WASHINGTON TERRACE CITY
ORDINANCE 2015-02

CONTRACTUAL AMENDMENTS

AN ORDINANCE AMENDING CHAPTER 4.20 OF THE MUNICIPAL CODE RELATING TO CONTRACTS AND CONTRACT EXTENSIONS; MAKING TECHNICAL CHANGES; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Washington Terrace City (hereafter referred to as "City") is a municipal corporation, duly organized and existing under the laws of the State of Utah;

WHEREAS, *Utah Code Annotated* §10-8-84 authorizes the City to provide for safety, preserve health, promote prosperity, peace, and good order;

WHEREAS, the City desires to implement efficient and effects measures for the administration of contracts;

NOW, THEREFORE, be it ordained by the City Council of Washington Terrace City as follows:

Section 1: **Repealer.** Any word other, sentence, paragraph, or phrase inconsistent with this Ordinance is hereby repealed and any reference thereto is hereby vacated.

Section 2: **Amendment.** Chapters 4.20 entitled "Financial Administration" is hereby amended to read as follows:

Chapter 4.20
Financial Administration

4.20.080. ~~Service~~ Contracts And Purchasing.
The city manager is ~~director~~ responsible for the solicitation and implementation of ~~a~~ service contracts and any other contracts. ~~Any notice under this subsection shall~~ If a request for proposal is sought by the city, it should outline the scope of work, ~~detailing the specific~~ services or performance contemplated, all work to be performed, and the time frame for completion of the work to be accomplished. The city manager may implement rules and regulations for the criteria for awarding a ~~service~~ contract, including the type of work to be performed, experience required, professional qualifications, past performance, location and accessability, schedule for completion, projected time involved, associated costs, and waivers. Nothing in this section shall be construed ~~for~~ as preventing the city manager from directly contracting with a ~~service~~ provider for continuing matters that involve telecommunication, utilities, legal services, planning services, maintenance services, engineering services, or consultants, or similar.

4.20.085. Contract And Obligations Generally.
1. Limited liability. No liability against the municipality shall or may be created and no expenditure of public funds may be made which is not for a purpose.
2. Pre-qualification. The city manager may implement policies and procedures for a contract to pre-qualify before that contractor can respond to a request for proposals.

3. Validity. No contract is valid or binding against the municipality unless:
   a. Contract is in written form and within budgetary limits.
   b. Contract has been duly approved by the legislative body, if required.
   c. Contract has been approved as to form by the city attorney, if required.
   d. Contract has been properly executed and attested by the city recorder.
4. Insurance and bonds. Where required by state law, local ordinance, council, mayor, or city attorney, insurance certificates and permits, performance and material bonds shall be provided to the city recorder in the form and manner approved by the city attorney. When required such documents are conditions precedent to the municipality executing a contract. Such documents shall:
   a. Name the municipality as an additional insured.
   b. Provide that no cancellation, if subject to cancellation, may be made without first giving 30 day prior written notice to the municipality.
   c. Be in a sum sufficient to protect the interest of the municipality.
   d. Be issued by an entity authorized or licensed to conduct business in the state, and be of sound reputation, as determined by the city attorney.
5. Material and performance bonds. The contractor under any contract for improvements or public works project shall be required to post performance and material bonds. If the proposed improvement or project is under $25,000, this bond requirement may be waived by the city manager.
6. Withholding payment. If any payment on a contract is retained or withheld longer than 180 days, it shall be placed in an interest-bearing account and the interest shall accrue for the benefit of the contractor and subcontractors to be paid after the project is complete and accepted by the municipality. It is the responsibility of the contractor to ensure that any interest accrued on the retained amount is distributed by the contractor to subcontractors on a pro rata basis.
7. Refusal to receive bid. The city manager establish policies and procedures to preclude contractors or suppliers from submitting bids where such failed to perform prior contracts or services, has not satisfactorily completed a prior contract after notice of the same, has failed to complete a contract according to the documents or specifications relating to the project or other specifications, or has otherwise failed to perform any works for the municipality in a timely and satisfactory manner. If adopted, such rules and procedures shall provide reasonable notice to the contractor and an opportunity for administrative appeal hearing.
8. Cooperative purchasing and pre-qualified suppliers. The purchasing agent for the municipality may maximize public benefit and costs as appropriate to join with other units of government in cooperative purchasing arrangements. The purchasing agent may purchase supplies, materials, and equipment from the vendor who has submitted the lowest bid price for such items to the State of Utah Purchasing Office at the quoted price, without any solicitation or price quotation or invitation to bid.
9. Negotiation. The mayor or his designee may negotiate contract terms and provisions with a prospective bidder. Should terms fail to be reached, the mayor any terminate negotiation and proceed with the next prospective bidders, in order, until satisfactory terms are negotiated.
10. Exceptions. This section does not apply if, waived in writing by the mayor based upon a legitimate justification, contracts for independent legal services and expert witnesses, emergency situations, contracts administered by another agency where the municipality is subcontractor or signator, contracts involving an interlocal agreement, investigatory services where confidentiality is necessary, or contractual requirements preclude adherence of this section.
11. <u>Extensions. Notwithstanding any prior extensions or expiration, when the best interest of the city is served, the city manager may propose any contract extension and/or modification without</u>

issuing an request for proposals if the contract was initially approved by the city council and subject to said extension being approved by the city council.

Section 3: **Severability.** If a court of competent jurisdiction determines that any part of this Ordinance is unconstitutional or invalid, then such portion of this Ordinance, or specific application of this Ordinance, shall be severed from the remainder, which remainder shall continue in full force and effect.

Section 4: **Effective date.** This Ordinance shall be effective immediately upon posting or publication after final passage.

ADOPTED AND APPROVED on this __3__ day of _March, 2015.

_____signature on file_____
MARK C. ALLEN, Mayor,
Washington Terrace City

ATTEST:

_____signature on file_____
AMY RODRIGUEZ,
City Recorder

RECORDED this _3__ day of __March_____, 2015.
PUBLISHED OR POSTED this _4__ day of __March_____, 2015.

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provision of U.C.A. §10-3-713, 1953 as amended, I, the municipal recorder of Washington Terrace City, hereby certify that foregoing Ordinance was duly passed and published, or posted at 1)___City Hall_____ 2)_____Website_____ and 3)___Civic Center_____ on the above referenced dates.

_____ DATE:_____
City Recorder