

City of Lee's Summit

PURCHASING POLICY REVISION 07-02

Effective Date: September 1, 2007

WHEREAS, the City Administrator is authorized to make amendments to the City of Lee's Summit Purchasing Policy pursuant to Article XXII of the Purchasing Policy; and

WHEREAS, it has been determined that it is in the best interest of the City to amend the Purchasing Policy in order to create a procedure for handling bid protests; and

WHEREAS, the City of Lee's Summit Purchasing Policy is hereby amended in the manner specified below as of the effective date set forth above.

The City of Lee's Summit Purchasing Policy is hereby amended by creation of a new Article, to be designated Article XXIV and titled "Bid Protests", with said Article to read as follows:

XXIV. BID PROTESTS

Adopted by Administrative Amendment 07-02, dated August __, 2007.

- (1) **Right to Protest.** Any actual or prospective bidder who is aggrieved in connection with the solicitation or award of a contract may protest to the Purchasing Manager. The protest shall be submitted in writing within 48 (forty-eight) hours after such aggrieved person knows or should have known of the facts giving rise thereto. The protest shall identify specific issues that are being protested and the facts that the protestor believes supports their claim (it is the protestor's responsibility to establish their case).
- (2) **Review of Protest.** The Purchasing Manager shall have the authority to resolve a protest of an aggrieved bidder concerning the solicitation or award of a contract. This authority shall be exercised in accordance with the City's Purchasing Policy and subject to the approval of the City Administrator.
- (3) **Decision.** The Purchasing Manager shall issue a decision in writing within three (3) days of receipt of the protest. The decision shall state the reasons for the action taken.
- (4) **Notice of Decision.** A copy of the decision under Subsection (3) of this Article shall be mailed or otherwise furnished immediately to the protestor and any other party intervening.
- (5) **Appeal.** A protestor may appeal the decision of the Purchasing Manager by submitting a written appeal to the City Administrator within five business days of the date of the Purchasing Manager's decision under Subsection (3) of this Article. The written appeal shall state with specificity the facts supporting the protestor's position. The appeal shall be reviewed by the

City Administrator, or his designee, who will issue a decision in writing within 5 (five) business days of receipt of the protestor's timely filed written appeal.

- (5) **Finality of Decision.** A decision under Subsection (3) of this Article shall be considered final and is not subject to appeal or further consideration unless a timely appeal is filed under Subsection (5). In the event of a timely appeal under Subsection (5) the decision of the City Administrator, or his designee, shall be considered final and not subject to appeal or further consideration.
- (6) **Stay of Procurements During Protests.** In the event of a timely protest under Subsection (1) of this Article, the City of Lee's Summit shall not proceed further with the solicitation or with the award of the contract until the Purchasing Manager issues a decision under Subsection (3) (or until the City Administrator, or his designee, renders a decision on appeal pursuant to Subsection (5) of this Article), or until the Purchasing Manager, after consultation with the City Administrator, makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the City of Lee's Summit.
- (7) The procedure provided by this Article is intended solely as an attempt to provide bidders with the opportunity to communicate perceived issues to the City's Purchasing Department. It is not intended to create any legal right, cause of action, property interest or independent means of redress that does not otherwise exist under Missouri law. This Article shall not serve to abrogate or effect the City's exclusive right to determine the lowest and most responsible bidder in any particular bid situation.

These changes have been approved by the City Administrator on this 14th day of August, 2007.


Stephen A. Arbo, *Interim City Administrator*

APPROVED AS TO FORM:


John L. Mautino, *Assistant City Attorney*