



# Legal Notice

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**Date:** 10/19/2023

**Subject:** An ordinance of the City of Littleton, Colorado, repealing Title 1, Chapter 15, of the Littleton City Code entitled “Competitive Sealed Bidding” and reenacting said chapter as “Purchasing and Contracts”

**Passed/Failed:** Passed on first reading

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**CITY OF LITTLETON, COLORADO**

**ORDINANCE 33  
SERIES 2023**

1 CITY OF LITTLETON, COLORADO

2  
3 ORDINANCE NO. 33

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5 Series, 2023

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7  
8 AN ORDINANCE OF THE CITY OF LITTLETON,  
9 COLORADO, REPEALING TITLE 1, CHAPTER 15,  
10 COMPETITIVE SEALED BIDDING AND REENACTING  
11 SAID CHAPTER TO BE RENAMED, "PURCHASING AND  
12 CONTRACTS"

13  
14 WHEREAS Sections 97, 100 and 103 of the Littleton City Charter provide the City  
15 Council of Littleton authority to establish purchasing regulations; and

16  
17 WHEREAS the aforementioned Littleton City Charter sections were amended as a result  
18 of the November 2022 election to allow for revisions to the manner, amount, and best practices for  
19 the procurement of goods and services by way of ordinance; and

20  
21 WHEREAS it is in the best interests of the City to repeal and reenact Chapter 15 of the  
22 Littleton Municipal Code to address the electorates' vote for Competitive Sealed Bidding and  
23 Purchasing and Contracts.

24  
25 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF  
26 THE CITY OF LITTLETON, COLORADO, THAT:

27  
28 Section 1: Chapter 15, Competitive Sealed Bidding of Title 1, Administration of  
29 the Littleton City Code is hereby repealed and reenacted as follows:

30  
31 Chapter 15, PURCHASING AND CONTRACTS

32  
33 ARTICLE 1. GENERAL PROVISIONS

34 1-15-1: Short title.

35 This chapter shall be known and may be cited as "Purchasing and Contracts."

36 1-15-2: Purpose.

37 The purpose of this chapter is to prescribe purchasing procedures for the city to follow in  
38 contracting for the construction of capital and other improvements, for the purchase of tangible  
39 goods, and for the acquisition of professional, consulting, and other services. This chapter shall be  
40 construed and applied to promote the following purposes: to simplify the law governing the city's  
41 procurement processes; to provide for transparency and public confidence in the city's procurement  
42 procedures; to ensure the fair and equitable treatment of all persons who deal with the city's  
43 procurement system; to facilitate city procurement activities; to maximize the purchasing value of  
44 public funds; to promote effective broad-based competition; and to maintain the quality and

45 integrity of the city's fiscal controls and procurement system. Nothing herein is intended to confer  
46 any direct or implied right of enforcement to any person or business due to a claim of loss or  
47 opportunity or otherwise; however, this Chapter will ensure the fair and equitable treatment of all  
48 persons who deal with the city's procurement system.  
49

50 1-15-3: Applicability.  
51

52 A. *Applicability.* Except as otherwise provided herein, this chapter applies to the city's  
53 procurement of goods and services, and to every expenditure of public funds for  
54 purchasing, irrespective of the source of funds, and to every city purchase or contract  
55 solicited after the effective date of this ordinance. The date of the solicitation shall be the  
56 date the solicitation is first published or issued by the city. Further, when the procurement  
57 involves federal, state or other grant assistance or the expenditure of federal, state or other  
58 grant funds, the procurement will be conducted in accordance with any mandatory  
59 applicable federal or state laws and regulations or grant requirements. Nothing in this  
60 chapter prevents the city from complying with the terms and conditions of any grant, gift,  
61 bequest or cooperative agreement that is otherwise lawful.  
62

63 B. *Exceptions.* Except as otherwise set forth herein, the following contracts for purchase are  
64 excepted from the requirements of this chapter:  
65

66 (1) Intergovernmental agreements;  
67

68 (2) Advertising services;  
69

70 (3) Art for display, purchase, or performance, or agreements for the maintenance of art  
71 where the maintenance is done by the artist or by a foundation or other entity  
72 authorized by the artist or the artist's estate;  
73

74 (4) Purchases of materials for any library collection, including, but not limited to:  
75 manuscripts, books, instructional materials, maps, pamphlets, periodicals, or the  
76 electronic version thereof;  
77

78 (5) Legal research tools, including books and software;  
79

80 (6) Continuing education programs, and professional memberships, licenses, and  
81 publications for city employees;  
82

83 (7) Employment contracts between the city manager, the city attorney, the presiding or  
84 other municipal court judges, and department directors;  
85

86 (8) Emergency contracts awarded under 1-15-42 of this chapter or as a result of a  
87 declared civil emergency, emergency, or local disaster under the City's charter or  
88 code;  
89

- 90 (9) Professional Services as defined in this chapter;  
91  
92 (10) Real property agreements including, but not limited to, the acquisition or  
93 disposal of real property and annexations; and  
94  
95 (11) Veterinary or Physician services.  
96

97 1-15-4: Definitions. The following words, terms, and phrases, when used in this chapter, shall have  
98 the meanings ascribed to them in this section, except where the context clearly indicates a different  
99 meaning:

100  
101 *Administrative Policy or policies* mean the "Administrative Policy and Procedures Related to the  
102 Purchasing Ordinance" as may be adopted and amended by the city.  
103

104 *Award or intent to award* means the selection of a bid or proposal by the city. An award does not  
105 mean that a contract has been executed or that a purchase order has been approved.  
106

107 *Award approval* means the authorization of an award by the execution or approval of a purchase  
108 order, or by the execution of a contract by an authorized employee or city council.  
109

110 *Best value procurement* means a technique in a competitive solicitation process which emphasizes  
111 value over price and permits the evaluation of criteria such as qualifications, experience, quality,  
112 schedule, and performance data including delivery to determine the best overall value to the city.  
113

114 *Bid* means an offer of a price for goods or equipment.  
115

116 *Bidder* (also offeror) means a person who files a submission in response to a city-issued solicitation  
117 and includes a person who files a response to a request for bids, proposals, qualifications, or capital  
118 improvement project competitive sealed bids. It also includes a person who responds to a city  
119 request for qualifications for the purpose of pre-qualifying as a contractor to perform work for the  
120 city on as-needed basis.  
121

122 *Budgeted* means included in the city council's approved budget.  
123

124 *Business* means any corporation, partnership, individual, sole proprietorship, joint stock company,  
125 joint venture or any other private legal entity.  
126

127 *City* means the City of Littleton, Colorado.  
128

129 *City attorney* means the city attorney for the City of Littleton or designee thereof.  
130

131 *City manager* means the manager of the City of Littleton or designee thereof.  
132

133 *Claim* means any threatened or asserted demand or action arising from or related to the  
134 administration or completion of a city contract made by the contractor awarded the contract, and

135 includes without limitation, disputes arising under a contract, those based upon breach of contract,  
136 mistake, misrepresentation, or other cause for contract modification or rescission. A claim does  
137 not include an invoice or payment request submitted under the terms of a contract, although an  
138 invoice or payment request may be converted to a claim, if the amount is disputed or is not acted  
139 on within a reasonable period of time and if the contractor gives written notice to the city of the  
140 conversion. It also does not include a solicitation or bid protest.

141  
142 *Claimant* means a person who is a party to city contract, who is aggrieved by an action or  
143 occurrence caused in whole or in part by a city employee that affects the completion of or payment  
144 on that contract, and who files an informal dispute resolution notice or a formal contract claim  
145 with the city.

146  
147 *Code* means the Littleton City Code.

148  
149 *Confidential information* means any information which is available to an employee only because  
150 of the employee's status as an employee of the city and is not a matter of public knowledge or  
151 available to the public on request.

152  
153 *Construction* means the process of building, altering, improving or replacing a city-owned building  
154 or structure, including but not limited to stormwater or sewer infrastructure, bridges, or other city-  
155 owned infrastructure assets. Construction includes the demolition of bridges, stormwater or sewer  
156 infrastructure, or other city-owned infrastructure assets, but does not include demolition of other  
157 city-owned structures or buildings. It also does not include the routine operation, repair, or  
158 maintenance of city-owned buildings or structures.

159  
160 *Contract* means any type of city agreement, regardless of what the agreement may be called, where  
161 the principal purpose is to acquire goods, service, or construction or to dispose of property for the  
162 benefit of the city. Contract includes a modification to a contract.

163  
164 *Contractor* means any person having a contract with the city, regardless of what the person may  
165 be called or how the person is described.

166  
167 *Cooperative contract* means a valid and current purchasing agreement negotiated by another entity  
168 for use by all public agencies that are members of the purchasing cooperative group.

169  
170 *Day* means calendar day.

171  
172 *Direct participation* or *directly participating* means to be the project owner for a solicitation, or to  
173 be the director of the work system or department which initiated the solicitation.

174  
175 *Documented quote* means a fiscal control where one or more valid written quotes are obtained as  
176 part of a solicitation process.

177

178 *Electronic communication* means an interactive communication that is transmitted electronically  
179 and capable of being produced in a written format, but does not include instant messaging, text  
180 messaging, or phone messages.

181  
182 *Emergency contract* means a contract necessary to respond to urgent and compelling  
183 circumstances that create a threat to the public's health, safety, or welfare, or to a public health  
184 emergency.

185  
186 *Employee* means a regular or probationary full-or part-time city employee, whether elected or not,  
187 any non-compensated individual performing services for the city or any department, agency,  
188 commission, council, board or other city entity and any non-compensated individual serving as an  
189 elected official of the city.

190  
191 *Financial interest* means:

- 192
- 193 a. Any interest or involvement in any relationship from which, or as a result of which,  
194 a person within the past year has received, or is presently or in the future entitled to  
195 receive, anything of value, except that receipt of an advertising or promotional item  
196 of minimal value by shall not be considered a financial interest;
  - 197
  - 198 b. Ownership of five percent or more of any property or business; or
  - 199
  - 200 c. Being an officer, director, trustee, or partner of, or being a manager, supervisor,  
201 employee, or holding a similar position in a business.

202  
203 Exception: Assets held by an employee or an employee's family member in a disclosed  
204 blind trust shall not be deemed to be a financial interest that constitutes a conflict of interest  
205 with regard to matters pertaining to that financial interest.

206  
207  
208 *Fiscal control* means a financial management practice designed to ensure expenditures are  
209 authorized by and in accordance with the amounts specified in the adopted budget, to reassure city  
210 council and citizens of responsible procurement and spending strategies, and to ensure all  
211 transactions are documented appropriately and in accordance with this Code and Colorado law.

212  
213 *Formal solicitation* means a procurement method used for contracts or purchase orders that  
214 features the issuance of a public, written announcement of, or request for, bids, proposals, or  
215 qualifications.

216  
217 *Former employee* means a person who was employed by the city within the past 12 months, but  
218 who is no longer employed by the city.

219  
220 *Gift, gratuity, or kickback* means anything of value including but not limited to cash, a gift  
221 certificate, a gift card, loan, advance, service, or an offer of employment, either given or promised.

222 It does not include an advertising or promotional item of minimal value, or the occasional donation  
223 at a city work site of perishable items for consumption by city employees.  
224

225 *Good or goods* mean anything that has economic and physical utility, excluding real property, and  
226 includes those services incidental or necessary to providing the good or goods.  
227

228 *Immediate family or family* means an employee's spouse, child, parent, sibling, grandparent, or  
229 grandchild (including natural, step, adopted, foster, or in-law relationships); or a person whom the  
230 employee identifies as his or her significant other or domestic partner whose primary residence or  
231 place of primary abode is the same as the employee's place of primary abode.  
232

233 *Invitation to Bid (ITB)*: A competitive, formal solicitation process for interested and eligible  
234 persons to provide the City with a formal written bid. Each such ITB includes specifications,  
235 delivery requirements, plans, drawings, and other items that must be addressed as part of the City's  
236 bid package.  
237

238 *Local Business* means a business that has i) an unrevoked city sale and use tax license; ii) a physical  
239 location operating legally within the city limits of Littleton; and iii) is not delinquent in any  
240 payment or filing obligation related to city or state taxes.  
241

242 *Modification* means any written alteration of a contract, regardless of what it may be called,  
243 accomplished in accordance with terms of that contract, and includes a change order related to or  
244 renewal of an existing contract. A modification may be monetary or no cost in nature. An extension  
245 of a contract that results in the payment of additional funds to a contractor shall be deemed a  
246 monetary modification.  
247

248 *No cost procurement* means the acquisition of a good or service following an unsolicited offer or  
249 an offer that did not arise from a competitive solicitation process, or from a provider that proposes  
250 the acquisition of a particular good or service by the city for free, at no charge, or on a  
251 complimentary basis.  
252

253 *Person* means any business, individual, union, committee, club, other organization, or group of  
254 individuals.  
255

256 *Procurement or procurement process* means the purchasing, renting, leasing, or otherwise  
257 acquiring of any goods, services, professional services, or construction. It includes all functions  
258 that pertain to the acquisition of any supply, service, or construction, including the description of  
259 requirements, the selection and solicitation of sources, solicitation and bid award protests, the  
260 preparation and award of a contract, and all phases of contract administration and claims.  
261

262 *Purchasing Officer* means a city official designated by the city manager or finance director for  
263 specific purchasing activities as provided under chapter.  
264

265 *Pre-qualify or pre-qualification* means a process by which the city may solicit, evaluate, and select  
266 contractors or vendors for the purpose of creating a list of contractors or vendors eligible to perform

267 work for the city on an as-needed or on-call basis, and which is completed in advance of identifying  
268 the specific service needed or work to be done.

269  
270 *Professional services* include those services that typically require special training in recognized  
271 arts or sciences, which require the practitioner to hold professional degrees or licenses and possess  
272 specific skills. For purposes of illustration only and not as a matter of limitation, this includes the  
273 following types of services:

274

275 Accountant	Engineer	Inspector
276 Appraiser	Financial	Legal
277 Geoscientist	Management Consultant	
278 Consultant	Investment Manager	

279  
280 *Project owner* means the director or designee thereof tasked with oversight and completion of a  
281 particular procurement project originating from within the work system.

282  
283 *Real property* means land and whatever is growing upon, erected upon, or affixed to land including  
284 water, mineral, and subsurface rights and excluding personal property.

285  
286 *Request for Quotes (RFQ)*: A request for an itemized cost to provide a specific good or service  
287 anticipated to be below the dollar threshold required for a competitive bid.

288  
289 *Request for Information (RFI)*: A formal request for information the City needs to collect  
290 information about: (i) the ability of Contractors or suppliers to provide a good or service; (ii) the  
291 products, services or solutions sought; and/or (iii) the market.

292  
293 *Request for Proposals (RFP)*: A competitive, formal solicitation, including all documents, whether  
294 attached or incorporated by reference, utilized for soliciting proposals from qualified Respondents  
295 for the provision of goods or services.

296  
297 *Request for Qualifications (R4Q)*: Process used to compare the expertise of Contractors or Vendors  
298 that typically focuses on a potential Contractor's or Vendor's knowledge, experience and industry  
299 reputation.

300  
301 *Responsible Party* means a party with the capability in all respects to perform fully the contract  
302 requirements and the integrity and reliability that will ensure good faith performance.

303  
304 *Responsive* means a bid or proposal submitted in a form prescribed by the city that conforms, in  
305 all material respects, to the specifications, acceptability requirements, and terms and conditions of  
306 the solicitation.

307  
308 *Services* mean the furnishing of labor, time or effort by a contractor, not involving the delivery of  
309 a specific end product other than reports or items which are merely incidental to the required  
310 performance and that do not fall under the definition of "Professional Services." The term  
311 "services" does not include employment agreements or collective bargaining agreements.



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*Signature* means a manual or electronic identifier, or the electronic result of an authentication technique attached to or logically associated with a record that is intended by the person using it to have the same force and effect as a manual signature. Electronic signatures are as allowed by the Uniform Electronic Transactions Act, C.R.S. title 24, article 71.3, as amended.

*Sole (or single) source procurement* means that only one supplier (source), to the best of the requester's knowledge and belief, based upon thorough inquiries and/or research, can deliver the required product or service to meet the City of Littleton's requirements. Similar types of goods and services may exist, but only one supplier, for reasons of expertise, and/or standardization, quality, compatibility with existing equipment, specifications, or availability, is the only source that is acceptable to meet a specific need.

*Solicitation* means the process of trying to obtain a good or service, and includes all documents and related information, whether attached or incorporated by reference, published prior to the response deadline on an electronic bidding system or otherwise in connection with that procurement effort.

*Specification* means any description of the physical or functional characteristics or of the nature of a good or service, or a description of any requirement for inspecting, testing, or preparing a good or service for delivery.

*Variation* means a statement submitted to the city by a bidder that outlines a request to alter or modify the terms of a solicitation.

*Vendor* means a person offering something for sale.

*Writing* means any written recordings, papers, books, or documentary materials, regardless of physical form or characteristics, and includes emails or other electronic communication capable of being produced in a written format, but does not include instant messaging, text messaging, or telephone messages.

1-15-5: Administrative policies and procedures.

The city manager may, with assistance from the finance director, develop or amend and promulgate administrative policies and procedures necessary to implement the city's purchasing and contracts processes.

1-15-6: Procurement records.

- A. *Procurement records public.* Subject to any limitations provided for by federal or state law concerning open access and right to privacy, all procurement information is hereby declared to be a public record and open for inspection pursuant to C.R.S. § 24-72-201 et seq., as may be amended. Any party submitting a bid or proposal to the city may designate certain portions confidential, proprietary or trade secret information, indicating the basis

356 for such designation. In the event a request is submitted for disclosure, the city will comply  
357 with applicable law relating to public open records.

358  
359 B. *Records maintenance and retention.* All procurement records shall be kept and maintained  
360 in accordance with the city's records retention schedule. The city clerk is the official  
361 custodian of city procurement records.

362  
363 1-15-7: Conflicts.

364  
365 To the extent of any conflict between this Code and the Administrative Policies relating to this  
366 Code, the provisions of this Code will prevail, and then the provisions of the Administrative  
367 Policies, in that order.

368  
369 1-15-8—1-15-20. Reserved.

370  
371 **ARTICLE II. ETHICS IN CITY PROCUREMENT PROCESSES**

372  
373 1-15-21: Purpose.

374  
375 The conduct of city employees must hold the respect and confidence of the public. Unethical  
376 behaviors undermine the public's trust in government and the integrity of public procurement  
377 processes. Ethics provisions are intended to protect the integrity of the city's procurement  
378 processes and encourage ethical conduct by employees and others involved in these processes.

379  
380 1-15-22: Unethical acts by employees—prohibited.

381  
382 A. *Conflicts of interest.* Every employee is responsible for being a good steward of city  
383 resources, and for carrying out procurement duties for the benefit of the city.

384  
385 1. Generally. It shall be unethical for an employee to use or attempt to use their  
386 position to gain financial benefit or avoid financial loss to the employee or their  
387 family, if that opportunity is available only because the employee holds or held a  
388 position at the city.

389  
390 2. Financial conflict of interest. It shall be unethical for an employee to participate  
391 directly or indirectly in a solicitation process when the employee knows the  
392 employee or a member of the employee's immediate family has a financial interest  
393 pertaining to the award or the contract.

394  
395 3. Conflict of interest related to negotiating employment. It shall be unethical for an  
396 employee to participate directly or indirectly in a solicitation process when the  
397 employee is negotiating an employment arrangement with a bidder or prospective  
398 bidder involved in that solicitation process, or when the employee knows a member  
399 of the employee's family is negotiating an employment arrangement with a bidder  
400 or prospective bidder involved in that solicitation process.

401  
402 4. Discovery of actual or potential conflict of interest. Upon discovery of an actual or  
403 potential conflict of interest, employees must i) promptly notify the finance  
404 director; and ii) withdraw from further participation in the transaction(s) impacted.

405  
406 B. *Gift, gratuity, or kickback.* It shall be unethical for an employee to solicit, demand, accept,  
407 agree to accept, or keep for their own personal use, or for that of their family, any gift,  
408 gratuity, or kickback from another person in connection with any procurement process  
409 action, advice, decision, or recommendation made or done by that city employee.

410  
411 C. *Contemporaneous employment.* It shall be unethical for an employee who is participating  
412 directly or indirectly in a solicitation process to negotiate employment with, be, or to  
413 become the employee of any person contracting with the city while still a city employee.  
414 It shall also be unethical for an employee who has participated directly in a solicitation  
415 process to accept employment with, or to become the employee of any person contracting  
416 with the city as a result of that solicitation process within six months of leaving  
417 employment with the city. This provision shall not be construed to prevent any former  
418 employee from engaging in any lawful occupation at any place he or she sees fit, but merely  
419 to declare the practice of accepting employment under these circumstances contrary to best  
420 purchasing practices and unethical.

421  
422 1. Waiver. The city manager, upon due notice to the city council, may grant a waiver  
423 from this subsection (c) upon making a written determination i) that the  
424 contemporaneous employment of the city employee has been publicly disclosed; ii)  
425 that the employee will be able to perform procurement functions without actual or  
426 apparent bias or favoritism; iii) and that the award will be in the best interests of  
427 the city.

428  
429 D. *Use of confidential information.* It shall be unethical for an employee or former employee  
430 to knowingly use confidential information for actual or anticipated personal gain, or for the  
431 actual or anticipated personal gain of any other person.

432  
433 E. *Attempt to influence city procurement process.* It shall be unethical for an employee to  
434 purposely influence or attempt to influence a city procurement process in a manner that  
435 provides the employee or their family with a personal financial gain that would not  
436 otherwise have been available to them, or that allows the employee or their family to avoid  
437 a financial loss, if it were not for the employee's position as an employee.

438  
439 1-15-23: Unethical acts generally—prohibited.

440  
441 A. *Gifts, gratuities, or kickbacks.* It shall be unethical for any person to offer, give, or agree  
442 to give any city employee or former city employee a gift, gratuity, or kickback in  
443 connection with any procurement process action, advice, decision, or recommendation by  
444 that employee or former employee.

445

446 B. *Inducements.* It shall be unethical for any person to make, permit, or allow to be made to a  
447 prime or higher-tier contractor or a person associated with a prime or higher-tier contractor  
448 a gift, gratuity, or kickback as an inducement for the award of a subcontract or order in  
449 connection with a city solicitation, bid, or contract. It shall be unethical for a prime or  
450 higher tier contractor to solicit or accept a gift, gratuity, or kickback from a prospective  
451 subcontractor in connection with a city solicitation, bid, or contract.

452  
453 C. *Negotiating employment.* It shall be unethical for any bidder or person representing a bidder  
454 in a city solicitation to negotiate with or offer employment to a city employee who is  
455 participating in that solicitation. It shall be unethical for a contractor to hire or employ a  
456 city employee or former employee whom the contractor knows or should know participated  
457 in the solicitation that resulted in the work awarded to that contractor within six months of  
458 the date of the award contract to that contractor.

459  
460 1-15-24: Sanctions; Recovery

461  
462 A. The city manager, or designee, may impose any remedy outlined by the personnel rules of  
463 the city relating to the discipline of city employees.

464  
465 B. The city is entitled to recover the value of anything transferred or received in breach of the  
466 ethical standards of this chapter from any person by bringing an appropriate action before  
467 any court of competent jurisdiction.

468  
469 1-15-24 thru 1-15-40. Reserved.

470  
471 ARTICLE III. SOURCE SELECTION

472  
473 1-15-41 *Acceptable methods of source selection.*

474 A. The purchasing division is responsible for determining which source selection method  
475 is appropriate to a procurement process in accordance with the provisions of this article.  
476 Unless otherwise authorized by law or provided for in the code, the city may award city  
477 contracts by any of the following methods: competitive sealed bidding; competitive  
478 sealed proposals; negotiated purchases, emergency procurement, or cooperative  
479 purchasing agreements.

480  
481 B. Unless otherwise provided for in this chapter, an employee responsible for purchasing  
482 goods or services for the city will use competitive solicitation methods to effectuate the  
483 provisions of this chapter and to maximize the value of the public funds in ways that  
484 are efficient and effective in light of the degree of complexity associated with the good  
485 or service being purchased.

486  
487 C. The city manager, or designee, may establish, through administrative policies, other  
488 competitive solicitation methods consistent with the provisions of this chapter and  
489 deemed to be in the best interests of the city.

490

491 1-15-42. Competitive solicitation methods.

492

493 A. *Best value procurement.* The city, through the purchasing division, will solicit requests for  
494 qualifications and requests for proposals based upon a best value procurement basis, which  
495 emphasizes value over price and permits the evaluation of criteria such as qualifications,  
496 schedule and prior performance, including delivery, to determine the best overall value to  
497 the city.

498

499 B. Required solicitation methods: *thresholds.*

500 a. The city, through the purchasing division, shall call for formal competitive bids for  
501 the following:

502 i. Non-Capital purchases over a threshold of \$100,000.00; and

503 ii. Capital purchases over a threshold of \$250,000.00.

504

505 b. The city manager, or designee, may require and establish informal competitive  
506 bidding or quote procedure(s) within the Administrative Policy for any purchase or  
507 contract for which the formal competitive bidding is not required under Subsection  
508 (a).

509

510 C. *No contingencies.* No employee shall include or add a contingency amount to a solicitation.

511 All monetary changes to contracts or purchase orders shall be processed using a change  
512 order, and in accordance with article IV of this chapter.

513

514 1-15-43 *Award; local preference*

515

516 A. *Award.* The city will award contracts to the most qualified, responsible and responsive  
517 bidder it determines is most advantageous to the city, taking into account the provisions  
518 of this chapter, the Administrative Policy, the specifications set forth in the solicitation,  
519 and the selection criteria deemed appropriate to the solicitation. A contractor or vendor  
520 may not claim reliance upon an award until a purchase order or contract is fully  
521 executed.

522

523 B. *Local Preference.* Pursuant to Section 98 of the City Charter, whenever a product, not  
524 subject to competitive bidding herein, is available within the City, and all other award  
525 factors listed within the solicitation are comparable to that of an outside supplier's  
526 product, the city may award a purchase order or contract to a local business, as defined  
527 in section 1-15-22 and in accordance with the Administrative Policy. Local preference  
528 shall not apply to the following:

529

530 a. Purchases made in accordance with external funding sources, such as grants, that  
531 preclude application of local preference;

532 b. Purchases where applicable state or federal laws or regulations require an award to  
533 the "lowest responsible bidder;"

534

535 C. *Variations.* A variation to the terms of a solicitation requested and submitted by a  
536 contractor is not agreed to by the fact of an award by the city. The city shall enter into  
537 a contract or issue a purchase order on the same terms and conditions that were included  
538 in the solicitation, except the city may, in its sole discretion, negotiate terms and  
539 conditions with the selected vendor within the scope of the solicitation. The city may  
540 also consider variation requests when selecting a bidder for an award. An award may  
541 be cancelled by the city if negotiations concerning a term or a condition or a requested  
542 variation are unsuccessful.  
543

544 Sec. 1-15-44. Non-competitive solicitation methods.  
545

546 A. *Sole source contracts: thresholds.*

547 a. Sole source contracts may be approved by the city manager or finance director if  
548 written documentation clearly demonstrates, based on all surrounding facts and  
549 circumstances, that the acquisition of a good or service may only be achieved  
550 through the use of one product or vendor, and that there are no other products or  
551 vendors as suitable or acceptable to provide the good or service to the city.  
552

553 b. In determining whether a sole source purchase request meets these requirements,  
554 the city manager or finance director may seek additional information about the  
555 purchase from the director or consult any other city employees.  
556

557 B. *No-cost contracts.* Where the city will not expend public funds in the performance of a  
558 contract, the employee evaluating a no-cost offer should evaluate whether competitive  
559 solicitation is in the best interests of the city and whether any additional terms or  
560 conditions create future obligations of any type for the city or for affected citizens.  
561

562 C. *Cooperative contracts.* Purchases of goods and services from valid cooperative entity  
563 agreements are exempt from competitive solicitation methods, so long as the agreement  
564 was competitively bid by means of a formal solicitation within the preceding three  
565 years from the date of the execution of the purchase contract.  
566

567 D. *On-call contract with pre-qualified vendors.* The City may purchase goods or services  
568 from a vendor who has been pre-qualified to perform work if it is in the best interests  
569 of the city.  
570

571 E. *Emergency contracts.*  
572

573 1. Notwithstanding the provisions of this chapter, the city manager may make or authorize  
574 others to make emergency procurements of supplies, services, or construction when  
575 there exists a threat to the public's health, safety, or welfare or is necessary under an  
576 emergency declared under the city's charter or code, provided that such emergency  
577 procurements will be made with such competition as is practicable. A written  
578 determination of the basis for the emergency and for the selection of the person or  
579 business will be included in the contract file.

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2. Powers of the city manager. Except as set forth herein, nothing in this subsection (d) is intended to limit or affect the powers or authority of the city manager under a declared civil emergency, emergency, or local disaster issued City Charter or of this Code.
3. Nothing in this subsection shall be construed to limit the ability of the city to award emergency work to vendors who are pre-qualified to perform the services or work needed and who have on call or as needed contracts with the city to perform that type of work, if the other requirements of this ordinance and the administrative policy are met.

Sec. 1-15-45 Construction contract bid security.

- A. *Required.* Bid security shall be required for all competitive solicitations for construction contracts, in an amount of at least five percent (5%) of the total amount bid. Bid security shall be a bond provided by a surety company authorized to do business in Colorado, the equivalent in cash, or otherwise supplied in a form satisfactory to the city. When circumstances warrant, the finance director may reduce or waive the bid requirement.
- B. *Rejection for noncompliance.* If a solicitation requires security, noncompliance requires that the bid be rejected as nonresponsive, unless the city determines that the bid fails to comply only in a nonsubstantial manner with the security requirements.

Sec. 1-15-46. Contract performance and payment bonds.

- A. *Bonds.* When a construction contract is awarded, the following bonds shall be delivered to the city and shall become binding on the parties upon the execution of the contract:
  1. Performance bond. A performance bond satisfactory to the city, executed by a surety company authorized to do business in Colorado or otherwise secured in a manner satisfactory to the city, in an amount equal to 100 percent of the price specified in the contract; and
  2. Payment bond. A payment bond satisfactory to the city, executed by a surety company authorized to do business in Colorado or otherwise secured in a manner satisfactory to the city, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract, in an amount equal to 100 percent of the price specified in the contract.
- B. *Security.* In lieu of providing a performance or payment bond, a contractor may provide an unconditional letter of credit for 100 percent of the amount required. Such security must be in a form acceptable to the city attorney.

624 C. *Reduction in amount.* If a construction contract is awarded in an amount less than  
625 \$100,000.00, the finance director may reduce the amount of the performance and payment  
626 bonds or security or waive these requirements entirely if deemed appropriate. For all other  
627 performance and payment bonds or security, the city manager may reduce the amount of  
628 the performance and payment bonds or security to 50 percent of the contract amount upon  
629 a written finding that it is in the best interests of the city to do so.

630  
631 D. *Authority to Require Additional Bond Requirements.* Nothing in this section shall be  
632 construed to limit the authority of the city to require a performance bond or other security  
633 in addition to those bonds or in circumstances other than those specified in this section.

634  
635  
636 Secs. 1-15-50—1-15-60. Reserved.

637  
638 ARTICLE IV. CONTRACTING

639  
640 Sec. 1-15-61. Delegations to other city officials

641  
642 A. Notwithstanding any other provisions within the Code, the city manager may delegate  
643 procurement authority, in writing, with respect to certain supplies, services, or construction  
644 to other city officials when the city manager, with the concurrence of the Finance Director,  
645 deems such delegation necessary for the effective procurement of these supplies, services,  
646 or construction. All such delegated procurements will be conducted pursuant to this chapter  
647 and any regulations promulgated under Section 1-15-5.

648  
649 B. In the event that the city manager designates procurement authority to other city officials,  
650 all references to specific purchasing activities by the “Purchasing Officer” under this  
651 chapter refers to and is applicable to said designated other city official for the specific  
652 delegation.

653  
654 C. *Temporary delegation of authority.* Each authorized individual may temporarily delegate  
655 his or her purchasing duties to another employee in his or her chain of command. Any such  
656 delegation or notification must be in writing. Any person designated by the city to serve in  
657 an acting capacity for any of these positions is authorized to perform the purchasing duties  
658 set forth for that position while he or she serves in an acting capacity.

659  
660 Sec. 1-15-62. Authority to approve, modify, and terminate contracts.

661  
662 A. Council approval is a condition precedent to any award of procurement contracts or  
663 approval of change orders or contract modification, including capital improvement  
664 projects, for which sufficient funding is not available and appropriated in the applicable  
665 fund.

666  
667 B. *Approval; modification.* The authority to approve or modify a contract is set forth in the  
668 table below:



669 TABLE 1-15-62(a)  
 670 ORIGINAL CONTRACT AND PURCHASE ORDER APPROVAL, AND EXPENSE  
 671 AUTHORIZATION  
 672

<b>Amount of the ORIGINAL contract or purchase order</b>	<b>Authorized Approver</b>
Up to \$500k	City Manager (or designee)
\$500k+	City Council
Emergency contracts of any amount	City Manager
<i>Calculation of <b>original contract value</b> and purchase order amount for purposes of approval shall be based on total contract value according to Table 1-15-62(a).</i>	

673  
 674 TABLE 1-15-62(b)  
 675 MODIFICATION, OR AGGREGATED MODIFICATIONS TO THE CONTRACT OR  
 676 PURCHASE ORDER, AND EXPENSE AUTHORIZATION

<b>Amount of the MODIFICATION or aggregated modifications to the contract, or purchase order.</b>	<b>Authorized Approver</b>
>10%	City Manager
Any amount totaling >\$500k	City Council
<i>Calculation of <b>modification value</b> (or aggregated modification value) for purposes of approval shall be based on the total modification value (or aggregated modification value) ABOVE the original contract value according to Table 1-15-62(b).</i>	
Modifications are subject to budget appropriation.	

- 677  
 678  
 679 C. *Calculation of contract amount for purposes of approval or modification.* The annual  
 680 aggregated amount of a contract calculated by fiscal year will be used to calculate the total  
 681 amount of the contract for purposes of determining who is authorized to approve or modify  
 682 it under this section. The original contract amount shall be added to the modification or  
 683 cumulative modifications amount totals when calculating the aggregated monetary  
 684 modification totals. In the case of a multi-year contract which the city may terminate at or  
 685 within one year of the beginning of the term of the contract, the amount of the first year of  
 686 the contract will be used to determine who is authorized to approve or modify the contract.  
 687  
 688 D. *Dividing a contract.* No purchase permitted by this Chapter shall be divided for the purpose  
 689 of circumventing the requirements of this section. This includes modifying contracts that  
 690 would result in circumvention of the requirements of this section.  
 691  
 692 E. *Special counsel contracts.* The city attorney has the authority of a director to approve and  
 693 modify contracts. The city council authorizes the city attorney to enter into contracts for  
 694 compensation to outside or special counsel and investigators, and also gives approval for  
 695 these contracts up to the monetary limit set forth for directors in Table 1-15-62(a). The city  
 696 attorney may terminate a contract with outside or special counsel or with an investigator.  
 697

698 F. *Alternative bid schedules.* When formal solicitation is required where multiple schedules  
699 are bid but not initially awarded, and the total of all bid schedules, if they are all awarded,  
700 is greater than \$500k, approval required and subject to provisions in Table 1-15-62(b).  
701

702 G. *City Manager approval in lieu of City Council.* If it is determined by the city manager and  
703 the Department Director, in writing, that it is in the best interest of the city to enter into a  
704 contract and due to extenuating circumstances, a council meeting is not conveniently  
705 scheduled to effect the contract, the city manager has authority to approve and sign the  
706 contract without council approval. The city manager will notify council as soon as practical  
707 and provide an explanation of the reason.  
708

709 Sec. 1-15-63. Contract Administration  
710

711 A. *Form of contract.* Subject to the limitations of this chapter, the city may use any contract  
712 appropriate to the procurement which best promotes the interests of the city. Except for  
713 purchase orders, the city attorney must approve all contracts as to form, including contracts  
714 otherwise excepted from the provisions of this chapter under section 1-15-3.  
715

716 B. *Multi-year contracts authorized.*  
717

718  
719 1. Unless otherwise provided by law, the city may enter into a contract for the  
720 purchase of goods or services for any period of time deemed to be in the best interest  
721 of the City. The term of the contract and conditions of renewal or extension, if any,  
722 should be included in the solicitation. Funds shall be available for the first fiscal  
723 year at the time of contracting. Payment and performance obligations for  
724 succeeding fiscal periods shall be subject to the availability and appropriation of  
725 funds, and these conditions shall be included as a provision of the multi-term  
726 contract.  
727

728 2. *Pricing.* Pricing in multi-year contracts shall be documented for the initial and each  
729 renewal term of the contract such that the contract serves the best interests of the  
730 city.  
731

732 C. *Non-appropriation.* When funds are not appropriated or otherwise made available to  
733 support continuation of performance in a renewal period, the contract shall be terminated.  
734 Termination for non-appropriation shall not be deemed a breach of contract.  
735  
736

737 Secs. 1-15-64—1-15-80. Reserved.

738

739 ARTICLE V. PROTESTS AND CLAIMS

740

741 Sec. 1-15-81. Informal award protest—generally.

742

743 A. *Required.* Before filing a formal protest of an award, an aggrieved person must first file an  
744 informal award protest notice with the finance director.

745

746 B. *Standing.* Only an actual bidder who is aggrieved by an award may protest that award.

747

748 Sec. 1-15-82. Informal award protest—process.

749

750 A. *Deadline for filing informal award protest.* An aggrieved bidder must file an informal  
751 protest arising out of an award not later than seven (7) days after the closing date of the  
752 solicitation, unless the finance director, in his or her sole discretion, finds the aggrieved  
753 bidder could not have known of the reason for the protest within those seven (7) days.

754

755 B. *Method of filing informal award protest.* The aggrieved bidder shall contact the finance  
756 director in writing and provide information specific enough for the finance director to  
757 understand the award at issue, the nature of the award protest, and any suggested resolution  
758 to the asserted protest. In addition, the informal award protest must contain a statement that  
759 specifies the exact nature of the competitive disadvantage created by or as a result of the  
760 alleged issues in the city's award process, other than that the aggrieved bidder was not  
761 selected for the award.

762

763 C. *Resolution of informal award protest.* The finance director is authorized to review and  
764 respond to an informal protest of an award. If the finance director finds there is no evidence  
765 of any competitive disadvantage created by or as a result of alleged issues in the city's  
766 award other than that the aggrieved bidder was not selected for the award, the finance  
767 director shall deny the protest. The finance director shall, within 14 days of receipt of the  
768 informal award protest, respond in writing to the aggrieved bidder, stating the reason or  
769 reasons for the decision reached by the finance director. The finance director's response  
770 must contain a copy of the city's formal award protest form.

771

772 D. *Status of the award upon filing of informal protest.* Upon the filing of an informal protest,  
773 the award process shall be held in abeyance until the finance director issues a written  
774 response to the informal protest.

775

776 a. Exception: If the city manager determines work related to the contested award is  
777 necessary to protect substantial city interests, the city manager may order the award  
778 approval process and work to proceed despite the filing of an informal protest.

779

780 E. *Effect of failure to file informal award protest.* Failure of an aggrieved bidder to timely file  
781 an informal protest of an award shall be deemed a waiver of the right to file a formal protest  
of that award.

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F. *Appeal from denial of informal award protest.* Should the informal protest set forth herein not resolve the matter to the aggrieved bidder's satisfaction, the aggrieved bidder may then file a formal protest of the award as set forth in section 1-15-83.

Sec. 1-15-83. Formal award protest—process.

A. *Standing.* Only a person aggrieved by the response of the finance director issued under 1-15-82 may file a formal protest of an award.

B. *Deadline for filing formal award protest.* An aggrieved person must file a formal award protest not later than seven (7) days after the date the finance director issued the response to the informal protest as set forth in section 1-15-82(c).

C. *Method of filing formal award protest.* The aggrieved person must file a formal award protest with the city clerk using a form provided by the city. The filing must include a copy of the finance director's written response to the aggrieved person's informal award protest issued under section 1-15-82(c). The formal award protest form must be complete in all respects when submitted. A protest form that is not complete in all respects or that does not include a copy of the finance director's written response shall be promptly returned by the clerk to the aggrieved person. An aggrieved person may resubmit a protest form deemed incomplete by the clerk, and the clerk shall accept it, if the resubmitted form is complete and submitted to the clerk within the deadline set forth in subsection (b) of this section.

D. *Employee actions.* Once a completed formal award protest form has been timely submitted to the city clerk, the clerk shall notify the finance director and the city manager of receipt of the protest. The finance director shall, not later than seven (7) days after submission of the completed formal protest form, file with the city manager all relevant documentation relating to the award, and may also submit to the city manager a statement summarizing the city's actions and Code provisions relevant to the matter.

E. *Authority to settle matter or determine formal protest.* With the approval of the city attorney, the city manager is authorized to review and settle a protest of a bid award, and to issue a decision related to a bid award protest.

F. *Issue; materiality.* The issue before the city manager in a formal award protest is whether an aggrieved person with standing has demonstrated by substantial and competent evidence that the bid award process violated the Code or other applicable law. For purposes of determining the outcome of a protest, an administrative or clerical error, or a defect that is not material to the award or that may be corrected by the city, shall not be considered a violation of the Code.

- (1) City manager's responsibilities. In evaluating a formal protest, the city manager shall review all information submitted by the aggrieved person and the finance director, and may ask the aggrieved person or the finance director for more

827 information. Any such request and response shall be made a part of the record. The  
828 city manager may take into account any relevant procurement information, any  
829 relevant information provided by the aggrieved person or the finance director, and  
830 also may notice any other relevant fact or circumstance.

831  
832 G. *Decision.* The city manager shall, not later than twenty (21) days after submission of the  
833 completed formal award protest form, issue a written decision on the protest. The decision  
834 must contain the reason or reasons for the decision, as well as a description of the remedy,  
835 if applicable. The decision must set forth appeal rights, if any. The decision must be  
836 furnished to the aggrieved person in writing. Should the city manager fail to issue a written  
837 decision on the protest within the time frame set forth herein, the protest shall be deemed  
838 denied, and the aggrieved person may proceed as if an adverse decision has been received.

839  
840 H. *Delay of award.* If a formal award protest is timely filed by a person with standing, the  
841 award process may not proceed until the city manager has either issued a written decision  
842 on the protest or failed to issue a decision as set forth in subsection (g) of this section.

843  
844 a. Exception: If the city manager determines work related to the contested award is  
845 necessary to protect substantial city interests, the city manager may order the award  
846 process and work to proceed despite the filing of a formal protest. The city manager  
847 shall make a written finding to this effect. The city manager shall notify the  
848 aggrieved person that the award process and work will proceed, and also that the  
849 formal protest will proceed.

850  
851 I. *Effect of failure to file formal award protest.* Failure of a claimant to timely file a formal  
852 award protest claim shall be deemed a waiver of the contract claim.

853  
854 J. *Appeal.* The city manager's decision, or a denial of a protest as a result of the manager's  
855 failure to issue a written decision, shall be considered a final agency decision. An appeal  
856 of the city manager's decision may proceed under Rule 106 of the Colorado Rules of Civil  
857 Procedure.

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859

860 Sec. 1-15-84. Remedies for awards in violation of the law.

861  
862 A. *Remedies.* If the city manager determines an award violated the Code or other applicable  
863 law, the city manager may, with the approval of the city attorney, order any remedy the  
864 city manager deems appropriate to the circumstances.

865  
866 B. *Termination of the contract.* If the city manager allowed work on the contract to begin  
867 under the exception to section 1-15-83(h), and the manager finds cancellation of the  
868 contract is necessary as a result of the findings made in the formal award protest, the city  
869 manager may order the contract to be terminated. Termination by the manager under this  
870 provision shall not be considered a breach of the contract. The person awarded the contract  
871 will be compensated for the actual costs reasonably incurred under the contract through the

872 time of the termination notice, if the person submits to the city manager an itemized invoice  
873 of those costs not later than 14 days after the termination notice.

874

875 Secs. 1-15-85—1-15-90. Reserved.

876

877

878 Sec. 1-15-91. Contract claim – informal process.

879

880 A. *Required.* Before filing a formal contract claim, a claimant must first file an informal  
881 contract claim dispute notice with the finance director.

882

883 B. *Standing.* Only a contractor who is a party to a city contract and who is aggrieved by an  
884 action or occurrence caused in whole or in part by a city employee and that affects the  
885 completion of that contract, or a person expressly authorized to act on the contractor's  
886 behalf, may file a claim. If a subcontractor or lower tier subcontractor lacks standing to file  
887 a claim because privity of contract does not exist between the city and the subcontract, a  
888 contractor with privity of contract may present the subcontractor's claim about that contract  
889 to the city on behalf of the subcontractor.

890

891 C. *Election of alternate claim process.* The city may, in any contract, include provisions that  
892 govern the filing, consideration of, and payment of any or all claims by any party to the  
893 agreement arising out of or related to that contract. The claims procedure established under  
894 the agreement shall exclusively govern any claim arising out of that contract.

895

896 Sec. 1-15-92. Informal contract claim dispute notice—required.

897

898 A. *Deadline for filing informal contract claim dispute notice.* A claimant must file an informal  
899 contract claim dispute notice not later than 7 days after the claimant knows or should have  
900 known of the facts giving rise to the claim, whichever is earlier.

901

902 B. *Method of filing informal contract claim dispute notice.* The claimant shall contact the  
903 finance director in writing and provide information specific enough for the finance director  
904 to understand which contract is at issue, the nature of the occurrence giving rise to the  
905 contract dispute or disputes, the nature of the injury asserted by the contractor, and any  
906 suggested resolution to the asserted claim or claims.

907

908 C. *Resolution of informal contract claim dispute.* The finance director is authorized to review  
909 and respond to an informal contract claim dispute notice. The finance director shall, as  
910 soon as is practicable, respond to the claimant in writing, stating the reason or reasons for  
911 the decision reached by the finance director. The finance director's response must contain  
912 a copy of the city's formal contract claim form.

913

914 D. *Effect of failure to file informal contract dispute notice.* Failure of a claimant to timely file  
915 an informal contract claim dispute notice shall be deemed a waiver of the right to file a  
916 formal contract claim.

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E. *Appeal from denial of informal contract claim notice.* Should the informal contract claim dispute resolution process set forth herein not resolve the matter to the claimant's satisfaction, the claimant may then file a formal contract claim as set forth in 1-15-93.

Sec. 1-15-93. Contract claim—formal process.

A. *Standing.* Before filing a formal contract claim, a claimant must first file an informal contract claim dispute notice with the finance director. Only a claimant aggrieved by the response of the finance director issued under section 1-15-92(c) may file a formal contract claim.

B. *Deadline for filing formal contract claim.* A claimant must file a formal contract claim not later than 14 days after the date the finance director issued the response to the informal claim as set forth in section 1-15-92(c).

C. *Method of filing formal contract claim.* A claimant must file a formal contract claim with the city clerk using a form provided by the City. The filing must include a copy of the finance director's written response issued under section 1-15-92(c). The formal contract claim form must be complete in all respects when submitted. A formal contract claim form that is not complete in all respects or that does not include a copy of the finance director's written response shall be promptly returned by the clerk to the claimant. A claimant may resubmit a claim form deemed incomplete by the clerk, and the clerk shall accept it, if the resubmitted form is complete and submitted to the clerk within the deadline set forth in subsection (b) of this section.

D. *Employee actions.* Once a completed formal contract claim form has been timely submitted to the city clerk, the clerk shall notify the finance director and the city manager of receipt of the claim. The finance director shall, not later than seven days of submission of the completed formal contract claim form, file with the city manager all relevant documentation relating to the claim, including a copy of the solicitation, bid award, and executed contract. The finance director may also submit to the city manager a statement summarizing the city's actions and Code provisions relevant to the matter.

E. *Authority to settle or determine formal contract claim.* With the written approval of the city attorney, the city manager is authorized to review and settle or determine a formal contract claim, and to issue a decision related to a formal contract claim. The city manager may take the following actions to settle or determine a claim:

1. Deny the claim;
2. Allow the claim if it is found to be valid or to have merit, and, if the claim is for an amount greater than that justly due the claimant, allow the claim in the amount justly due and deny it as to the balance; or

962 3. Deny or compromise the claim if the legal liability of the city or the amount justly due  
963 is disputed.

964  
965 If the city manager allows the claim in whole or in part, or compromises the claim, and if the  
966 claimant accepts the amount allowed or offered to settle the claim, the manager may require the  
967 claimant to accept that amount in settlement of the entire claim.

968  
969 F. *Issue; materiality.* The issue before the city manager in a formal contract claim matter is  
970 whether a claimant with standing has demonstrated by substantial and competent evidence  
971 that the claim is valid or has merit.

972  
973 1. Manager's responsibilities. In evaluating a claim, the city manager shall review all  
974 information submitted by the claimant and the finance director, and may ask the  
975 claimant or the finance director for more information. Any such request and  
976 response shall be made a part of the record. The city manager may take into account  
977 any relevant information in the contract file, any relevant information provided by  
978 the claimant, and may also notice any other relevant fact or circumstance.

979  
980 G. *Decision.* The city manager shall, not later than 21 days of submission of the completed  
981 formal contract claim form, issue a written decision on the claim. The decision must  
982 contain the reason or reasons for the decision, as well as a description of the remedy, if  
983 applicable. The decision must set forth appeal rights, if any. The decision must be furnished  
984 to the claimant in writing. Should the city manager fail to issue a written decision on the  
985 claim within the time frame set forth herein, the claim shall be deemed denied, and the  
986 claimant may proceed as if an adverse decision has been received.

987  
988 H. *Effect of failure to file formal contract claim.* Failure of a claimant to timely file a formal  
989 contact claim shall be deemed a waiver of the contract claim.

990  
991 I. *Appeal.* The city manager's decision, or a denial of a claim as a result of the city manager's  
992 failure to issue a written decision, shall be considered a final agency decision. An appeal  
993 may proceed under Rule 106 of the Colorado Rules of Civil Procedure.

994  
995 Secs. 1-15-94—1-15-100. Reserved.

996  
997 ARTICLE VI. DEBARMENT OR SUSPENSION

998  
999 Sec. 1-15-100- Authority to debar or suspend

1000  
1001 A. *Authority.*

1002  
1003 1. After reasonable notice and reasonable opportunity for a person or business to be heard by  
1004 the finance director, then the finance director, after consulting with the city manager and city  
1005 attorney, or their assigned designees, has the authority to suspend and/or debar that person  
1006 for cause from consideration for award of contracts under this Chapter.



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2. Suspension of a person may be issued for cause at the discretion of the finance director without further action for debarment of that person. Additionally, pending hearing on debarment, the finance director has the authority to suspend a person from consideration for award of contracts if there is probable cause for debarment. The suspension shall also extend to work as a subcontractor on any city contract.

B. *Causes for debarment or suspension.* The causes for debarment or suspension include:

1. Conviction, within the last five years, of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
2. Conviction, within the last five years, under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a city contractor;
3. Conviction, within the last five years, under state or federal antitrust statutes arising out of the submission of bids or proposals;
4. Violation of contract provisions within the last five years, as set forth below, of a character which is regarded by the finance director to be so serious as to justify debarment action:
  - a. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
  - b. Failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor is not a basis for debarment.
5. Any other cause the finance director determines to be so serious and compelling as to affect responsibility as a city contractor, including debarment by another governmental entity for any cause listed in this chapter;
6. Default on the payment of taxes, licenses, or other monies lawfully due the city; and
7. Suspension or debarment by any other unit of government constitutes prima facie evidence of grounds for debarment by the city during the period of such suspension or debarment elsewhere. However, a party may petition for review pursuant to the appeal process provided in this code and the city will approve eligibility if the party demonstrates that it has not violated the city's standard for debarment.

1051 8. Violation of the ethics as listed in Article II.

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1053 C. *Term of suspension or debarment.*

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1055 1. Suspension will not be for a period of more than one year. If, however, the suspension  
1056 is issued as a precedent to debarment proceedings, suspension will not be for a period of  
1057 more than three months while the debarment decision is pending. Debarment will not be  
1058 for a period of more than three years.

1059 2. After the term of the suspension or debarment has passed, the person has the right to  
1060 request reinstatement to good standing with the city. The person has the burden of  
1061 demonstrating and certifying to the finance director that they have remedied the cause  
1062 that prompted the suspension and/or debarment. finance director has the authority under  
1063 this Article to make a final decision whether to reinstate the person.

1064 Sec. 1-15-95. Decision to debar or suspend.

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1066 A. The finance director shall issue a written decision regarding debarment or suspension,  
1067 stating the reasons for such action, and shall mail or otherwise furnish the decision directly  
1068 to the debarred or suspended party and any party intervening.

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1070 B. The finance director shall issue a written decision regarding reinstatement, stating the  
1071 reasons and justification for such action, and shall mail or otherwise furnish the decision  
1072 directly to the debarred or suspended party and any party intervening.

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1074 Sec. 1-15-101. Finality of decision.

1075 A. A decision under section Sec. 1-15-95 is final and conclusive, unless the debarred or  
1076 suspended person within ten days after the mailing or service of the decision takes an appeal  
1077 to the city council, in writing, specifying all grounds of error alleged in the decision.

1078 B. Nothing contained in this appeal process is designed or intended to create or confer any  
1079 private right of action; rather, the appeal mechanism will serve to promote public scrutiny  
1080 and remedy through public hearing and decision by the elected body of the city, before the  
1081 public forum.

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1083 **Section 2:** Severability. If any part, section, subsection, sentence, clause or  
1084 phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the  
1085 validity of the remaining sections of this ordinance. The City Council hereby declares that it would  
1086 have passed this ordinance, including each part, section, subsection, sentence, clause or phrase  
1087 hereof, irrespective of the fact that one or more parts, sections, subsections, sentences, clauses or  
1088 phrases may be declared invalid.

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1090 **Section 3:** Repealer. All ordinances or resolutions, or parts thereof, in conflict  
1091 with this ordinance are hereby repealed, provided that this repealer shall not repeal the repealer  
1092 clauses of such ordinance nor revive any ordinance thereby.

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INTRODUCED AS A BILL at a regularly scheduled meeting of the City Council

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of the City of Littleton on the 17<sup>th</sup> day of October, 2023, passed on first reading by a vote of 6  
FOR and 0 AGAINST; and ordered published by posting at Littleton Center, Bemis Library,  
the Municipal Courthouse and on the City of Littleton Website.

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PUBLIC HEARING on the Ordinance to take place on the 7<sup>th</sup> day of November,  
2023, in the Council Chamber, Littleton Center, 2255 West Berry Avenue, Littleton, Colorado,  
at the hour of 6:30 p.m., or as soon thereafter as it may be heard.

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PASSED on second and final reading, following public hearing, by a vote of \_\_\_\_  
FOR and \_\_\_\_ AGAINST on the 7<sup>th</sup> day of November, 2023 and ordered published by posting at  
Littleton Center, Bemis Library, the Municipal Courthouse and on the City of Littleton Website.

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1106 ATTEST:

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\_\_\_\_\_  
Colleen L. Norton  
CITY CLERK

\_\_\_\_\_  
Kyle Schlachter  
MAYOR

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APPROVED AS TO FORM:

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\_\_\_\_\_  
Reid Betzing  
CITY ATTORNEY

