

TRANSMITTAL MEMORANDUM

7h

<p>TO: The Honorable Mayor & City Council</p> <p>FROM: Shawn Hart, Acting Assistant City Manager</p> <p>DATE: April 11, 2025</p> <p>RE: Approve Draft Amendments to the City Charter</p>	<p>Initials: </p> <p>File #: MGR25-220</p> <p>Mtg. #: 04/17/25 NBh</p>
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At the January 7, 2025, City Council meeting, staff was directed to gather City Charter amendment recommendations from the public, staff, and Council. The City Council also asked staff to engage the public and plan a townhall meeting for January 30th at the Ted Ferry Civic Center. However, Assistant City Manager Lacey Simpson reported on January 8th that the Civic Center was fully booked through February 11th. Due to this, staff recommended holding the public comment session as planned on January 30th at the scheduled special City Council meeting to discuss Charter amendments. A brief survey was also shared online to include broader input. Most survey respondents didn't propose changes but wanted the chance to weigh in on any future proposals, and these results were shared with the City Council at the January 30th meeting.

At the January 30th special meeting, the City Council directed staff to propose language to address:

- Amending the requirement for the City Manager to reside in City limits.
- Removing the 4-month audit delivery deadline for a deadline set by the Council.
- Strike charter references to purchasing and sales limits and have those set by Ordinance. Particularly a review of section 5, which is related to purchase and property.

Staff has identified a fourth possible change.

- Amending the Ordinance effective date from one (1) month to immediately after passage unless specified within the Ordinance.

Staff has prepared proposed language for each of these amendments and is seeking Council approval to move forward with public outreach on the proposed changes.

Also included is Finance Director Michelle Johansen's reasoning for the change to the charter purchasing and sales limits, in particular to section 5 of the charter. Mrs. Johansen will be available for any questions.

Next Steps

Following City Council authorization, staff will conduct a public engagement effort using established communication channels, including publication on the City's website and social media

platforms. Additionally, a public engagement meeting will be scheduled for May or June to provide residents with an opportunity to review and comment on the proposed amendments.

Upon conclusion of the outreach period, staff will compile all public input and present it to Council. At that time, Council will be asked to provide direction on preparing final resolution language. Please note that in order to be included on a ballot, all ordinances finalizing Charter amendments must be approved by the City Council no later than two months prior to the scheduled regular election of October 7, 2025.

A motion has been prepared for City Council consideration.

Recommended Motion:

I move the City Council approve the proposed City Charter amendments as determined appropriate; direct staff to conduct public engagement on such City Charter amendments; and present the received public comment to the City Council for review and amendment finalization at a later date.

Section 3-1 City Manager: Appointment, Term, Qualifications, Removal

There shall be a city manager. The council shall appoint **the manager** [him] for an indefinite term by a vote of a majority of all its members. **The manager** [He] shall be chosen solely on the basis of [his] executive and administrative qualifications. At the time of [his] appointment, **the manager** [he] need not be a resident of the city or state; but, during **the manager's** [his] tenure of office, **the manager** [he] shall reside **on the interconnected road system of Revillagigedo Island** [within the city]. Neither the mayor nor any councilman may be appointed city manager during the term for which he shall have been elected. The council may suspend or remove the city manager at any time by a vote of a majority of all its members.

Section 5-17 Contracts and Sales

(a) Any contract which by its terms will not be fully executed within five years and which cannot be terminated by the city upon not more than one month's notice without penalty; and (b) the sale or lease of any city property, real or personal, or the sale or other disposal of any interest therein, the value of which property, lease, or interest is more than \$[3]100,000.00, shall be made only[:

~~(1) By authority of an ordinance approved or enacted at an election by an affirmative vote of a majority of the qualified voters of the city who vote on the question of approving or enacting the ordinance (the ordinance being submitted to the voters by the council or by initiative of the voters); or~~

~~(2) B] by authority of a non-emergency ordinance passed by the council, which shall be published in full within ten days after its passage. [, and which shall include a section reading substantially as follows: "Section _____. If one or more referendum petitions with signatures are properly filed within one month after the passage and publication of this ordinance, this ordinance shall not go into effect until the petition or petitions are finally found to be illegal and/or insufficient, or, if any such petition is found legal and sufficient, until the ordinance is approved at an election by a majority of the qualified voters voting on the question. If no referendum petition with signatures is filed, this ordinance shall go into effect one month after its passage and publication."~~

~~Provided that an entire public utility belonging to the city may be sold or leased only by authority of an ordinance approved or enacted as provided in subdivision (1) above in this section.;~~

Section 5-18 Public Improvements

Public improvements, including local improvements, may be made by the city government itself or by contract. The council shall award all contracts for such improvements; provided that the council may authorize the city manager to award such contracts not exceeding an amount to be determined by the council and subject to such regulations as the council may prescribe. ~~[Except as provided hereinafter, every contract for public improvements of more than \$50,000 shall be awarded to the lowest and best responsible bidder after such notice and opportunity for bidding as the council may prescribe.]~~ The council may, by non-emergency ordinance and upon a finding that it is in the best interests of the city, establish exceptions to the notice, bidding and award provisions of this section provided that any such

exception is not based solely upon the amount of the contract. Contracts for public improvement which [~~exceed \$5,000, but which~~] do not exceed **an amount established by ordinance** [~~\$50,000~~] may be awarded by solicitation for written quotations made to at least three contractors. All bids may be rejected, and further notice and opportunity for competitive bidding may be given.

Section 5-19 Personal Interest

Subject to all other applicable Charter provisions and city ordinances, the mayor, any councilperson, or any city employee may sell to, barter with, or buy from the city only as provided below:

(a) Sales to the city:

(1) A sale to the city for \$500.00 or less is permitted if it is at a price prevailing in the community.

(2) A sale to the city at any price is permitted if:

(A) at least three (3) written quotes are **solicited by the purchasing authority** [~~presented to the council~~] and the **city** [~~council~~] selects the quote which is the most advantageous to the city; or

(B) an invitation to bid is published requesting sealed bids and the city selects the bid which is the most advantageous to the city.

(b) Purchase from the city:

(1) Purchase from, or barter exchange with, the city for \$500.00 or less or equivalent value is permitted if it is at a price or rate prevailing in the community and such purchase or exchange is offered to the public; or

(2) Purchase from or barter exchange with the city for any amount or equivalent value is permitted if an invitation to bid is published requesting sealed bids and the city selects the bid which is the most advantageous to the city.

Section 5-21 Independent Annual Audit

The council shall designate a qualified public accountant or accountants who shall make an independent audit of the accounts and evidences of financial transactions of the department of finance and of all other departments, offices and agencies keeping separate or subordinate accounts or making financial transactions, as of the end of every fiscal year at least, and who shall report to the council and to the city manager within **the time established by council resolution** [~~four months~~]. In lieu of the above, the council may arrange with an appropriate state authority for such an audit when and if permitted by law.

Section 2-13 Ordinances: Passage, When in Effect

A proposed ordinance shall be read, and a vote of a majority of all councilmen present shall be required for advancing to second reading. Before a vote on final passage, a proposed ordinance shall be read by title or in full, and a vote of a majority of all the councilmen shall be required for its final passage.

The mayor shall have the power to veto ordinances and resolutions passed by the council; provided that such power is exercised at the meeting of the council at which the ordinance or resolution is finally passed. The mayor shall advise the council in writing no later than the beginning of the next regular meeting of his reasons for vetoing an ordinance or resolution. The council may finally pass an ordinance or resolution over the veto of the mayor at such meeting, whether or not the mayor submits his reasons. An affirmative vote of five members of the council shall be required to pass an ordinance or resolution which has been vetoed by the mayor, and the vote shall be by yeas and nays and shall be entered in the journal.

No ordinance except an emergency ordinance may be finally passed on the same day that it is introduced. Within ten days after its final passage without a veto or final passage over the veto of the mayor, as the case may be, every ordinance shall be published in full or by number and title with a brief summary. ~~Emergency ordinances and ordinances making, repealing, transferring, or otherwise changing appropriations, shall go into effect immediately upon such final passage unless they specify a later time].~~ All other ordinances shall go into effect ~~[one month]~~ **immediately** after such final passage and publication unless they specify a later date.

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- (1) By authority of an ordinance approved or enacted at an election by an affirmative vote of a majority of the qualified voters of the city who vote on the question of approving or enacting the ordinance (the ordinance being submitted to the voters by the council or by initiative of the voters); or
- (2) By authority of a non-emergency ordinance passed by the council, which shall be published in full within ten days after its passage, and which shall include a section reading substantially as follows: "Section _____. If one or more referendum petitions with signatures are properly filed within one month after the passage and publication of this ordinance, this ordinance shall not go into effect until the petition or petitions are finally found to be illegal and/or insufficient, or, if any such petition is found legal and sufficient, until the ordinance is approved at an election by a majority of the qualified voters voting on the question. If no referendum petition with signatures is filed, this ordinance shall go into effect one month after its passage and publication."

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establish exceptions to the notice, bidding and award provisions of this section provided that any such exception is not based solely upon the amount of the contract. Contracts for public improvement which [~~exceed \$5,000, but which~~] do not exceed **an amount established by ordinance** [~~\$50,000~~] may be awarded by solicitation for written quotations made to at least three contractors. All bids may be rejected, and further notice and opportunity for competitive bidding may be given.

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MEMORANDUM
CITY OF KETCHIKAN, ALASKA
Finance Department
Office of the Finance Director

Michelle L. Johansen, Finance Director
Meghan Traudt, Financial Analyst
Phone: (907) 228-5621
Facsimile: (907) 228-5617

TO: Lacey G. Simpson, Interim City Manager/KPU General Manager
Shawn Hart, Acting Assistant City Manager/KPU General Manager

FROM: Michelle L. Johansen, Finance Director

DATE: April 8, 2025

SUBJECT: Chapter 3.08 – Disbursement of Funds and 3.12 Purchases and Sales Thresholds

The purchasing thresholds for quotes, bids and Council approval are based on outdated values. The additional administrative burden for Departments, Finance, City Manager’s Office and the City Clerk’s Office. Together we would like to propose an increase in the thresholds included in section 3.08 - Disbursement of Funds and 3.12 – Purchases and Sales of the Ketchikan Municipal Code (KMC).

A copy of the KMC referenced above is attached and highlighted to indicate the sections of the code that have a current threshold. To simplify the proposed changes, the schedule below identifies the dollar amount referenced in the code and the proposed change:

	Current Threshold	Last Change	CPI Adjusted Threshold	Proposed Threshold *
Budget	\$ 12,000	1990- Ord 1183	\$ 30,122	\$ 30,000
Surplus-Sale	\$ 2,000	1975-Ord 822	\$ 12,276	\$ 15,000
Purchasing	\$ 5,000	1975-Ord 822	\$ 30,691	\$ 30,000-50,000
Purchasing	\$ 10,000	1984-Ord 1031	\$ 31,384	\$ 30,000-50,000
Purchasing	\$ 30,000	1988-1991	82921-71278	\$ 100,000
Purchasing	\$ 50,000	1988-Ord 1151	\$ 138,202	\$ 150,000
Purchasing	\$ 100,000	1984-Ord 1031	\$ 313,836	\$ 300,000
Purchasing	\$ 200,000	1997-Ord1379	\$ 402,010	\$ 400,000
Local Vendor	\$ 50,000	2016-Ord1833,1834	\$ 67,492	\$ 75,000

* May be subject to City Charter change

Justification for proposed changes:

- Current thresholds were established 25-50 years ago and are out of date, with the exception of the local purchasing policy that was added in 2016.
- Allow Staff to work on other tasks are more beneficial for their department. The administrative preparation for agenda items requiring Council approval continues to increase and is burdensome.

- If adjusted, the City will be in line with State of Alaska purchasing thresholds that were increased in 2024 identifying procedures for purchases for Level 1 – Up to \$25,000, Level 2 - \$25,000.01 to \$100,000 and Level 3 – Over \$100,000. Level 2 purchases of \$50,000.01 to \$100,000 can be made with written quotes or informal proposals while purchases of \$25,000.01 to \$50,000 can be made with verbal or written quotes. Level 1 purchases of up to \$25,000 can be made per reasonable and adequate purchasing procedures.

The statistics below show the increase in the number of purchase orders over \$50,000, requiring Council approval and the number of purchase orders over \$10,000 requiring written quotes and sometimes Council approval. This means that staff is reaching out to three vendors for quotes 16% more than they were in 2015 and preparing items for Council with contracts in excess of \$50,000, 32% more than in 2015. The result of this is that staff is utilizing more of their time to obtain quotes, write up the results, submit items to the City Manager and Finance for review and submit to Council for review. In addition, the number of purchase orders needing approval has increased 50% from 2015 to 2024 which means our staff is also spending more time to administer all purchases. This time could be spent doing other tasks that provide more benefit to each Department.

Purchase Orders	Counts				Percentage Increase From 2015 to 2024
	2015	2019	2023	2024	
Total Purchase Orders	1966	2390	2797	2944	50%
Purchase Orders > \$10,000	382	413	489	444	16%
Purchase Orders > \$50,000	79	102	105	104	32%

In order to update the KMC staff will need to prepare an ordinance with the proposed changes. If the Council is agreeable to this an ordinance will be brought forward for Council approval.

I will be available to answer any questions ahead of or at the Council meeting.

Chapter 3.08 DISBURSEMENT OF FUNDS¹

Sections:

3.08.010 Purpose.

3.08.020 Vouchers.

3.08.030 Checks.

3.08.010 Purpose.

The purpose of this chapter is to implement Section 5-14 of the City Charter and to prescribe the method of disbursing all city funds, including but not limited to the general fund, utility revenue fund, bond reserve, sinking and redemption funds, sales tax fund, trust funds, and all other city funds. (Code 1962 § 8-24)

3.08.020 Vouchers.

All vouchers shall be numbered. All vouchers shall bear the signature of the director of finance and have attached thereto supporting documents or references to documents to clearly set forth the purpose of the expenditure and to provide accounting data. (Ord. 1600 § 1, 2008; Ord. 1183 § 1, 1990. Code 1962 § 8-25)

3.08.030 Checks.

(a) Checks and Electronic Payments. All checks and electronic payments, such as wire transfers and automated clearing house transactions, drawn on the treasury of the city shall be signed by the director of finance and supported by a voucher or other satisfactory supporting documentation. All checks and electronic payments shall be supported by a voucher or other supporting documentation and shall be listed in a register that shall be submitted to the city clerk on the date regular checks are scheduled for release. The register shall be made available for public inspection under applicable public records laws. Manual checks and electronic payments, which can be executed on an irregular basis, will be listed in the register prepared nearest to the date after the transaction takes place.

(b) No check may be issued against an operating budget or capital budget account whose budget has been exhausted without a transfer of funds from another account within the same department approved by the city manager or the public utilities manager. If the transfer (1) exceeds \$12,000, unless it is a transfer between purchased power and heating and diesel fuel object codes; (2) is into the travel and training object codes; (3) is into the vehicle object codes; or (4) requires a transfer from appropriated or unappropriated reserves, approval of the city council is required. Transfers between purchased power and heating and diesel fuel object codes may be made at the discretion of the public utilities manager, with such transfers being reported in writing to the city council at its next regular meeting.

(c) In the absence of the director of finance, the officers appointed to this position in an acting capacity shall have the same responsibility and authority as the incumbent in the positions named.

(d) No check shall be issued to a business in which the mayor or a city councilmember has a substantial financial interest without the prior approval of the city council. (Ord. 1600 § 2, 2008; Ord. 1356 § 1, 1996; Ord. 1183 § 2, 1990; Ord. 1168 § 1, 1989; Ord. 1159 § 1, 1989. Code 1962 § 8-26)

¹For Charter provisions authorizing the council to prescribe the methods or method of disbursing city funds see Charter § 5-14.

Chapter 3.12 PURCHASES AND SALES¹

Sections:

- 3.12.010 Definitions.**
- 3.12.020 City manager or authorized personnel to make purchases.**
- 3.12.030 When prior approval by the council is required.**
- 3.12.035 Purchases of public improvements – When competitive bidding or quotations are required.**
- 3.12.040 Purchases of supplies, materials, equipment or services – When competitive bidding or quotations are required.**
- 3.12.041 Awarding of competitive bids.**
- 3.12.042 Appeals process.**
- 3.12.043 Competitive sealed proposals.**
- 3.12.050 Purchasing – When competitive bidding or quotations are not required.**
- 3.12.051 Professional service contracts.**
- 3.12.053 Change directives.**
- 3.12.055 Acquisition of real property, leases, easements and permits.**
- 3.12.060 Sale or other disposition of real property or interest therein.**
- 3.12.070 Sale or other disposition of personal property, or interest therein.**
- 3.12.080 Lease of equipment and conduit space.**
- 3.12.090 Sale of subsea cable services and purchase of transport capacity.**

3.12.010 Definitions.

“Contractual services,” for the purpose of this chapter, means services performed for the city by persons not in the employment of the city, and may include the use of equipment or the furnishing of commodities in connection with said services under express or implied contract. Contractual services include travel; freight; express, parcel post, postage; telephone; telegraph; utilities; rents; printing and binding; repairs, alterations, and maintenance of buildings, equipment, streets and bridges, and other physical facilities of the city; and other services performed for the city by persons not in the employment of the city.

“Public improvement,” as used in this chapter, means the erection, building, construction, placement, creation or expulsion of an improvement to land. (Ord. 822 § 1, 1975. Formerly Code 1969 3.12.012)

3.12.020 City manager or authorized personnel to make purchases.

All purchases of supplies, materials, equipment, and contractual services for the offices, departments, and agencies of the city government shall be made by the city manager or by other city personnel in accordance with purchase authorization issued by the city manager. (Ord. 822 § 1, 1975)

3.12.030 When prior approval by the council is required.

Every contract for, or purchase of, supplies, materials, equipment, contractual services, or public improvements for more than \$50,000 shall require the prior approval by motion or resolution of the council; and under no circumstances may such contract or purchase be made without first obtaining the approval of the council. (Ord. 1151 § 1, 1988; Ord. 822 § 1, 1975)

3.12.035 Purchases of public improvements – When competitive bidding or quotations are required.

(a) Purchases of or contracts for public improvements with a cost of \$5,000 or less may be made on the open market without competitive bidding quotations, or solicitations; provided, that such purchases or contracts are for budgeted items or items previously approved by the council.

(b) Purchases of or contracts for public improvements with a cost in excess of \$5,000, but not more than \$50,000, shall, at the option of the purchasing authority, be awarded either by solicitation for written quotations made to at least three contractors or through the competitive bidding or proposal process described in KMC [3.12.040\(b\)](#), [3.12.041](#), [3.12.042](#), and [3.12.043](#).

(c) Except as provided in subsection (d) of this section, purchases of or contracts for public improvements with a cost in excess of \$50,000 shall be awarded through the competitive bidding or proposal process described in KMC [3.12.040\(c\)](#), [3.12.041](#), [3.12.042](#), and [3.12.043](#).

(d) Purchases of or contracts for public improvements may be awarded without notice and without competitive bidding or proposals:

(1) When the public improvement can only be provided by a single contractor;

(2) When the public improvement can be purchased from another unit of government at a price or rate determined by government authority;

(3) When the public improvement is purchased from a public utility;

(4) When the public improvements should be purchased from a specific contractor in order to prevent incompatibility with previously purchased supplies, materials, equipment or public improvements. For purposes of this subsection, the term "incompatibility" is defined as: (A) the inability to interconnect, combine, interchange, or join, or (B) that which causes substantial duplication in maintenance, expertise, or training or in the stocking of parts, materials, supplies or replacements. Any purchase which is to be excluded from competitive bidding by the authority of this subsection must be first approved by the council;

(5) When the public improvements are required on an emergency basis; provided, however, that to the extent practical under the conditions of the emergency, the council shall declare the emergency;

(6) When it is advantageous to the city to enter into a contract with a person, firm or corporation for the same public improvement under substantially the same terms as such person, firm or corporation is providing another municipal or state government, or the United States, where such public improvements are being provided the other unit of government on the basis of competitive bidding, or pursuant to a contract with or through such other government unit so that the benefit of the competitive bidding accrues to the city;

(7) When competitive bidding has been followed, but only one, or no bids are received, or all bids are rejected. In such a case, after council approval, the manager may proceed to have the public improvements constructed without further competitive bidding;

(8) When additional public improvements beyond the scope of an existing contract can be obtained by change order to the contract; provided, however, that the existing contract was awarded through the competitive bidding process, that the change order for each additional public improvement does not exceed 15 percent of the original bid price, and that the council approves the change order;

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(9) Purchases or contracts for public improvements from a local business the cost of which does not exceed \$50,000 in a single transaction unless otherwise prohibited by state or federal law or the terms of any funding grant. For purposes of this subsection, a local business is a business which at the time of the purchase is a business with a place of business within the Ketchikan Gateway Borough that holds a valid Alaska business license and is registered with the Ketchikan Gateway Borough to file sales tax reports;

(10) Notwithstanding any provision of this chapter, the council may also exempt any particular purchase from competitive bidding or other requirements by a nonemergency ordinance adopted pursuant to and as provided for in Sections 5-16 and 5-17 of the City Charter. (Ord. 1833 § 1, 2, 2016; Ord. 1632 § 1, 2009; Ord. 1291 § 2, 1994)

3.12.040 Purchases of supplies, materials, equipment or services – When competitive bidding or quotations are required.

(a) Purchases of, or contracts for, supplies, materials, equipment, or contractual services with a cost of \$10,000 or less in a single transaction may be made on the open market without competitive bidding, quotations, or solicitations; provided, that such purchases or contracts are for budgeted items or items previously approved by the council.

(b) Except as otherwise provided in KMC [3.12.043](#) or [3.12.050](#), purchases of or contracts for supplies, materials, equipment, or contractual services with a cost in excess of \$10,000 but not more than \$50,000 in a single transaction shall, at the option of the city's purchasing authority, be made in the open market by written quotation or through the competitive bidding process set out in subsection (c) of this section, KMC [3.12.041](#) and [3.12.042](#), the competitive sealed proposals process set out in KMC [3.12.043](#) or the professional services process set out in KMC [3.12.051](#). The city's purchasing authority shall solicit quotations or offers from at least three persons, firms or corporations.

(c) Contracts over \$50,000.

(1) Except as otherwise provided in KMC [3.12.043](#) or [3.12.050](#), before any purchase of, or contract for, supplies, materials, equipment, or contractual services is made, when the cost thereof is estimated to exceed \$50,000, the city purchasing authority shall submit specifications and invitations to bid to at least three persons, firms, or corporations dealing in and able to supply the same, or to a lesser number if there are not three dealing in and able to supply the same. The purchasing authority shall also publish notice of the proposed purchase and invitations to bid in a newspaper of general circulation within the city.

(2) When there are at least three persons, firms, or corporations that qualify as local, as defined in subsection (c)(4) of this section, the purchasing authority is not required to, but may, submit invitations to bid to nonlocal persons, firms, or corporations. The purchasing authority shall, however, submit invitations to bid to nonlocal persons, firms, or corporations when the purchasing authority determines such action is necessary to secure bids or to create competitive conditions, or when such action may result in a savings for the city.

(3) All bids shall be sealed and shall be opened in public at a time and place designated in the notice inviting bids. Information which would reveal the number of bids received and the identity of bidders shall not be released until after the time for submission of bids has passed. The purchasing authority may repeatedly reject any and all bids, may proceed under KMC [3.12.050](#)(a)(10) or may call for new bids as in the first instance, except that as an additional requirement each of the bidders whose bids were rejected shall be timely notified of a call for new bids and of the changes, if any, in the specifications or other requirements for such new bids.

(4) Local Bidder Preference Award.

(A) Unless contrary to federal or state law or regulation, a contract or purchase for supplies, materials, equipment or contractual services the amount of which is less than \$200,000 shall be awarded to a local bidder where the bid by such local bidder is in all material respects comparable to the lowest responsible nonlocal bid if the amount bid by such local bidder does not exceed the lowest responsible nonlocal bid by more than:

(i) Ten percent of the amount bid by the lowest responsible nonlocal bidder if that nonlocal bidder's bid is \$100,000 or less;

(ii) Seven percent of the amount bid by the lowest responsible nonlocal bidder or \$10,000, whichever is less, if that nonlocal bidder's bid is greater than \$100,000 but less than or equal to \$200,000.

No local bidder preference will be allowed if the lowest responsible nonlocal bidder's bid exceeds \$200,000. The council may by motion adopted prior to bid opening exempt any contract or purchase from the local bidder preference set forth in the preceding sentence.

(B) "Local bidder," for purposes of subsection (c)(4) of this section, means a person who:

(i) Holds a current Alaska business license;

- (ii) Submits a bid for goods or services under the name appearing on the person's current Alaska business license;
- (iii) Has maintained a place of business within the boundaries of the Ketchikan Gateway Borough for a period of six months immediately preceding the date of the bid; and
- (iv) Is not delinquent in the payment of any taxes, charges or assessments owing to the city of Ketchikan or the Ketchikan Gateway Borough on account of that business.

(C) The manager may require such documentation or verification by the person claiming to be a local bidder as is deemed necessary to establish the requirements of subsection (c)(4)(B) of this section. (Ord. 1632 § 2, 2009; Ord. 1379 §§ 1, 2, 1997; Ord. 1296 § 1, 1994; Ord. 1291 § 3, 1994; Ord. 1255 § 1, 1993; Ord. 1241 § 1, 1992; Ord. 1053 § 1, 1985; Ord. 1048 § 1, 1984; Ord. 1031 § 1, 1984; Ord. 956 § 1, 1981; Ord. 886 § 2, 1977; Ord. 822 § 1, 1975)

3.12.041 Awarding of competitive bids.

- (a) All requests for bids or proposals shall include clear and precise discussion of the specific evaluation factors to be used in awarding bids.
- (b) All requests for bids or proposals shall be as detailed as possible without preventing qualified bidders or proposers from submitting bids or proposals. Individual brand names will not be specified in requests for bids or proposals unless no functionally equivalent products exist.
- (c) All purchases that are competitively bid under KMC [3.12.040](#) shall be awarded to the responsive bidder whose bid or proposal is determined to be most advantageous to the city, taking into consideration price and other evaluation factors as set out in the request for bid or request for proposal. (Ord. 1184 § 1, 1990)

3.12.042 Appeals process.

- (a) Unless it is decided to reject all bids or proposals, all bidders or proponents under the competitive bidding or competitive sealed proposal procedures of this chapter will be given a notice of intent to award the bid or proposal. The notice shall identify the bidder or proponent whose bid or proposal is recommended for award, shall contain information relating to all submitted bids or proposals, and shall inform the bidder or proponent of the appeals process set forth in this section.
- (b) Any bidder or proponent which has any objection to the recommended award of bid or proposal and which claims to be the lowest responsible bidder or more qualified proponent shall file a written notification of appeal with the city clerk. The notification of appeal shall specifically state all of the reasons for the appeal, the specific action requested by the bidder or proponent, the specific parts of the bid or proposal or bid or proposal documents on which the appeal is based, the reasons the bidder or proponent claims to be the lowest responsible bidder or most qualified proponent, and all statements, documents and other relevant materials which the bidder or proponent will submit in support of its appeal. The notification of appeal shall be filed with the city clerk by either:
 - (1) Five p.m. on the Thursday one week prior to the city council meeting where the bid or proposal is to be awarded; or
 - (2) Within five calendar days from the date the notice of intent to award was delivered to the bidder or proponent which filed the notification of appeal, whichever is earlier. In no event, however, shall a bidder or proponent have less than two weekdays from the time it receives the notice of intent to award until the time it is required to have filed a notification of appeal. Not later than two days before the city council meeting where the bid or proposal is to be awarded, the city clerk shall notify all other bidders or proponents of the appeal and of their right to contest the appeal.
- (c) The council shall hear the appeal and any responses or information from other bidders or proponents. The council may then, without further opportunity for appeal, award the contract to any bidder or proponent.
- (d) A bidder or proponent which objects to the notice of intent to award a bid or proposal, but which fails to timely and completely file a notification of appeal with the city clerk, shall have no right to appeal or contest the award of bid or

proposal, and shall have no claim or cause of action relating to the bid or proposal process, the bid or proposal documents and specifications, the bids or proposals themselves, or the award. A bidder or proponent which has submitted the bid or proposal recommended for award but which does not respond to a notification of appeal by either submitting a written response to each of the reasons for appeal or by presenting such response at the council meeting when the appeal is heard, shall have no right to appeal or contest the award of bid or proposal, and shall have no claim or cause of action relating to the bid or proposal process, the bid or proposal documents and specifications, the bids or proposals themselves or the award. The council may, in its discretion, consider any objection whether or not a complete or timely notification of appeal or response has been filed or presented but any such consideration shall be final and not subject to appeal, contest, claim or cause of action.

(e) The council or the manager may at any time exempt any award of bid or proposal from all or any part of the appeals process set forth in this section; provided, that all bidders or proponents are timely notified in writing of the exemption, the reasons for exempting the particular award, the process which will be used in awarding a bid or proposal, the time at which any objection to the award may be made, and the time at which an award of bid or proposal may be made. (Ord. 1632 § 3, 2009; Ord. 1291 § 4, 1994; Ord. 1184 § 2, 1990)

3.12.043 Competitive sealed proposals.

(a) Subject to any prior approval by the council under KMC [3.12.030](#), if the manager determines that use of competitive sealed bidding or other procurement process under this chapter is not practicable, the city may procure supplies, materials, equipment, public improvements, or contractual services by competitive sealed proposals under this section.

(b) The manager shall solicit competitive sealed proposals by issuing a request for proposals. The request for proposals shall state, or incorporate by reference, all specifications and contractual terms and conditions to which a proposal must respond, and shall state the factors to be considered in evaluating proposals and the relative importance of those factors. Public notice of a request for proposals shall be published in a newspaper of general circulation within the city together with such other public notice as the manager may deem appropriate.

(c) Sealed proposals shall be designated as such on an outer envelope and shall be submitted by mail or in person at the place and no later than the time specified in the request for proposals. Proposals not submitted at the place or within the time so specified shall not be opened or considered.

(d) Proposals shall be received at the time and place designated in the request for proposals, and shall be opened so as to avoid disclosing their contents to competing proponents during the process of negotiation. Proposals, tabulations, and evaluations thereof shall be open to public inspection only after the issuance of a notice of intent to award the contract. Unless all proposals are rejected, the manager shall issue a notice of intent to award the contract.

(e) In the manner provided in the request for proposals, the manager may negotiate with those responsible proponents whose proposals are determined by the manager to be reasonably responsive to the request for proposals. Negotiations shall be used to clarify and assure full understanding of the requirements of the request for proposals. The manager may permit proponents to revise their proposals after submission and prior to award to obtain best and final offers. Proponents deemed eligible for negotiations shall be treated equally regarding any opportunity to discuss and revise proposals. In conducting negotiations or requesting revisions, neither the manager nor any other city officer or employee shall disclose any information derived from proposals of competing proponents.

(f) If fair and reasonable compensation, contract requirements, and contract documents can be agreed upon with the most qualified proponent, the contract shall be awarded to that proponent.

(g) If fair and reasonable compensation, contract requirements, and contract documents cannot be agreed upon with the most qualified proponent, the manager shall advise the proponent of the termination of negotiations. If the proposals were submitted by one or more other proponents determined to be qualified, negotiations may be conducted with such other proponents in the order of their respective rankings. The contract may be awarded to the proponent then determined to be most advantageous to the city.

(h) Awards shall be made by written notice to the proponent whose final proposal is determined to be most advantageous to the city. No criteria other than those set forth in the request for proposals may be used in proposal evaluation. If the manager determines that it is in the best interest of the city to do so, the city may reject all proposals.

(i) When a contract is awarded under this section which requires the development of a guaranteed maximum price and that price cannot be agreed upon, the city may in its discretion award a contract for the project to other qualified proponents in order of their respective rankings. (Ord. 1739 § 1, 2013; Ord. 1632 § 4, 2009)

3.12.050 Purchasing – When competitive bidding or quotations are not required.

(a) The following may be purchased or contracted for without competitive bidding or soliciting quotations:

- (1) Supplies, materials, equipment, contractual services, the cost of which does not exceed \$10,000 in a single transaction;
- (2) Supplies, materials, equipment or contractual services which can be furnished only by a single dealer, which have a uniform price wherever purchased or which are telecommunications supplies, materials, or equipment purchased by KPU for retail sale or lease;
- (3) Supplies, materials, equipment or contractual services purchased from another unit of government at a price or rate determined by governmental authority;
- (4) Supplies, materials, equipment or contractual services purchased from a public utility at a price or rate determined by governmental authority;
- (5) Contractual services of a professional nature, such as engineering, architectural, legal, medical or consulting services;
- (6) Supplies, materials, equipment or contractual services which should be purchased from a specific source in order to prevent incompatibility with previously purchased supplies, materials, equipment or contractual services. For purpose of this subsection, the term "incompatibility" is defined as: (A) the inability to interconnect, combine, interchange, or join; or (B) that which causes substantial duplication in maintenance, expertise or training or in the stocking of parts, materials, supplies or replacements. Any purchase which is to be excluded from competitive bidding by the authority of this subsection which exceeds \$10,000 must first be approved by the council;
- (7) Supplies, materials, equipment or contractual services which are required on an emergency basis; provided, however, that to the extent practical under the conditions of the emergency, the council shall declare an emergency;
- (8) Placement or purchase of insurance;
- (9) When it is advantageous to the city to enter into a contract with a person, firm or corporation for the same supplies or services under substantially the same terms as such person, firm or corporation is providing another municipal or state government, or the United States, where such supplies or services are being provided the other government unit on the basis of formal bids, price quotations or other competitive proposal procedure or pursuant to a contract with or through such other government unit so that the benefit of the price quotation or other competitive proposal accrues to the city;
- (10) When competitive bidding has been followed, but only one or no bids or quotations are received, or the bids or quotations are rejected. In such a case, after council approval, the manager may proceed to have the supplies, materials, or equipment purchased, the services performed or the public improvements constructed without further competitive bidding or quotation;
- (11) The purchase of used vehicles or equipment when such purchase has been determined by the manager to be in the best interest of the city;
- (12) The purchase of wireless phone services, wireless phones, devices and related accessories, when and under such terms and conditions as the council, in its sole judgment, deems advantageous to the city;
- (13) Purchases of supplies, materials, equipment or contractual services from a local business the cost of which does not exceed \$50,000 in a single transaction unless otherwise prohibited by state or federal law or the terms of any funding grant. For purposes of this subsection, a local business is a business which at the time of the purchase is a business with a place of business within the Ketchikan Gateway Borough that holds a valid Alaska business license and is registered with the Ketchikan Gateway Borough to file sales tax reports;

(14) Notwithstanding any provision in this chapter, the council may also exempt any particular purchase from competitive bidding or other requirements by a nonemergency ordinance adopted pursuant to and as provided for in Sections 5-16 and 5-17 of the City Charter. (Ord. 1834 §§ 1, 2, 2016; Ord. 1823 § 1, 2016; Ord. 1291 §§ 5 – 8, 1994; Ord. 1104 §§ 1 – 3, 1987; Ord. 1103 § 1, 1987; Ord. 822 § 1, 1975)

3.12.051 Professional service contracts.

(a) Definitions.

(1) "Professional services," as used in this section, shall mean professional, technical or consultant services that are predominantly intellectual in character and that:

(A) Include analysis, evaluation, prediction, planning or recommendations; and

(B) Result in the production of a report, plan, drawings, or the completion of a task.

Examples of professional service contractors include, but are not limited to: accountants, architects, appraisers, engineers, land surveyors, financial consultants, attorneys, planning consultants, economists, computer programmers and system analysts, insurance consultants and risk analysts, insurance providers, and other specialized consultants.

(2) "Request for proposals" means a written solicitation for contract proposals by prospective contractors that sets out the nature of the services to be performed or product to be secured with sufficient information for a qualified prospective contractor to prepare a responsive contract proposal for consideration and evaluation by the city.

(b) Professional Service Contracts Generally – Contract Authority.

(1) The manager may award and sign, without prior approval of the council, any contract for professional services if adequate funding is budgeted, except as provided in this subsection.

(2) Any proposed professional service contracts with an estimated cost in excess of \$50,000 shall be awarded by the council.

(3) The manager shall utilize a selection committee including the manager or manager's designee, a department head, members of the American Society of Civil Engineers, American Society of Mechanical Engineers, American Institute of Architects and/or other professional organizations and interested citizens as the manager deems appropriate to evaluate proposals and select the best qualified professional services contractor to provide the required service. All meetings of selection committees shall be open to the public.

(c) Solicitation of Proposals.

(1) When the city proposes to enter into a contract for professional services, it shall:

(A) Publish a public notice soliciting proposals for the proposed professional services contract at least two times in a newspaper of general circulation in the city and post notice in such other location as the manager deems appropriate. The first notice shall be published not less than 21 days before the deadline for submittal of proposals as announced in the public notice and the second notice shall be published not less than seven days thereafter. The notice shall include:

(i) A brief description of the proposed project for which the city is seeking professional services;

(ii) The procedure by which a person or firm interested in the professional services contract may make a proposal to the city for consideration for the contract; and

(iii) The deadline for submittals.

(2) The provisions of this section do not apply if:

(A) The manager demonstrates to the council that there is a single source of the expertise or knowledge required, or that one person or firm can clearly perform the required tasks more satisfactorily because of the

person's or firm's prior work;

(B) The manager makes a determination that public necessity will not permit delay incident to the procedures otherwise required by this section; or

(C) The service is to be provided by another government agency; or

(D) The estimated cost of the contract does not exceed \$50,000.

(3) In addition to other criteria set forth in the request for proposals, the following selection factors shall be considered by the city when it evaluates the proposals received:

(A) Specialized experience and technical competence of the person or firm (including a joint venture or association) with the type of service required;

(B) Capacity of the person or firm to perform the work, including any specialized services, within the time limitations;

(C) Character, integrity, reputation, judgment, experience and efficiency of the person or firm;

(D) Past record and performance on contracts with the city or other governmental agencies and private industry with respect to such factors as control of costs, quality of work and ability to meet schedules;

(E) Familiarity with the details of the project;

(F) Degree of local employment to be provided by the person or firm in the performance of the contract by the person or firm; and

(G) Estimated cost of services.

(d) Professional Services Contract Terms. Contracts may be lump sum, cost plus a fixed fee, unit price, cost times a multiplier, or on such other terms as are deemed appropriate to the project involved. (Ord. 1291 § 9, 1994; Ord. 1186 § 1, 1990)

3.12.053 Change directives.

Subject to such conditions and limitation as the council may establish by resolution or motion, the city manager may authorize issuance of a change directive, field order, or similar instructions to a contractor directing a change in the work called for in a contract when unforeseen and unanticipated conditions arise which require immediate action to mitigate costs or avoid delays and which may provide for additional compensation to be paid to the contractor. (Ord. 1738 § 1, 2013)

3.12.055 Acquisition of real property, leases, easements and permits.

(a) No real property may be acquired by the city without first being specifically approved by the council. No lease, easement or permit to use land may be acquired by the city for a payment in excess of \$5,000 without first being specifically approved by the council. The manager is authorized to acquire from budgeted funds and without further council approval leases, easements or permits priced at less than the amount set forth above. For the purposes of this section the term "price" means the cash paid to the seller plus the value of goods and services provided to the seller which:

(1) Are given in consideration for the lease, easement or permit; and

(2) Were not otherwise needed by the city at any time for its use of the lease, permit or easement.

The provisions of this section shall not apply to land exchanges under KMC [3.12.060](#). (Ord. 1266 § 1, 1993)

3.12.060 Sale or other disposition of real property or interest therein.

(a) No real property, or interest therein, of any value may be sold, leased, exchanged or otherwise disposed of until the council has declared by motion or resolution that the real property, or interest therein, is surplus, or unneeded, or that the transaction is otherwise in the best interest of the city.

- (b) Except as otherwise provided in this chapter, the manager may sell, lease, exchange or otherwise dispose of real property, or an interest therein, only after appraisal of the fair market value thereof by a qualified appraiser obtained by the city, and the price shall be not less than the fair market value plus the cost of the appraisal plus survey, platting, recording and other costs to the city attendant to the transaction.
- (c) Except when the disposition is otherwise exempt from competitive bidding, the proposed disposition of real property, or interest therein, shall be advertised in a newspaper of general circulation in the city to advise prospective buyers of the proposed disposition and to provide an opportunity to submit such bids. All bids shall be sealed and shall be opened in public at a designated time and place, except when the sale is by auction. The manager may repeatedly reject all bids and advertise or give notice again. If a responsive bid at the minimum price set forth in subsection (b) of this section is not received, the city manager may, within one year from the date bids were to be opened, dispose of the property at such minimum price without further advertisement, bidding or authorization. After one year from the date bids were to be opened, the city manager may dispose of such property without further advertising, bidding or authorization if the price for the property is not less than the fair market value as determined by an appraisal performed within one year prior to the date of disposal by a qualified appraiser plus the costs of appraisal, survey, platting, recording and other costs to the city attendant to the transaction.
- (d) The manager, after council approval by motion or resolution, may sell, lease, exchange or otherwise dispose of the following real property, or an interest therein, without giving an opportunity for competitive bidding, subject to compliance with the provisions of Section 5-17 of the City Charter:
- (1) Real property, or an interest therein, to be exchanged for other real property, or an interest therein, which is determined by an appraisal prepared by a qualified appraiser obtained by the city to be at least equal in value to the city property or the interest therein that is to be exchanged, or if the city's property is determined to be greater in value, if the difference is made up in cash to the city. The person receiving the city property or interest to be exchanged shall pay the cost of the appraisal, plus survey, platting, recording and all other costs to the city attendant to the transaction;
 - (2) Sale, lease, donation, exchange or other transfer of real property, or an interest therein, to or with another municipality, a state, or the United States, when and under such terms and conditions as the council, in its sole judgment, deems advantageous to the city;
 - (3) Parcels of real property that are substandard in size or configuration under existing zoning, which may be disposed of by sale or exchange to the legal owner of adjoining property, with such adjoining parcel to be then replatted to incorporate therein such substandard parcel sold or exchanged; provided, however, that the sale price or exchange value shall be at least equal to the fair market value of the city property or interest therein transferred, which may be determined by using the current assessed value of the property, or a comparable portion of such property, as established by the Ketchikan Gateway Borough assessor, plus survey, platting, recording and other costs to the city attendant to the transaction;
 - (4) Easements may be released to the legal owner of the servient property when and under such terms and conditions as the council, in its sole judgment, deems advantageous to the city.
- (e) Notwithstanding any other provision herein, a sale, lease or other disposal of real property, or interest therein, the value of which is more than \$30,000, must meet and comply with all of the requirements of Section 5-17 of the City Charter.
- (f) Real property sold, traded, or exchanged shall be conveyed by the city without warranty.
- (g) Notwithstanding any provision in this chapter, the council may also exempt any particular contract, sale, lease, exchange, disposal or other transaction from competitive bidding or other requirements by a nonemergency ordinance adopted pursuant to and as provided for in Sections 5-16 and 5-17 of the City Charter. (Ord. 1209 § 1, 1991; Ord. 1142 § 1, 1988; Ord. 1103 § 3, 1987)

3.12.070 Sale or other disposition of personal property, or interest therein.

(a) The manager may sell or otherwise dispose of any surplus, obsolete or unneeded supplies, materials, equipment or other personal property with a value of \$2,000 or less, by giving notice of each proposed disposition in such manner as he deems reasonable and appropriate; provided, however, the manager shall not be required to give notice if the cost of giving notice exceeds the value of the supplies, materials, equipment or other personal property.

(b) No supplies, materials, equipment or other personal property of a value of more than \$2,000 other than scrap metal may be sold or otherwise disposed of until the council has declared, by motion or resolution, such property surplus, obsolete, unneeded, or that the transaction is otherwise in the best interest of the city.

(c) Except as provided in subsection (a) of this section, or when the disposition is otherwise exempt from competitive bidding, the proposed disposition of personal property, or interest therein, shall be advertised in a newspaper of general circulation in the city to advise prospective buyers of the proposed disposition and to provide an opportunity to submit such bids. All bids shall be sealed and shall be opened in public at a designated time and place, except when the sale is by auction. The manager may repeatedly reject all bids and advertise or give notice again.

(d) Personal property, or an interest therein, may, subject to the provisions of Section 5-17 of the City Charter, be sold or otherwise disposed of without competitive bidding as follows:

(1) Supplies, materials, equipment or other personal property, or any interest therein, may be sold or otherwise disposed of by the manager when the total value thereof, as estimated by the manager, does not exceed collectively \$2,000.

(2) The manager may sell, lease, donate, exchange or otherwise dispose of personal property, or an interest therein, to or with another municipality, a state or the United States when and under such terms and conditions as the council, in its sole judgment, deems advantageous to the city.

(3) When the surplus property is disposed of by means of a trade-in credit in connection with the acquisition of other personal property by the city.

(e) Notwithstanding any other provision in this chapter, the council may also exempt any particular contract, sale, lease, exchange, disposal or other transaction from competitive bidding or other requirements by a nonemergency ordinance adopted pursuant to and as provided for in Sections 5-16 and 5-17 of the City Charter. (Ord. 1848 § 1, 2017; Ord. 1610 § 1, 2008; Ord. 1103 § 5, 1987)

3.12.080 Lease of equipment and conduit space.

Notwithstanding any provision in this chapter, the manager may lease space for electronic equipment and conduit space in or on Ketchikan public utility facilities, structures or towers without competitive bidding under such terms as the manager deems reasonable and appropriate. (Ord. 1852 § 1, 2017)

3.12.090 Sale of subsea cable services and purchase of transport capacity.

(a) Notwithstanding any other provision in this chapter, the manager may sell subsea cable data transmission services without competitive bidding under such terms and conditions as the manager deems reasonable and appropriate.

(b) Notwithstanding any other provision of this chapter, the manager may purchase additional transport capacity required by the sale of services and under subsection (a) of this section without competitive bidding in accordance with the then existing contract to provide such capacity to the city under such terms and conditions as the manager deems reasonable and appropriate. (Ord. 1932 § 1, 2021)

¹As to the authority of the city manager to contract for the purchase and sale of needed supplies, material and equipment, see Charter §§ [5-16](#), [5-17](#) and [5-19](#).