appropriate City form.

## 29. CHANGE ORDERS

The City reserves the right to issue change orders at any time during the term of the Contract or any renewals or extensions thereof: 1) to increase or decrease the quantities resulting from variations between any estimated quantities in the Contract and actual quantities; 2) to make changes to the services within the scope of the Contract; 3) to notify the Contractor that the City is exercising any Contract renewal or extension option; or 4) to modify the time of performance that does not alter the scope of the Contract to extend the completion date beyond the Expiration Date of the Contract or any renewals or extensions thereof. Any such change order shall be in writing signed by the Contracting Officer. The change order shall be effective as of the date appearing on the change order, unless the change order specifies a later effective date. Such increases, decreases, changes, or modifications will not invalidate the Contract, nor, if performance security is being furnished in conjunction with the Contract, release the security obligation. The Contractor agrees to provide the service in accordance with the change order. Any dispute by the Contractor in regard to the performance required under any change order shall be handled through Paragraph 19, "Contract Controversies".

For purposes of this Contract, "change order" is defined as a written order signed by the Contracting Officer directing the Contractor to make changes authorized under this clause.

## 30. RIGHT TO KNOW LAW 8-K-1532

A. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this Contract. For the purpose of these provisions, the term "the City" shall refer to the City of Reading

B. If the City needs the Contractor's assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the City.

C. Upon written notification from the City that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:

1. Provide the City, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the City reasonably believes is Requested Information and may be a public record under the RTKL; and

2. Provide such other assistance as the City may reasonably request, in order to comply with the RTKL with respect to this Contract.

D. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the City and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.

E. The City will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the City of Reading determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the City determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the City's determination.

F. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the City harmless for any damages, penalties, costs, detriment or harm that the City may incur as a result of the Contractor's failure, including any statutory damages assessed against the City.

G. The City will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Commonwealth of Pennsylvania Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

H. The Contractor may file a legal challenge to any City decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the City for any legal expenses incurred by the City as a result of such a challenge and shall hold the City harmless for any damages, penalties, costs, detriment or harm that the City may incur as a result of the Contractor's failure, including any statutory damages assessed against the City, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the City's disclosure of Requested Information pursuant to the RTKL.

I. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

IN WITNESS WHEREOF, the CITY OF READING, and VENDOR. have caused this Contract to be executed on the date and year first above written.

VENDOR

CITY OF READING

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Managing Director

By: \_\_\_\_\_

City Solicitor

WITNESS

\_\_\_\_\_

City Clerk

**CONTRACT APPENDIX A  
BUDGET AND BILLING**

**Describe Contract Budget and Specific Billing Terms & Conditions Here.**

Sample RFP

**REQUEST FOR PROPOSALS**

**RFP Title**

**CITY OF READING**



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## **PURPOSE**

The City of Reading (the City) is requesting proposals from vendors for the purpose of supplying, installing and maintaining the City Hall Access Control System.

## **PROPOSAL SUBMISSION**

The original proposal, one (1) printed copy, and one (1) electronic copy on compact disc shall be submitted in a sealed envelope that shall plainly indicate on it the title of the proposal and the date for receiving. This shall be delivered to the City Purchasing Coordinator, Room 2-45 , City Hall, 815 Washington Street, Reading, PA, until 3:00 P.M., prevailing time on Thursday, March 14, 2013. The envelope shall be clearly labeled as RFP for City Hall Access Control System.

Proposals received at the Office of the Purchasing Coordinator after the hour specified will not be considered. Proposers are invited to be present at the RFP opening.

## **PRE-PROPOSAL CONFERENCE**

A mandatory pre-bid conference will be held on February 20, 2013 at 10 A.M.. To facilitate the clarification of requirements, proposers are requested to submit, in writing, any questions they may have by 10:00 A.M. on Wednesday, February 27, 2013. Any interpretation made to prospective proposers, will be expressed in the form of an addendum which, if issued, will be conveyed in writing to all prospective proposers no later than 2:00 P.M. on Wednesday, March 6, 2013.

## **PROPOSER'S CLARIFICATION**

By submitting a proposal, the proposer certifies that the RFP has been fully read and that the proposer understands the proposal method and has full knowledge of the scope, nature and quality of work to be performed.

## **INSURANCE**

The Successful Proposer, at the time of execution of the contract, shall also furnish the City with insurance certificates of adequate limits, as later indicated, to protect the City of Reading, its agents, and employees from any litigation involving Worker's Compensation, Public Liability and Property Damage, involved in the work. All subcontractors must also furnish copies of their liability insurance and Worker's Compensation Insurance certificates to the City. No subcontractor will be allowed to perform any work under this contract by the City unless such certificates are submitted to and approved by the City beforehand.

## **WORKER'S COMPENSATION AND PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE**

The status of the Proposer in the work to be performed is that of any independent Proposer and as such, he shall properly safeguard against any and all injury or damage to the public, to public and private property, materials and things, and as such he alone shall be responsible for any and all damage, loss or injury to persons or property that may arise, or be incurred, in or during the conduct or progress of said work without regard to whether or not the Proposer,

subcontractors, agents, or employees have been negligent, and the Proposer shall keep the City free and discharged of and from any and all responsibility and liability therefore of any sort or kind. The Proposer shall assume all responsibility for risks or casualties of every description, for any or all damage, loss or injury to persons or property arising out of the nature of the work from the action of the elements, or from any unforeseen or unusual difficulty, including all legal defense costs incurred by the City. The Proposer shall assume and be liable for all blame and loss of whatsoever nature by reason of neglect or violation of any Federal, State, County or Local laws, regulations, or ordinances; the Proposer shall indemnify and hold harmless the City from all suits or actions at law of any kind whatsoever in connection with this work and shall if required by the City, produce evidence of settlement of any such action before final payment shall be made the City. Proposer's Liability Insurance Certificate shall include the hold harmless clause and shall be filed with the City.

The Proposer shall maintain such insurance as will protect the proposer from claims under worker's compensation acts and from claims for damages because of bodily injury, including death, and property damage, which may arise from and during operations under this Contract, whether such operations be by himself, by any subcontractor or anyone directly, or indirectly employed by either of them. Proposer's liability insurance shall be in the names of the Proposer and the City as their respective interests may appear. Each policy and Certificate of Insurance shall contain an endorsement naming the City of Reading as additionally insured. Certificates of such insurance shall be filed with the City.

The minimum amount of liability insurance to be maintained by the Contractor during the life of the contract shall be as follows:

**Comprehensive General Liability** – for bodily injury and property damage – including any liability normally covered by a general liability policy with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the annual aggregate.

**Professional Liability** – in minimum amounts of \$1,000,000 per occurrence and \$2,000,000 aggregate.

Prior to commencement of performance of this Agreement, Contractor shall furnish to the City a certificate of insurance evidencing all required coverage in at least the limits required herein, **naming the City of Reading, its elected officials, agents, and employees as additional insureds under the Comprehensive General Liability coverage**, and providing that no policies may be modified or cancelled without thirty (30) days advance written notice to the City. Such certificate shall be issued to: **City of Reading, 815 Washington Street, Reading, PA 19601**. All policies shall be in effect with companies holding an A.M. Best rating of "A-" or better and shall be licensed to do business in the Commonwealth of Pennsylvania. Such companies shall also be acceptable to the City.

Please forward a certificate of insurance verifying these insurance requirements.

All subcontractors performing work under this contract must furnish to the City a copy of their Certificate of Insurance for Worker's Compensation and liability for bodily injury and property damage.

## **EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this Contract, the Proposer agrees as follows:

The Proposer will not discriminate against any employees or applicant for employment because of race, color, religion, sex, or national origin. The Proposer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Proposer agrees to post in conspicuous places, available to employees and applicants for employment, notices which may be provided by the City setting forth the provisions of this nondiscrimination clause.

The Proposer will, in all solicitations or advertisements for employees placed by or on behalf of the Proposer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

In the event of the Proposer's noncompliance with the non-discrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole, or in part and the Proposer may be declared ineligible for further City contracts.

The Proposer will include the provisions of these paragraphs in every subcontract or purchase order unless exempted.

## **EMPLOYMENT OF CERTAIN PERSONS PROHIBITED**

No person who is or has serving/served sentence in a penal or correctional institution or has been found guilty or plead guilty or no contest for any type of theft shall be employed on the work covered by this Contract.

## **ALTERATIONS OR MODIFICATIONS**

This contract will be under the direct supervision of the Director, Administrative Services or their designated representative. Any alterations or modifications of the work performed under this contract shall be made only by written agreement between the Proposer and the Director of Administrative Services or their designated representative, and shall be made prior to commencement of the altered or modified work. No claims for extra work or materials shall be allowed unless covered by written agreement.

## **SUBCONTRACTS**

The Proposer will not be allowed to subcontract work under this contract unless written approval is granted by the City Purchasing Coordinator.

## **RIGHT TO AUDIT RECORDS**

The City shall be entitled to audit the books and records of a proposer or any sub-proposer to the extent that such books and records relate to or affect the performance of such contract or

sub-contract. Such books and records shall be maintained by the proposer for a period of three (3) years from the date of final payment under the prime contract and by the sub-proposer for a period of three (3) years from the date of final payment under the sub-contract unless a shorter period is otherwise authorized in writing.

The City of Reading is tax exempt.

#### **DISSEMINATION OF INFORMATION**

During the term of the resulting contract, the successful proposer may not release any information related to the services or performance of services under the contract, nor publish any report or documents relating to the City, the account or performance of services under the agreement without prior written consent of the City; and shall indemnify and hold harmless the City, its officers, agents, and employees from all liability which may be incurred by reason of dissemination, publication and distribution, or circulation, in any manner whatsoever, of any information, data, documents, or material pertaining to the City, the account or the contract by the proposer or its agents or employees.

#### **BUSINESS PRIVILEGE TAX**

The City of Reading imposes a Business Privilege License, currently at \$55.00 per calendar year. In addition, a Business Privilege Tax is imposed at the rate of 2 ¼ mills upon the gross receipts attributable to business conducted within the City of Reading.

#### **PERMITS / LICENSES**

The Proposer shall, at their expense, pay all fees and procure all necessary licenses and permits needed to conduct the work required under the terms of this contract. The Proposer shall give any and all necessary formal notices required in conjunction with the lawful prosecution of the work of this contract.

#### **OBSERVANCE OF LAWS, ORDINANCES AND REGULATIONS**

The Proposer at all times during the term of this contract shall observe and abide by all Federal, State, and Local laws which in any way affect the conduct of the work and shall comply with all decrees and orders of courts of competent jurisdiction. The Proposer shall comply fully and completely with any and all applicable State and Federal statutes, rules and regulations as they relate to hiring, wages, and any other applicable conditions of employment.

#### **WITHDRAWAL OF PROPOSALS**

Proposers will be given permission to withdraw any proposals after they have been received by the City's Purchasing Coordinator at his/her office, provided said request is in writing and properly signed or by telegram and is received at least two (2) hours prior to the time and date set for the opening. Request by telegram must be confirmed in writing, properly signed, which must be delivered within twenty-four (24) hours of the time and date set for the opening. No proposals may be withdrawn for a period of ninety (90) days following the formal opening and receipt of proposals by the City of Reading.

## **PROPOSAL REJECTION**

The City of Reading reserves the right to reject any or all proposals and to accept or reject any part of any proposal. It also reserves the right to waive any technical defects or minor irregularities, which in its discretion, is in the best interest of the City.

## **EXECUTION OF CONTRACT**

The successful Proposer shall, within ten (10) calendar days after mailing of contract documents by the City to the Principal, enter into contract with the City.

The contract, along with this RFP, its attachments and addendums, when executed, shall be deemed to include the entire agreement between the parties; the Proposer shall not base any claim for modification of the contract upon any prior representation or promise made by the representatives of the City, or other persons.

## **CONTRACT TERMINATION**

The City shall have the right to terminate a contract or a part thereof before the work is completed in the event:

- A. Previous unknown circumstances arise making it desirable in the public interest to void the contract.
- B. The proposer is not complying with the specifications.
- C. The proposer refuses, neglects, or fails to supply properly trained or skilled supervisory personnel and/or workers or proper equipment.
- D. The proposer in the judgment of the City is unnecessarily or willfully delaying the performance and completion of the work.
- E. The proposer refuses to proceed with work when and as directed by the City.
- F. The proposer abandons the work or fails to provide timely reports and revenue to the City demonstrating effective and fair collection efforts.
- G. The proposer fails to adhere to the policies and procedures of the Fair Debt Collections Practices Act.

Proposers who have questions concerning various aspects of this Contract should contact the following person:

Tammi Reinhart, Purchasing Coordinator  
City Hall, 815 Washington Street  
Reading, PA 19601-3690  
Phone 610/655-6207  
FAX 610/655-6427  
Tammi.reinhart@readingpa.org

## **SCOPE OF SERVICES**

1. Scope of needed services

## **FORM OF PROPOSAL**

All proposers shall be aware that the RFP and the responses thereto are in the public domain; therefore, proposers shall identify specifically any information contained in the proposal which is to be considered confidential or proprietary and exempt from disclosure. Blanket statements that entire submittals are confidential shall be unacceptable.

All proposals will become the exclusive property of the City and will not be returned.

Proposals shall be prepared simply and economically, providing a straightforward, concise description of the proposer's ability to fulfill the requirements of the Request for Proposal. In order to insure a uniform review process and to obtain the maximum degree of comparability, it is required that proposals be organized in the manner specified.

### Title Page

Show the name of proposer's agency/firm, address, telephone number, name of person authorized to obligate the firm, date, and the subject: REQUEST FOR PROPOSALS – City Hall Access Control System

### Table of Contents

Include a clear identification of the material by section and by page number.

### Letter of Transmittal

Limit to one or two pages briefly stating the proposer's understanding of the work to be done and making a positive commitment to perform the work. Give the names of the persons who will be authorized to make representations for the proposer, their titles, mailing addresses, telephone numbers and email addresses.

### General Information

Name of business

Mailing address / phone & fax number

Name of person to contact

Business hours of business

State if business is local, national, or international and indicate the business legal status (corporation, partnership, etc.)

Give the date business was organized and/or incorporated, and where

Give the location of the office from which the work is to be done and the number of professional staff employees at the office

Indicate whether the business is a parent or subsidiary in a group of firms/agencies

## **INFORMATION REQUIRED OF PROPOSER**

### A. Cost

Submit fee for this service as described within.

B. The City of Reading will not be responsible for any out-of-pocket expenses incurred by the proposer.

C. Financial Soundness of Proposer

The proposer's most recent certified annual report, including balance sheets and profit and loss statements, should be submitted with its proposal. All information pertaining to the financial soundness of Proposer shall remain confidential. The City of Reading will contract only with a Proposer found to be financially sound. In addition, the City should be notified if there is a major claim(s) against the firm that could impact their ability to perform.

**ASSIGNMENT OF KEY STAFF**

The key member(s) of the contract identified must be assigned to the contract and must remain assigned to the contract for its duration, unless the City agrees in writing to modify the assignment. If a key member leaves during the course of the contract, the City must be notified immediately, and the contractor must submit the replacement name and credentials for approval by the City prior to that person starting work on the contract.

**CITY INFORMATION**

An executed Non-Collusion Affidavit and Non Discrimination Statement, as attached must be submitted with the proposal. Successful proposer will be required to submit an Indemnity Agreement, Stipulation Against Liens and a certificate of insurance as described.

**EVALUATION OF PROPOSALS**

The award may or may not be made to the firm submitting the lowest proposal. Award shall be made to the responsible offeror whose proposal is determined to be the most advantageous to the City, taking into consideration the evaluation factors set below. Only submissions that are complete and returned within the time limit will be considered.

The selection will be made by the City based on the following criteria:

- A. Experience, Qualifications and References
- B. Charges for Services including hardware & software costs
- C. MWE\WBE
- D. Reading based provider
- E. Completeness of RFP response \*\*\*A – E are required on all bids\proposals\*\*\*
- F. List any other selection criteria

**SELECTION COMMITTEE AND PROCEDURE FOR REVIEW OF PROPOSALS**

A Selection Committee will be established to review and evaluate all proposals submitted in response to this Request for Proposals (RFP). The Committee shall conduct a preliminary evaluation of all proposals on the basis of the "Evaluation of Proposals" section of this RFP. Failure to comply with any requirements shall disqualify a proposal.

The City may arrange for a meeting with the submitting parties or entities to clarify any aspect of the proposals. The selection committee has the responsibility to negotiate the most favorable cost, terms and conditions to the City of Reading. The negotiating process may involve one or more RFP responses, and may continue until the actual award of the contract.

The City reserves the right to reject any and all proposals. The City further reserves the right to seek new proposals when such a procedure is reasonably in the best interest of the City to do so.

### **QUESTIONS REGARDING SPECIFICATIONS OR PROPOSAL PROCESS**

To ensure fair consideration for all firms, the City prohibits communication to or with any department, division, office or agency, and employee during the submission process with the exception of those questions relative to interpretation of specifications or the proposal process. Such communications initiated by a firm may be grounds for disqualifying the offending firm from consideration for award of the proposal and/or any future proposal.

No interpretations of the meaning of the RFP documents will be made to any bidder orally. Every request for such interpretation shall be in writing to the City of Reading Purchasing Office, and to be given consideration must be received in writing prior to 10:00 A.M. on Wednesday, February 27, 2013. Direct inquiries to:

Tammi Reinhart  
Purchasing Coordinator  
City Hall, Rm. 2-45  
815 Washington Street  
Reading, PA 19601  
Phone – 610/655-6206  
FAX - 610/655-6427

Any and all such interpretation will be in the form of an Addendum to the Contract Documents and will be faxed or emailed to all prospective firms at the number furnished by them by Wednesday, \_\_\_\_\_, 20\_\_\_\_.

Additionally, the City prohibits communications by a proposer to any City Official or employee evaluating or considering the proposals prior to the time an award decision has been made. Any communication between proposer and the City will be initiated by the Purchasing Coordinator in order to obtain information or clarification needed to develop a proper, accurate evaluation of the proposal. Any communications outside of the Purchasing Coordinator with a proposer shall be grounds for disqualifying the offending proposer from consideration for award of the proposal and/or any future proposal.

## NON-COLLUSION AFFIDAVIT

### INSTRUCTIONS FOR NON-COLLUSION AFFIDAVIT

1. This Non-Collusion Affidavit is material to any contract pursuant to this bid. According to the Pennsylvania Antibid-Rigging Act, 73 P.S. 1611 et seq., governmental agencies may require Non-Collusion Affidavits to be submitted together with bids.
2. This Non-Collusion Affidavit must be executed by the member officer, or employee of the bidder who is authorized to legally bind the bidder.
3. Bid rigging and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of bids are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should examine it carefully before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the bidder with responsibilities for the preparation, approval or submission of the bid.
4. In the case of a bid submitted by a joint venture, each party to the venture must be identified in the bid documents, and an Affidavit must be submitted separately on behalf of each party.
5. The term "complementary bid" as used in the Affidavit has the meaning commonly associated with that term in the bidding process, and includes the knowing submission of bids higher than the bid of another firm, any intentionally high or noncompetitive bid, and any form of bid submitted for the purpose of giving a false appearance of competition.
6. Failure to file an Affidavit in compliance with these instructions will result in disqualification of the bid.

NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of \_\_\_\_\_

County of \_\_\_\_\_

\_\_\_\_\_, being first duly sworn, deposes and says that:

(1) He/She is \_\_\_\_\_  
(Owner, Partner, Officer, Representative or Agent)

of \_\_\_\_\_, the Bidder that has submitted the attached Bid or Bids;

(2) He/She is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

(3) Such Bid is genuine and is not a collusive or sham Bid;

(4) Neither the said Bidder nor any of its officers; partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication of conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overheld profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Reading or any person interested in the proposed Contract;

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant; and,

(6) Neither the said Bidder nor any of its officers, partners, owners, agents or parties in interest, have any interest, present or prospective, that can be reasonably construed to result in a conflict of interest between them and the City of Reading, which the Bidder will be required to perform.

I state that \_\_\_\_\_  
(Name of Firm)

Understands and acknowledges that the above representations are material and important, and will be relied on by the City of Reading in awarding the Contract(s) for which this Bid is submitted. I understand and my firm understands that any misstatement in this Affidavit is and shall be treated as fraudulent concealment from the City of Reading of the true facts relating to the submission of bids for this Contract.

\_\_\_\_\_  
(Name and Company Position)

SWORN TO AND SUBSCRIBED  
BEFORE ME THIS \_\_\_\_\_ DAY  
OF \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires:

# PROVIDER'S CERTIFICATION OF NON- INDEBTEDNESS TO THE CITY OF READING

Provider hereby certifies and represents that Provider and Provider's parent company(ies) and subsidiary(ies) are not currently indebted to the City of Reading (the "City"), and will not at any time during the term of this Contract (including any extensions or renewals thereof) be indebted to the City, for or on account of any delinquent taxes, liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to the City has been established. In addition to any other rights or remedies available to the City at law or in equity, Provider acknowledges that any breach or failure to conform to this certification may, at the option of the City, result in the withholding of payments otherwise due to Provider and, if such breach or failure is not resolved to the City's satisfaction within a reasonable time frame specified by the City in writing, may result in the offset of any such indebtedness against said payments and/or the termination of this Contract for default (in which case Provider shall be liable for all excess costs and other damages resulting from the termination).

\_\_\_\_\_

Name of Provider

By: \_\_\_\_\_

Authorized Signatory

Title: \_\_\_\_\_

President or Vice President

Attest: \_\_\_\_\_

NON DISCRIMINATION STATEMENT

The undersigned hereby certifies that it shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, handicap, familial status, or national origin. The undersigned shall take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, handicap, familial status, or national origin.

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BIDDER

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TITLE

INDEMNITY AGREEMENT & HOLD HARMLESS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the undersigned has entered into a contract with the CITY OF READING, dated \_\_\_\_\_, 20 \_\_, providing for the \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ City of Reading,  
Pennsylvania.

NOW, THEREFORE, in consideration of the award of said contract to the undersigned, \_\_\_\_\_, as well as in further consideration of the sum of ONE DOLLAR (\$1.00) in hand paid to the said \_\_\_\_\_ by the City of Reading, receipt whereof is hereby acknowledged, the said \_\_\_\_\_ agrees to indemnify and save harmless the CITY OF READING, its officers, agents, servants, and employees against any and all loss, damage, costs and expenses which the said CITY may hereafter suffer, incur, be put to or pay by reason of any bodily injury (including death) or damage to property arising out of any act or omission in performance of the work undertaken under the aforesaid contract.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

\_\_\_\_\_  
(Title)

STIPULATION AGAINST LIENS

WHEREAS, \_\_\_\_\_, hereinafter called the CONTRACTOR, has entered into a CONTRACT, dated \_\_\_\_\_, 20\_\_\_\_, with \_\_\_\_\_ hereinafter called the CITY, to provide materials and perform labor necessary for the manufacture and furnishing of the:

\_\_\_\_\_

as set forth in the CONTRACT DOCUMENTS as prepared by the City of Reading.

NOW, THEREFORE, it is hereby stipulated and agreed by and between the said parties, as part of the said CONTRACT, and for the consideration therein set forth, that neither the undersigned CONTRACTOR, any SUBCONTRACTOR or material man, nor any other person furnishing labor or materials to the said CONTRACTOR under this CONTRACT shall file a lien, commonly called a mechanic's lien, for WORK done or materials furnished for the above manufacture.

This stipulation is made and shall be filed with the Berks County Prothonotary within ten (10) days after execution, in accordance with the requirements of Section 1402 of the Mechanics Lien Law of 1963 of the Commonwealth of Pennsylvania in such case provided.

IN WITNESS WHEREOF, the parties hereto have caused the signature of their proper officers to be affixed thereto on this \_\_\_\_\_ day \_\_\_\_\_ of 20\_\_\_\_.

\_\_\_\_\_  
(CITY OF READING)

ATTEST:

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

\_\_\_\_\_

(CONTRACTOR)

ATTEST:

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_