WHEATON CITY COUNCIL PLANNING SESSION
WHEATON CITY HALL - COUNCIL CHAMBERS
303 W WESLEY STREET, WHEATON, ILLINOIS

MONDAY, JULY 10, 2023 - 7:00 P.M. In-Person & Virtual
The meeting will also be live streamed and recorded.

- **Join by phone:** 312-626-6799, **Meeting ID:** 868 1233 1380 and **Password:** 424699
  - You will be automatically muted. If you would like to speak, you need to press *9 to raise your hand and let the meeting administrator know you would like to speak. Once it is your turn to speak, you will receive a notification asking you to press *6 to unmute yourself. Please announce your name and address before commenting and ensure you are in a quiet place.

- **Join by computer/smartphone:**
  - [https://us02web.zoom.us/j/86812331380?pwd=QTgxamFUTE5mcW1tL3NMWlFUSUhhdz09](https://us02web.zoom.us/j/86812331380?pwd=QTgxamFUTE5mcW1tL3NMWlFUSUhhdz09)
  - You will be automatically muted. If you would like to speak, click on the “Raise Hand” button to let the meeting administrator know you would like to speak. When it is your turn to speak, you will receive a notification that the meeting administrator is asking you to press “unmute.” Please announce your name and address before commenting and ensure you are in a quiet place.

- **Public comments can be made by:**
  - In person at 7:00 p.m. on Monday, July 10, 2023, during the Public Comment portion of the meeting.
  - Virtually at 7:00 p.m. on Monday, July 10, during the Public Comment portion of the meeting.
  - Email the City Council at allcouncil@wheaton.il.us before 5:00 p.m. on Monday, July 10, 2023.

**AGENDA**

1. Call To Order
2. Public Comment
3. Approval Of Minutes
   - 3.I. 06 12 23 Draft PS Minutes
     - Documents: [06 12 23 DRAFT PS MINUTES.PDF](06%2012%2023%20DRAFT%20PS%20MINUTES.PDF)
4. Planning Session Discussion Item(S):
   - 4.I. Employer-Sponsored 457 Defined Contribution Plans
Documents:

EMPLOYER-SPONSORED 457 DEFINED CONTRIBUTION PLANS.PDF

4.I.i. Information Technology Security Risk Assessment

Documents:

INFORMATION TECHNOLOGY SECURITY RISK ASSESSMENT.PDF

4.I.ii. Procurement Policy

Documents:

PROCUREMENT POLICY.PDF

5. City Council/Staff Comments

6. Adjournment

During the Public Comment portion of the agenda, the presiding officer shall recognize any person requesting to be heard on any of the planning session agenda items only. Persons speaking during Public Comment shall not speak longer than three (3) minutes and shall be permitted to speak only once.

Visitors must remain quiet and not engage in behavior that interferes with the Planning Session. The presiding officer may, or upon a majority vote of the council, request any visitor who violates any provision of this paragraph to leave the council chambers, and such visitor shall thereupon leave.

Any person providing public comment shall address the presiding officer only and shall not proceed with remarks until recognized. When recognized, the person shall state his or her name and address. Cross floor discussions are prohibited. If a member of the City Council has questions of any person who has provided public comment, that person may address the specific question.
Monday, June 12, 2023

I. Call to Order
The Wheaton City Council Planning Session was called to order at 6:59 p.m. by Mayor Suess. The following were:

Physically Present: Mayor Suess
                  Councilman Barbier
                  Councilwoman Bray-Parker
                  Councilman Brown
                  Councilman Clousing
                  Councilwoman Robbins
                  Councilman Weller

Absent: None

City Staff Present: Michael Dzugan, City Manager
                  John Duguay, Assistant City Manager
                  Robert Lehnhardt, Director of Finance
                  Jim Kozik, Director of Planning & Economic Development
                  Halie Cardinal, Public Relations Coordinator

II. Public Comment
There were no public comments.

III. Approval of Planning Session Minutes – May 8, 2023
The City Council approved the May 8, 2023 City Council Planning Session Minutes.

IV. Police and Firefighters’ Pension Funding Policy and Review of 2023 Draft Actuarial Results
City Manager Dzugan stated that in March 2023, City staff presented three options for a formal pension funding policy, and the City Council favored the 15-year open, level dollar amortization. The City’s Actuary (Foster & Foster) has completed the actuarial reports that will be used to dictate funding for the 2024 budget. City Manager Dzugan suggested the Council incorporate the significant increases the City will see in its 2024 funding and salary increases into budget framework discussions in August before finalizing the Police and Firefighters’ Pension Funding Policy.

Director of Finance Lehnhardt stated that the Illinois Municipal Retirement Fund (IMRF) plan’s results were the following: in 2021, the plan was overfunded at 115% ($14.8 million over), and in 2022, the plan was underfunded at 92.1% ($8.3 million under). He stated that this is a $23 million dollar change and that significant changes occurred last year.

Jason Franken of Foster & Foster stated that in 2022, the investment returns were significantly less than the 6.75% assumption. He stated that the returns for the plans were between -12% and -17%, which
equates to investment losses of approximately $30 million. The bonds issued were approximately $46 million. The plans are currently not 100% funded because of the investment loss, with the fire plan being 90.4% funded, and the police plan 90.6% funded on an actuarial value basis.

Mr. Franken reviewed the current approach – an 18-year closed amortization with a 4% payroll growth assumption versus a suggested alternative approach, which is 15-year open, level dollar amortization. The alternative approach analysis assumes the funds earn 5% investment rate of return in 2023; and earn 6.75% in all other years.

Regarding the impact of the 15-year open level dollar amortization, Mr. Franken reviewed the required annual pension contributions for both methods, which have the same pattern of increases for the first five years. After the fifth year, the current method continues to increase while the 15-year open, level dollar method decreases through 2041. He noted that 2023’s contribution was significantly lower than the 2024 contribution. The 2023 contribution was calculated based upon the assumption that the unfunded liability would be negated by the influx of bond proceeds in 2022. The funded ratios for both methods have the same pattern of decrease for the first five years and then begin increasing. By year 2041, the current method is 100% funded, while the 15-year open, level dollar option is approximately 95% funded. He stated that using the 15-year open, level dollar amortization approach has a more stable and predictable contribution pattern.

In response to a Council question, Mr. Franken stated that the funded ratio declines from 90% to below 85% before it rebounds due to the aforementioned $30 million in investment losses in 2022.

The Council discussion noted the actuarial report launches from a difficult year, however the City expects these losses to be negated over time.

In response to a Council question, Mr. Franken stated that the significant loss in 2022 was due to it being an extremely difficult investment year, as many different sectors experienced significant investment losses.

He stated that Foster & Foster performs an evaluation each year of the audited financial assets and liabilities of the plan to determine the required contribution. To the extent that there is a shortfall of the assets, an amortization payment of the unfunded liability is required, and that amount is contributed starting 12 months later.

City Manager Dzugan added due to the timing of the market downturn and the issuance of bonds, it created an unfunded liability that the City anticipated would be resolved by investment returns. However, because of investment losses, these liabilities carry into the following year.

In response to a Council question, Mr. Franken stated that the discussion focuses on the benefits being earned by current employees (current contributions) and the smoothing of the investment losses.

Further regarding the impact of the 15-year open, level dollar amortization, Mr. Franken stated that the City’s required contribution for the 2024 budget for the fire plan using the current amortization approach would be $1.3 million, and the new approach would require $1.5 million. The City’s required contribution for the 2024 budget for the police plan using the current amortization approach is $2 million, and the new approach would require $2.4 million.
Mr. Franken stated that the 15-year open, level dollar amortization approach is ideal since the unfunded liability is addressed sooner rather than being deferred to several years later. One option Mr. Franken suggested was the possibility of phasing in the 15-year open, level dollar amortization approach over time.

In response to a Council question, Director of Finance Lehnhardt stated that this year the police plan growth assumption was around 5% and fire plan was around 7%.

In response to a Council question, Mr. Franken stated that the unfunded liability across both plans is approximately $17 million.

Some Council members discussed that a decision on the approach will likely be made in August once the budget framework is in place. Year-to-date performance will be evaluated at that time, and the City Council’s decision on the pension funding approach will allow Foster & Foster to finalize the report. Some Council members discussed that there are many options to fulfill the obligations and that the City of Wheaton is in a good position.

Mr. Franken stated that the goal is to execute a funding policy that results in generational equity from a pension perspective. He stated that based on fiscal information from 2022, the average funded ratio for police and fire funds across Illinois is around 64% and that the City of Wheaton is considerably higher than that average.

V. Glen Ellyn/Wheaton Boundary Agreement
City Manager Dzugan stated that since 1963, the Village of Glen Ellyn and the City of Wheaton have had a Boundary Agreement, with the most recent one expiring in 2016. The City recently initiated discussions with Glen Ellyn based on a request from Wheaton College, which is seeking a boundary change to allow nine Scripture Press properties that it owns to be within one municipal jurisdiction. Five of the parcels are within Wheaton and four are within Glen Ellyn. Working with the Glen Ellyn administrative staff, City Manager Dzugan stated it was agreed the best approach to address Wheaton College’s request was through the development of a new Boundary Agreement.

Highlights of the proposed agreement include right-of-way maintenance clarification related to Ott Avenue and Harwarden Street. Additionally, Section 3 calls for four of the parcels that are currently in Glen Ellyn to disconnect from Glen Ellyn and then annex to Wheaton. To encourage that, staff discussed that any redevelopment of the properties will have stormwater improvements approved by the Village Engineer and the Village Board. Redevelopment would be residential in nature, or a use currently permitted by the City’s institutional zoning district. Glen Ellyn would receive 1/3 of the City’s annual property tax revenue received from the parcel for the next 20 years. Additionally, Section 6 would have two properties that are currently in Wheaton disconnect from Wheaton and annex to Glen Ellyn.

In response to a Council question, City Manager Dzugan stated that the Wheaton College property does not currently pay property taxes, but they pay water and sewer usage fees.

In response to a Council question, City Manager Dzugan stated there are no additional expenses to the City of Wheaton should the parcels remain nonprofit. However, much of the property is in a flood plain and the property owner will face challenges due to flooding.

In response to a Council question, City Manager Dzugan stated that there are no other properties divided by Glen Ellyn and the City of Wheaton.
VI. City Council/Staff Comments
Councilwoman Bray-Parker stated that she attended a golf fundraiser with the Rotary Club of Wheaton and encouraged everyone to attend events like this one and other community outings. She also wished the City Council and the community a Happy Father’s Day.

VII. Adjournment
The meeting was adjourned at 7:51 p.m.

Respectfully submitted,

Halie Cardinal
MEMORANDUM

TO: The Honorable Mayor and City Council
FROM: Holly Schulz, Director of Human Resources
DATE: July 10, 2023
SUBJECT: 457 Consulting Services

Objective

Seeking the Council’s review of continuing the City’s benefit of an employer-sponsored 457 defined contribution plan permitted under Internal Revenue Code and if so, should the City seek services to manage a plan(s) more effectively.

Background

As part of the City of Wheaton’s comprehensive benefit package, employees have the ability to contribute to a 457 retirement plan, which is a defined-contribution savings plan, similar to a 401(k). Although the City does not match any employee contributions, the 457 retirement plans are sponsored by the City, and the City must act as a fiduciary for the plans. The City offers plans from two recordkeepers – Nationwide and MissionSquare (formerly ICMA-RC). These plans have been passively managed since implementation, but unfavorable plan fees and investment options, along with customer service issues, have prompted the review of this benefit. In addition, the plan assets have reached a level that prompt review of the plan.

Should City Continue to Sponsor a Plan

With a growing number of employees enrolled in the Tier II pension systems, a healthy deferred compensation plan has become a much more important piece to retirement planning. A 457 retirement plan is offered by most municipalities and is an effective tool to attract and retain quality talent. Currently, we have 153 (56%) active employees participating in the 457 benefit (118 enrolled in MissionSquare and 35 in Nationwide), along with many retirees drawing upon their savings. The City is required by three of our four collective bargaining agreements to sponsor a 457 retirement benefit plan.

Currently, there is no cost to the City to sponsor the plans, but the City does take on fiduciary risk, along with a small administrative burden. The City actually sees a cost savings with the plans due to the reduction in taxable wages, leading to a reduction in the City’s employer tax obligations. However, the administrative and fiduciary responsibility continues to grow with changes in IRS regulations and financial markets.

Need for Plan Oversight

As sponsor, the City has certain fiduciary duties and responsibilities. These duties and responsibilities focus on ensuring the operation and investment of the plans is for the exclusive purpose of providing benefits to participants and beneficiaries. Acknowledging this fiduciary responsibility, Staff has identified the need to review the plan’s offerings, investment options and consider consolidation of the plans. In order to complete this review, Staff recommends engaging with a 457 consulting firm for several reasons:
• **Expertise and Guidance:** A consultant specializing in 457 retirement plans will provide the City with access to experts who possess extensive knowledge of relevant laws, regulations, and best practices, which will be invaluable in navigating the review process and ongoing plan administration. Examples include compliance with COVID-related CARES Act and the SECURE Act 2.0.

• **Compliance and Risk Mitigation:** With ever-changing regulations and compliance requirements, engaging a 457 consulting service will reduce the risks associated with acting as a plan fiduciary.

• **Employee Education and Communication:** An essential aspect of any retirement plan is educating employees about their options and helping them make informed decisions. Some 457 consultants can provide valuable resources, including workshops, seminars, and personalized guidance, to help our employees understand the intricacies of their retirement plans and make choices that align with their individual needs and goals.

• **Plan Optimization:** Investment and retirement planning experts can assess our existing 457 plans and recommend improvements to optimize its effectiveness. By analyzing plan features, investment options, and administrative costs, these professionals can help us enhance the plan’s performance, leading to improved financial outcomes for our employees and retirees.

457 Consultant Costs and Levels of Service - To get a sense of costs and levels of service, the City initiated a Request for Proposal for 457 Consulting Services to provide an evaluation of our plans, conduct an RFP for recordkeeping services, provide guidance on investment options and facilitate employee education. The consultant would also act as a co-fiduciary, assist the City in developing an employee based 457 Investment Committee and Investment Policy Statement, and provide training to the committee. The City received nine responses to the RFP, with costs ranging from $20,000 per year to $45,000 per year.

Allocation of Cost of Consultant – Some responding consultants of the RFP allow for allocating the consulting fees to the participants, as they will benefit from lower fees and better investment options. However, allocating fees to participants will limit the benefits of reducing recordkeeper fees through the RFP process. On the other hand, most municipalities cover the cost of the 457 consultant as a benefit enhancement because their fiduciary risk is mitigated and the benefit becomes more valuable for employees.

Guidance to Staff – The Staff is seeking your direction on the following:

1. Continuing a City sponsored 457 defined contribution plan for all employees.
2. Engaging a 457 consulting firm to assist in managing the City’s fiduciary duties and general plan management.
3. Selection of a 457 consulting firm that has the ability to offer high level of services including employee retirement education.
4. Should all fees associated with a 457 plan be allocated to participants.

Subject to your direction, the staff will making a 457 plan consultant recommendation to the city council at your next regularly scheduled meeting.
MEMORANDUM

TO: The Honorable Mayor and City Council
FROM: Pat Keegan, Director of Information Technology
DATE: July 5, 2023
SUBJECT: Information Technology Security Risk Assessment

Background
The City Council adopted an Information Security Policy (R-66-16) on December 5th of 2016 to provide protection of confidential and proprietary information. The policy specifies a Security Risk Assessment at least every 5 years.

Context
- Stolen or compromised credentials were the most likely cause of malicious data breaches (19%) (source: IBM)
- 46% of all cyber breaches are done on companies with fewer than 1,000 employees. (source: Mastercard)
- The two most targeted industries for ransomware are healthcare and government (source: SonicWall)
- 90% of data breaches are the result of phishing attacks. (source: CyberTalk)
- 75% of local governments are attacked at a “near constant” rate. (source: ICMA survey)

Risk Assessment Findings
The City hired Illumant LLC to complete a Risk Assessment in May of 2023. The Risk Assessment process included interviewing senior staff and reviewing over 30 standards, procedures and policies that make up the City’s Security Program.

The assessment concluded that the City of Wheaton is Low Risk and has a better than average security posture. The “Low risk” rating above implies that there are no major findings. As always, there are opportunities to further improve.

The Risk Assessment also evaluated Payment Card Industry (PCI) Compliance, Criminal Justice Information Services (CJIS) Compliance, and Health Insurance Portability and Accountability Act (HIPAA) Compliance and found no gaps.

The top risks as a percentage of overall risk to the organization are:
- Malicious insiders (24%)
- Outside hacking (23%)
- Accidental insider (20%)
The control areas to be improved to have the greatest impact on reducing risk are:

- Data Loss Prevention: Protect against leakage of sensitive information.
- Disaster Recovery Procedures: Review, test, and improve existing procedures.
- Vulnerability Assessment: Expand external and internal penetration and vulnerability scanning.

**Action Plan**

**Insider and outsider threats**
The assessment report identified ongoing security awareness measures, monitoring, and logging of insider activities are some of the best protections against insider threats. The IT Department will deploy a new security awareness program in late 2023 including training and testing.

**Data Loss Prevention**
The IT Department will continue to monitor activities searching for data exfiltration. We are restricting the ability to accidentally overshare data outside the organization and increasing the use of data encryption.

**Disaster Recovery**
The IT Department plans to update and test disaster recovery procedures including adding backup sets that will be stored in secure offsite locations.

**Vulnerability Assessment**
We will increase our use of network scanning tools to find and address network and software vulnerabilities. The remediation of software vulnerabilities is currently a laborious and time-consuming task. We are researching tools to automate software vulnerability remediation.

**Conclusion**
The Risk Assessment found that the City of Wheaton has reasonable controls in place to protect sensitive information and that we have earned an overall low risk rating. However, the threat landscape is relentlessly evolving with new threats and attack vectors launched every day. The IT Department acknowledges that information security is a constant effort, and we will continually improve the Security Program.
Executive Summary

Starting in April 2023, Illumant initiated a Risk Assessment of the information security posture of the City of Wheaton, to evaluate and compare risks to the confidentiality, integrity, security, and availability of the City of Wheaton’s client data, and information assets. As part of the analysis, Illumant evaluated the cost of improving the security posture of the organization to prioritize risk remediation strategies with respect to their overall cost-benefit.

Based on our evaluation of Wheaton’s global control maturity, the likelihood that threats could successfully compromise its assets given existing controls, and the potential impact to the organization if the threats were realized, we give the Wheaton an overall security risk rating of low risk, as follows:

<table>
<thead>
<tr>
<th>RISK RATING</th>
<th>DEFINITION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 – Very low risk</td>
<td>The organization is at very low risk of a security breach as a result of its comprehensive and very mature controls. The risks from much of security threats are reduced.</td>
</tr>
<tr>
<td>2 – Low risk</td>
<td>The organization has a better than average security posture, and risks are mostly well mitigated. Still ample room for improvement exists</td>
</tr>
<tr>
<td>3 – Average risk</td>
<td>The security posture is average relative to similar organization, meaning that the organization can expect security breaches to occur at similar rates as well. There is much room for improvement.</td>
</tr>
<tr>
<td>4 – Higher risk</td>
<td>The organization is at higher-than-average risk of being affected by a security breach. Some controls are not well designed or implemented, nor complete.</td>
</tr>
<tr>
<td>5 – At very high risk</td>
<td>The organization is in imminent danger of experiencing a security breach, if it has not been breached already. Controls are severely lacking, and a complete security overhaul is needed.</td>
</tr>
</tbody>
</table>

A low-risk rating is a very good result, still as threat levels are ever increasing and malicious attackers get more sophisticated, there are always further opportunities to fortify the organization against security threats to reduce the chances of experiencing a potentially costly security breach. Note that even “Low” or “Very Low” risk ratings do not mean that an organization is completely protected from security breaches or serious cyber-security incidents. A major security breach could happen at any time—the tools used by adversaries get more sophisticated day after day. However, in the City of Wheaton’s case, the risk of a significant breach is lower than comparable organizations of similar size and stature.

The “Low risk” rating above implies that there are no major findings. As always there are opportunities to further improve the security posture.

Based on our analysis, the top opportunities for vulnerability reduction are listed below.
Security Baseline - Policies and Procedures: A well-designed set of security policies and procedures can function as the baseline of the security system on which a continuous improvement process can be applied.

Data Loss Prevention (DLP): Automated rules-based DLP systems protect against intentional and unintentional leakage of sensitive information. The City of Wheaton should investigate if modern DLP systems can protect sensitive information efficiently and economically.

Risk Assessment: A formal Risk Assessment process should be implemented to repeat on an ongoing basis to evaluate risks, threats, and vulnerabilities.

Back-up / Disaster Recovery Procedures: Illumant recommends improving the existing disaster recovery / business continuity plan, based on business impact analysis.

Vulnerability Assessments and penetration testing (internal and / or external) should be expanded in scope and continued on an ongoing basis.

Global Context

According to studies conducted by Gartner, IBM, the Ponemon Institute, and others, the risk of security breaches (and the costs triggered by these breaches) increases year over year. Some researchers have identified that the average cost of a data breach is $4.35 million. This number includes major data breaches.

Cost of breaches varies widely over industries. The most expensive breaches occurred in the Healthcare Industry (USD 10.10 million per breach), followed by Financial Industry (USD 5.97 million), Pharmaceutical Industry (USD 5.01 million), Technology Industry, (USD 4.97 million) and Energy Industry (USD 4.72 million).

To be clear, the impact and cost of data breaches depend on many factors, including the type and amount of data breached, and the sensitivity of the information breached, for example. Many breaches are one-offs, either originated by insiders who did not follow a certain process or the result of a poorly designed process. On the other hand, many high-profile data breaches have been well-documented and have had severe negative consequences for the commercial standing, reputation, and leadership of the affected organizations.

Please see section “Cybersecurity Statistics and Cost of Security Breaches“ to see additional general cybersecurity information and reference the cost estimates detailed here.
**Risk and Cybersecurity**

A Risk Assessment like the one provided in this report is intended to be only one of several inputs into strategic security and privacy planning. It is primarily intended to provide a framework for thinking about risks relative to an organization. By their nature, security risk assessments have quantitative limitations; however, the results can provide direction for risk remediation efforts and help with an intuitive understanding of the effects of control improvement on risk mitigation. Factors such as the available budget, technical capabilities of staff, and organizational politics may have a significant effect on which measures should be implemented, in which order, and when.

Also, note that risk cannot be eliminated, but can be attenuated (or accepted, if necessary). Given the nature of risk, it is impossible to ensure that the organization’s information assets will not be compromised, even if all the recommendations in this report are followed. Targeted attacks, broader availability of malicious tools, technical advances of said tools and attackers, and/or vulnerabilities not known or not addressed in time along with other factors can open an organization to data breach or other cyber security consequences.

Risk management is an iterative process. As the threat, control, and asset landscape is ever changing, risk assessments should be performed on a periodic basis to reprioritize risk mitigation opportunities.
MEMORANDUM

TO: The Honorable Mayor and City Council
FROM: Robert R. Lehnhardt, Director of Finance/Treasurer
DATE: July 10, 2023
SUBJECT: Procurement Policy - Update

Background
City staff has performed a comprehensive review of the City’s Procurement Policy (“Policy”), which was last formally updated in 2004. Over the years, Staff has made minor amendments to the Policy to reflect current practices and to be in compliance with State and Federal regulations. Staff has reviewed procurement policies from other communities and incorporated procurement best practices in developing the attached Procurement Policy (Exhibit A) for your consideration.

Policy Overview
The following is a high-level overview of the Policy.

Purpose - The purpose of the Policy is to provide guidance and uniform procedures for the procurement of goods, services, and construction, and for the soliciting, processing, awarding, and rejecting of bids, proposals, and quotations. It is created to ensure competitive and unbiased selection of qualified and cost-effective vendors.

Goals and Objectives - The goals and objectives of the City’s procurement system are:
- Obtain, in a cost-effective and responsive manner, the goods, services and construction required by City departments to better serve the public;
- Provide for the fair and equitable process for those who wish to do business with the City;
- Maximize the purchasing value of public funds in procurement;
- Provide safeguards for maintaining a procurement system of quality and integrity; and
- Comply with all legal requirements of public procurement.

Procurement Methods and Approval Limits - The Department Director and/or the City’s Procurement Officer have the primary responsibility for specific procurement decisions. Goods, services, and construction may be procured using one of the following methods, as appropriate and authorized, and within the approval limits as set forth in the following table:
<table>
<thead>
<tr>
<th>Amount of Purchase</th>
<th>Procurement Method</th>
<th>Responsibility</th>
<th>Approver</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;$1,000</td>
<td>Open Market Purchase</td>
<td>Department Director (or Designee)</td>
<td>Department Director (or Designee)</td>
</tr>
<tr>
<td>$1,001-$10,000</td>
<td>Three (3) written quotes or ITB/RFP</td>
<td>Department Director (or Designee)</td>
<td>Department Director (or Designee)</td>
</tr>
<tr>
<td>$10,001 - $25,000</td>
<td>Three (3) written quotes or ITB/RFP</td>
<td>Department Director (or Designee) Procurement Officer</td>
<td>City Manager</td>
</tr>
<tr>
<td>&gt;$25,000</td>
<td>Invitation to Bid</td>
<td>Department Director (or Designee) Procurement Officer</td>
<td>City Council</td>
</tr>
<tr>
<td></td>
<td>Request for Proposal</td>
<td>Department Director (or Designee) Procurement Officer</td>
<td>City Council</td>
</tr>
</tbody>
</table>

**Change Orders** - Certain conditions surrounding purchases may change during a procurement, which necessitates a clarification or modification to an existing purchase order or contract. Change orders are generally initiated for purposes (adjusting quantities, addition or deletion of items) that do not change the scope of work. Change orders must be in writing and signed by the City and the vendor, and are executed under the conditions of the original contract. Change order requests submitted to circumvent the bid process are prohibited.

- **Change Orders Related to Cost.** When the City Council approves a contract via a resolution, the Staff has included as part of the Policy that an authorized contract contingency be included, such as in an amount not to exceed 10% of the contract price. The percentage contingency will be dependent on the cost of the contract, e.g., a $30,000 contract may have a 10% contingency while a $4MM contract might carry a 3% contingency. A change order that falls within the contingency amount may be approved by the City Manager. In the event the cost of a contract will exceed the original contract price, plus the approved contingency amount, the change order shall be approved by the City Council.

The City Manager may exceed the authority set forth above, if it is deemed in the best interest of the City to approve an exceptional change order, provided such is based upon the recommendation of the project manager and not issuing the exceptional change order would risk unacceptable project delay and/or higher costs. In the event the City Manager approves an exceptional change order under this reasonable exception provision, the City Manager will notify the City Council at the next regularly scheduled City Council meeting and seek ratification of the change order by resolution of the City Council.

In accordance with the Public Works Contract Change Order Act, if there is a change order for a City public works contract that authorizes or necessitates any increase in the contract price that is 50% or more of the original contract price or that authorizes or necessitates any increase in the price of a subcontract under the contract that is 50% or more of the original subcontract
price, then the portion of the contract that is covered by the change order must be resubmitted for bidding, in the same manner for which the original contract was bid.

- **Change Orders Related to Time of Completion.** A change order that extends the time of completion of a project for less than ninety (90) days may be approved by the City Manager. The City Council shall approve a change order for a request for more than ninety (90) days.

- **Change Orders Related to Scope of Work.** No change order shall be requested or approved for a “cardinal change”, which is one that materially alters the initial goods or services being purchased. For example, it would be inappropriate to bid for construction of a closet in a City building, award that bid, and then request a change order to construct a kitchenette.

**Next Steps**

Staff is seeking your feedback and comments on the Procurement Policy. In addition to approval of the Procurement Policy by Resolution, certain City Code amendments will need to be considered so the City Code is consistent with the Procurement Policy provisions. Based upon your direction, the staff will finalize the Policy and City Code amendments with final consideration of the code amendments and resolution in August.
City of Wheaton  
Procurement Policy  
July 10, 2023

I. PURPOSE
The purpose of this Procurement Policy ("Policy") is to provide guidance and uniform procedures for the  
procurement of goods, services and construction, and for the soliciting, processing, awarding and rejecting  
of bids, proposals, and quotations. It is created to ensure competitive and unbiased selection of qualified  
and cost-effective vendors.

The City operates a centralized procurement approach, with the City’s Procurement Officer being the  
designated position to oversee the procurement of goods, services and construction. The Procurement  
Officer will procure or assist departments in the procurement process.

II. SCOPE; GENERAL PROVISIONS
(a) Scope. The provisions of this Policy shall apply to purchases of, or contracts for, any goods, services,  
and construction, with the following exceptions:
(1) any goods, services, or construction provided by City employees;
(2) any collective bargaining agreement or employment contracts;
(3) any purchase, sale, or lease of real property;
(4) contracts involving City-sponsored grant or incentive programs;
(5) development or tax increment financing (TIF) agreements; and
(6) special assessments or other procurements controlled by statute.

The provisions contained herein may be altered or waived by the City at any time and shall in no  
way create or expand any rights in any vendor, or other person or entity nor shall failure to comply  
with or adhere to these provisions create any liability on the part of the City, its Officers, or  
employees.

(b) Separate purchases, contracts and agreements shall not be entered into for the purpose of avoiding  
any cost limits set forth herein.

(c) No purchase, contract, or agreement for goods, services, or construction shall be made in violation  
of the state statutes governing pecuniary interest in public contracts nor in violation of any  

(d) No personnel shall expend money on behalf of or in any way pledge the credit, or obligate, the City  
contrary to the provisions of this Policy.

(e) Unless otherwise provided in this Policy, when procurement of goods, services, or construction  
involves the expenditure of State or Federal financial assistance or grant funds, the procurement  
shall be conducted in accordance with any applicable mandatory State and/or Federal laws and  
regulations.

(f) Home rule preemption. This Policy and the City’s procurement practices and procedures are an  
exercise of home rule powers conferred upon the City by the Constitution of the State of Illinois. It  
preempts state law pertaining to the procurement of goods, services and construction, including,  
but not limited to, the Local Government Professional Services Selection Act (50 ILCS 510/0.01 et  
seq.), the Public Construction Contract Act (30 ILCS 557/1 et. seq.), competitive bidding, bidder
eligibility, and the requirements and restrictions regarding the substantive content of public contracts except where expressly prohibited by state law.

III. DEFINITIONS

For this Policy, the following terms have the following definitions:

**Bid.** A written offer from a vendor to furnish goods, services, or construction at a set price in response to, and under terms as designated in, detailed specifications prepared by or on behalf of the City as part of an open, competitive procurement process.

**Change order.** A written document signed by the City and a vendor, which authorizes a change in the cost of a contract, time of completion, or in work or services.

**Competitive procurement process.** A solicitation procedure consisting of either (i) a competitive bidding process whereby the City issues a formal public notice soliciting formal written bids; or (ii) a request for proposals process whereby the City Procurement Officer issues a formal public notice requesting vendors to submit formal written proposals with suggested specifications that conform to the City’s stated requirements.

**Construction.** The process of building, altering, repairing, reconstructing, renovating, improving, or demolishing any structure, building, or fixed public works, including, but not limited to, sewers and water mains, or public improvements of any kind to any real property, including, but not limited to, streets, highways, alleys, and sidewalks, but not including the routine operation, routine repair, or routine maintenance of existing structures, buildings, fixed public works, or real property.

**Cooperative purchase.** Use of an existing procurement process or contract from another public entity or public agency as the justification and documentation to form a City contract directly with a vendor to purchase the same or similar goods, services, or construction.

**Cost.** The total amount of money to be expended or committed to purchase a good, service, or construction.

**Department Director(s).** The assistant City Manager, police chief, fire chief, and the directors for the following City departments: human resources, finance, building and code enforcement, engineering, planning and economic development, information technology, communications, public works, and legal.

**Goods.** Items other than real property or services, including any combination of supplies, equipment, materials, personal property, including any tangible, intangible and intellectual property and rights and licenses related to the item.

**Invitation to Bid (ITB):** A procurement method used to solicit competitive sealed bid responses.

**Joint purchase agreement.** An agreement entered into by two or more governmental entities, or agencies, including a private bidding cooperative, in which the parties voluntarily agree to coordinate their purchase of one or more goods, services, or construction by pooling common requirements and conducting one single competitive solicitation process that includes each party’s individual purchase requirements.

**Lowest, Responsible, Responsive Bidder.** In determining the “lowest, responsible, responsive bidder”, in addition to price, the following should be considered:

1. The ability, capacity and skill to perform the contract or provide the services or goods required.
2. Whether the bidder can perform the contract or provide the services or goods promptly, or within the time specified, without delay or interference.
3. The character, integrity, reputation, judgment, experience and efficiency.
4. The quality of performance of previous construction, services or goods.
5. The previous and existing compliance with laws and ordinances relating to the services or construction.
6. The sufficiency of the financial resources.
7. The ability to provide future maintenance and service for the use of the subject of the contract.
8. The number and scope of conditions attached to the bid.
9. Whether the bidder has been barred from bidding on the contract under applicable law.
10. Conformity with the bid specifications.

*Open market purchase.* An open market purchase is the “off-the-shelf” purchase of goods or services that does not involve a competitive procurement process, which is typically utilized for small purchases or frequent retail purchases necessary for day-to-day operations, particularly when convenience and immediate availability are critical.

*Professional services.* The services of actuaries, architects, attorneys, auditors, construction Managers, engineers, insurance administrators, real estate appraisers, surveyors or other individuals who possess expertise in a certain industry or activity, or possess a high degree of professional, unique, specialized, or technical skill where the ability, fitness, or special knowledge of the individual plays an important part.

*Proposal.* A written offer from a vendor, to provide a good, service or construction at a set price or prices in response to a request for proposals by or on behalf of the City and which is considered to be an offer to contract and may, in the discretion of the City, be subject to further negotiations, modifications, and rejections until the proposal has been accepted by the City.

*Purchase Order:* A written document to a vendor formalizing all the terms of a proposed transaction for the purchase of goods or services.

*Quotation.* A written offer from a vendor to provide goods, services, or construction at a set price under terms as designated in the offer.

*Request for Information (RFI):* A non-binding procurement practice to gather information from different vendors before formally sourcing products or services.

*Request for Proposal (RFP):* A document used to solicit proposals from potential vendors/contractors for goods and services.

*Request for Qualifications (RFQ):* A document that asks potential vendors and contractors to detail their background and experience providing a specific good or service.

*Requesting Department.* The department(s) purchasing goods, services or construction, and from whose budget the cost thereof will be charged.

*Single source contract.* A contract for a good, service, or construction for which two or more vendors can supply the goods, service, or construction required by the City, but the City, without using a competitive procurement process, selects one vendor over the others for reasons of expertise, and/or standardization, quality, compatibility with existing equipment, specifications, availability, uniqueness, past experience with a particular issue, or familiarity with specific City operations.
Sole source contract. A contract for a good, service, or construction with a vendor who is the only vendor in the marketplace who possesses the unique ability or capability to meet the City’s solicitation requirements.

Vendor. Any individual or group of individuals, business, union, firm, corporation, trustee, partnership, association, joint venture, committee, or other legal entity wishing to do business with the City or having a contract with the City to furnish goods, services, or construction.

IV. PROCUREMENT PROCEDURES.
The Department Director and/or the City’s Procurement Officer have the primary responsibility regarding specific purchasing decisions for the Requesting Department. Goods, services, and construction may be procured using one of the following methods, as appropriate and authorized, and within the approval limits as set forth in Table 1 below:

- A. Open Market Purchase
- B. Written Quotations
- C. Competitive Procurement Process
  1. Invitation to Bid
  2. Request for Proposal
  3. Joint Purchasing Agreements and Cooperative Agreements
- D. Request for Qualifications
- E. Request for Information
- F. Extensions and Renewals

### Table 1: APPROVAL LIMITS

<table>
<thead>
<tr>
<th>Amount of Purchase</th>
<th>Procurement Method</th>
<th>Payment Method</th>
<th>Solicitation Period</th>
<th>Responsibility</th>
<th>Approver</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;$1,000</td>
<td>Open Market Purchase</td>
<td>Petty Cash P-Card Purchase Order; or Upon receipt of invoice</td>
<td>N/A</td>
<td>Department Director or Designee</td>
<td>Department Director or Designee</td>
</tr>
<tr>
<td>$1,001-$10,000</td>
<td>Three (3) written quotes OR ITB/RFP</td>
<td>P-Card Purchase Order (Written agreement required for services); or Upon receipt of invoice</td>
<td>TBD by Requester</td>
<td>Department Director or Designee</td>
<td>Department Director or Designee</td>
</tr>
<tr>
<td>$10,001- $25,000</td>
<td>Three (3) written quotes OR ITB/RFP</td>
<td>P-Card Purchase Order (Written agreement required for services); or Upon receipt of invoice</td>
<td>15 calendar days</td>
<td>Department Director or Designee</td>
<td>Procurement Officer</td>
</tr>
<tr>
<td></td>
<td>Invitation to Bid</td>
<td>Purchase Order Agreement; or Upon receipt of invoice</td>
<td>15 calendar days</td>
<td>Department Director or Designee</td>
<td>Procurement Officer</td>
</tr>
<tr>
<td></td>
<td>Request for Proposal</td>
<td>Agreement; or Upon receipt of invoice</td>
<td>15 calendar days</td>
<td>Department Director or Designee</td>
<td>Procurement Officer</td>
</tr>
</tbody>
</table>

General: All procurements, except Requests for Proposals or as otherwise directed by the City Council, shall be let to the lowest, responsible, responsive Vendor for amounts in excess of $1,000, whether it is via quotations or the competitive procurement process.

Purchase Order or Written Agreements: There must be a purchase order or written agreement for the procurement of Professional Services or Construction over $1,000, whether it is the City’s standard agreement, or an agreement proposed by the Vendor. If it is a Vendor agreement, then the City Attorney must review it prior to signature.
Multiyear Agreements:
  a. Unless otherwise provided by law, a contract for goods, services, or construction may be entered into for any period of time deemed to be in the best interests of the City, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation. Payment and performance obligations for additional fiscal periods shall be subject to availability and budgeting of funds by the City Council in the succeeding annual budget.

  b. When funds are not budgeted in the City Council-approved annual budget or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled without penalty to the City.

Signatures: A Department Director may sign a written agreement for procurement in an amount up to $10,000.00. The City Manager may sign an agreement for procurement for any amount, including agreements approved by the City Council unless another individual’s signature is required.

A. OPEN MARKET PURCHASE
A City employee may make an Open Market Purchase of less than $1,000.00 for day-to-day purchases.

B. WRITTEN QUOTATIONS
  1. General: Written quotations are used to purchase goods and services valued at less than $25,000.00. The purchase should be made from the lowest qualified quotation (using the standards for the lowest, responsible, responsive bidder). Once written quotations have been secured and the lowest qualified vendor has been identified, subsequent purchases during the same calendar year may be made from the same approved vendor, so long as the price does not change.

  2. Written quotations should consist of the following:
     a. Submitted on vendor’s letterhead;
     b. Have an effective and expiration date (expired quotations cannot be accepted);
     c. All fees/costs broken down (i.e., work, delivery, set-up, etc.);
     d. Signed by authorized representative of the vendor (unsigned quotations cannot be accepted);
     e. A faxed or emailed quotation is acceptable.

C. COMPETITIVE PROCUREMENT PROCESS
  1. General. The procurement of goods or services made via an Invitation to Bid or Request for Proposals may be used for any purchase over $1,000.00, but is required to be used for purchases of $25,000.00 or more.

  2. Preparation of specifications. A Requesting Department, with the assistance of the Procurement Officer, will prepare specifications for the desired purchase. For purchases where the City will receive federal or state grant funds, the City will comply with its Federally-Funded Procurement Policy.

  3. Waiver. The City Council may waive the competitive procurement process for procurement of any goods, services or construction when it determines it would serve the best interests of the City by a majority of a quorum. With respect to construction services, the waiver must be made by a vote of five members of the City Council. The City Council expressly reserves the right to make any contract award which, in its sole discretion, best serves the public interest.
4. Invitations to Bid.
   a. Advertisement. An Invitation to Bid (ITB) will be advertised on the City’s website, or other online forum as deemed appropriate. Except for emergency matters, this advertisement will occur not less than fifteen (15) calendar days prior to the bid opening. ITBs may also be mailed or emailed to prospective bidders.

   b. Review and Recommendation. Following the bid opening, the Project Manager will review the bids and shall be responsible for making the appropriate recommendation regarding acceptance or rejection of any bid. The Procurement Officer will review the bid for compliance with the bid specifications and requirements. The factors set forth in Section III shall be used to determine the lowest, responsible, responsive bidder.

5. Request for Proposals.
   a. Advertisement. A Request for Proposal (RFP) will be advertised on the City’s website, or other online forum as deemed appropriate. Except for emergency matters, this advertisement will occur not less than twenty-one (21) calendar days prior to the due date for proposals. RFPs may also be mailed or emailed to prospective proposers.

   b. Review and Recommendation. Following the due date for proposals, the Project Manager will review the proposals, including evaluating the goods or services, and interviewing vendors as necessary, and shall be responsible for making the appropriate recommendation regarding acceptance or rejection of any proposal. The Procurement Officer will review the proposal for compliance with the RFP requirements. The City may enter into further negotiations with one or more of the proposers to secure the most favorable terms for the City.

6. Joint Purchasing Agreements and Cooperative Contracts. In accordance with Illinois Governmental Joint Purchasing Act (30 ILCS 525/0.01 et seq.), and the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1 et seq.), joint purchasing agreements and cooperative contracts with any local, county, state or federal public entity or entities, or any association of public agencies, may be used without the City undertaking a competitive procurement process itself; provided that the mechanism for the joint or cooperative purchase provided an opportunity for vendors of goods, services, and construction to submit competitive bids or proposals for the furnishing of such goods, services, or construction to a public entity or public agency. The Procurement Officer will review the joint purchase agreement or cooperative contract to ensure compliance with a competitive procurement process.

7. Appeals and Remedies.
   a. Authority. The Procurement Officer is authorized to resolve any procedural protest regarding the solicitation or award of any bid or proposal under the Procurement Officer’s purview. Each ITB or RFP issued by the City shall set forth the required contents of written protests for submission to the City and the City’s administrative procedures pertaining to protests.

   b. Right to protest. Any actual or prospective, bidder, proposer, offeror, or vendor (“protesting party”) who believes they have been adversely affected in connection with a City-issued solicitation, evaluation of a bid or proposal, or award of a contract may initiate a pre-bid, pre-award, or post-award protest. A protesting party has no right to protest the cancellation of ITBs or RFPs and protests relating to the rejection of all bids or proposals.

   c. Timeliness. A pre-bid protest shall be submitted in writing to the Procurement Officer no later than five (5) business days before the due date for bids or proposals. A pre-award protest
shall be submitted in writing to the Procurement Officer no later than five (5) business days after the due date for bids or proposals or notification that the protesting party’s status as a bidder or proposer has changed. A post-award protest shall be submitted in writing no later than three (3) business days after the date the bid award is posted on the City’s website or online forum.

d. Contents of Protest. Protests shall be in writing and shall include:
   i. the name, address, phone number and e-mail address of the protesting party;
   ii. the appropriate identification of the solicitation;
   iii. if an award has been initiated, the award document number (if available);
   iv. justification or grounds for the protest, with specificity of the local, state, and federal law, regulation or procedure that is alleged to be violated;
   v. precise statement(s) of the relevant facts;
   vi. identification of the issue to be resolved;
   vii. the protesting party’s argument and supporting documentation;
   viii. information establishing the timeliness of the protest; and
   ix. the signature of the protesting party.

   Issues not raised by the protesting party in the protest are deemed waived and may not be raised after a final determination has been made. Protests that do not meet the time or content requirements may be rejected by the Procurement Officer. The Procurement Officer is not obligated to postpone contract awards to allow a protesting party time to correct a deficient protest unless otherwise required by federal law or regulation.

e. Protest bond. The protesting party shall, at the time of submitting any protest to the City, furnish at its sole expense a protest bond in the form of a cashier’s check payable to the City of Wheaton, in an amount equal to five percent (5%) of the City’s estimate of the total contract award amount, or, if the amount of the contract award cannot be reasonably determined at that time, then in the amount of one thousand two hundred and fifty dollars ($1,250.00). In those circumstances when the contract award cannot be reasonably determined, the City, by the determination of its City Attorney, may require a protest bond in an amount not to exceed ten thousand dollars ($10,000.00) if one thousand two hundred and fifty dollars ($1,250.00) is inadequate under the facts presented. If the City increases the required protest bond amount, the protesting party shall have five (5) business days in which to pay the City, in the form of a cashier’s check, the difference between the one thousand two hundred and fifty dollars ($1,250.00) and the new amount of protest bond. The protest bond shall serve as a guarantee of the validity and accuracy of the protest. If the protest is upheld, the bond shall be returned to the protesting party. If the protest is denied, the bond shall be used by the City to recover any administrative costs and damages incurred as a result of the protest and/or resulting delay in the contracting for goods and services which were the subject of the solicitation. Failure to submit a compliant protest bond with the written protest shall be deemed a waiver of the protest and jurisdictional deficiency in the protest that forfeits the right to protest. Failure to pay any additional amount of protest bond required shall be deemed a waiver of the right to maintain a protest.

f. Respondent party response.
   i. A respondent party is a person who has the right to respond to a protesting party’s protest and shall be an actual bidder, proposer, prospective bidder or prospective proposer in the procurement involved whose direct economic interest would be affected by the award of the contract or by the failure to award the contract; and who
demonstrates compliance with the bid protest procedures, the terms on the invitation for bids, and the contract documents (if bid) or request for proposals (RFP), as applicable (hereinafter “respondent party”).

ii. After receiving notice of the protest from the City, the respondent party shall have five business (5) days to respond in writing to a protest to provide the Procurement Officer with supplemental information. A respondent party may request, and the Procurement Officer may allow an additional period of time to respond if the protest is complicated and/or the documentation is voluminous. In no event will the additional time exceed 5 business days.

iii. The failure of a respondent party to respond to a protest, or to any portion of it, shall not be deemed to be an admission of any allegation in the protest, but shall be deemed to constitute a waiver of the opportunity to respond to such allegation(s), if any, at this stage in the process.

g. Stay of Procurement.
   i. Upon timely receipt of a protest and after examination of the issues surrounding the protest, the Procurement Officer, in consultation with the City Attorney, will determine whether the protest has merit and if the solicitation, evaluation, or award shall be stayed, or if other further action is necessary to protect the interests of the City.

   ii. If the contract performance has already begun, the Procurement Officer, in consultation with the City Attorney, will determine whether the performance of the contract should be suspended. A contract may not be suspended if the work or supplies are necessary to protect the interests of the City.

h. Final Determination. The Procurement Officer, in consultation with the City Attorney, will provide a written decision to the protesting party as expeditiously as possible, but no later than thirty (30) business days after receiving all relevant information. The Procurement Officer’s decision shall become final on the third business day after the date of the Procurement Officer’s written decision, unless a timely request for reconsideration is filed with the Procurement Officer as noted below.

i. Reconsideration of Protest Decision. A protesting party or respondent party may request the Procurement Officer’s reconsideration if:
   i. Information becomes available that was not previously known, or could have reasonably become known; or
   ii. The Procurement Officer’s decision contains an error of law or regulation.

The request shall be submitted in writing to the Procurement Officer within three (3) business days of the date of issuance of the initial decision. The request shall include a detailed explanation of the basis for reconsideration and state the course of action the protesting party or respondent party desires that the Procurement Officer take. For purposes of this section, deposit in the mail, postage prepaid does not constitute filing or receipt. A request is considered filed when physically received by the Procurement Officer or duly appointed designee.

The Procurement Officer shall refer the request for reconsideration of the protest decision to the City Manager. The City Manager, or his or her designee, may conduct an evidentiary hearing at his or her sole option. The City Manager or designee will conduct a review of the request for
reconsideration of the protest decision and will attempt to issue a decision within ten (10) business days after the City’s receipt of the request for reconsideration or the date of the hearing, whichever is later. The City Manager or designee’s decision shall be final.

After a written decision is issued by the City Manager or his designee, the appropriate actions will take place. If the protest is upheld, the Procurement Officer’s actions may include, but are not limited to, any appropriate steps to correct the procurement process, such as: re-solicitation of bids or proposals, revising evaluation of bids or proposals, or termination of the contract. If the protest is denied, the Procurement Officer will lift any imposed suspension and proceed with the procurement process or the contract.

D. REQUEST FOR QUALIFICATIONS
A Requesting Department may use a Request for Qualifications (RFQ) to develop a “short list” of vendors for specific professional services. The list can be valid for a period of up to three (3) years. While the list is valid, the Requesting Department may then send RFPs only to the vendors on the list for certain projects/services.

E. REQUEST FOR INFORMATION
A Request for Information (RFI) is a process used to determine details about a specific good or service when a department does not have sufficient expertise or to obtain detailed technical specifications about the good or service that is sought. This process can be conducted and used as a source to develop a Request for Proposals (RFP) or an Invitation to Bid (ITB). This process can also qualify vendors to participate in the RFP. Use of an RFI is not a competitive process and does not result in a contract award.

F. EXTENSIONS AND RENEWALS
Contract extensions may be allowed for previously approved contracts if the price does not increase. Contract renewals may be allowed for previously approved contracts upon mutual agreement of the parties. Contracts, plus extensions, may not exceed a term of five (5) years, except for certain professional services or single or sole source vendors; provided however, there may be no more than two (2) extensions for a contract. A contract extension or renewal pursuant to an option to extend or renew that was included in a contract awarded by the City Council or by the City Manager shall not require prior City Council approval at the time of extending or renewing such contract and may be awarded and signed by the City Manager.

G. PURCHASES WHICH DO NOT REQUIRE THE COMPETITIVE PROCUREMENT PROCESS.
   1. Professional services. The City, as a home rule municipality, is not required to follow and does not follow the Local Government Professional Services Selection Act (50 ILCS 510/1 et seq.), unless State or Federal funds are being used.
   2. The following purchases and contracts involving amounts of twenty-five thousand dollars ($25,000.00) or more do not require competitive procurement:
      a. electronic, telecommunications, or information technology equipment, software or services which may not be adapted to competitive bidding;
      b. utility services, including, but not limited to, waste disposal, water, light, heat, telephone, and the internet;
      c. printing and binding services;
      d. magazines, books, periodicals, and similar articles of an educational or instructional nature;
e. where special conditions or circumstances require the use of negotiated contracts;
f. where continuity of service or goods is desirable and necessitates continuing a contractual relationship with a current City vendor or necessitates the continued purchase of a specific good whether such purchase is from a current vendor or a new vendor;
g. purchase of personal property which must be compatible with the existing equipment or systems owned by the City;
h. maintenance or servicing of, or provision of repair parts for, equipment, where such contracts are made with the manufacturer or authorized service agent of that equipment, and the provision of parts, maintenance or servicing can best be performed by the manufacturer or authorized service agent or where such contracts are necessary to preserve the warranty for the equipment;
i. supporting local organization service providers, including but not limited to, the Downtown Wheaton Association. Payments for such services shall be limited to the original City Council approval and/or the City Council-approved budget for such services;
j. single or sole source contracts.

V. CHANGE ORDERS.
Certain conditions surrounding purchases may change in the course of a procurement, which necessitates a clarification or modification to the existing document to fulfill legal requirements. Change orders must be in writing and signed by the City and the vendor, and are executed under the conditions of the original contract. Change order requests submitted in an attempt to circumvent the bid process are prohibited.

A. CHANGE ORDERS RELATED TO COST.
When the City Council approves a contract via a resolution, the resolution may authorize a contract contingency, in an amount not to exceed 10% of the contract price. A change order that falls within the contingency amount may be approved by the City Manager. In the event the cost of a contract will exceed the original contract price, plus the approved contingency amount, a change order will need to be processed. Any such change order shall be approved by a majority vote of the City Council.

The City Manager may exceed the authority set forth above, if it is deemed in the best interest of the public and the project to approve an exceptional change order; provided that based upon the recommendation of the project manager, not issuing the exceptional change order would risk unacceptable project delay and/or higher costs; and provided further, that the next regularly scheduled City Council meeting is sufficiently far in the future that not issuing the exceptional change order would significantly risk the project’s ultimate cost and/or anticipated completion. In the event the City Manager approves an exceptional change order under this reasonable exception provision, he or she shall notify the City Council at the next regularly scheduled City Council meeting and seek ratification of his or her action by resolution of the City Council.

In accordance with the Public Works Contract Change Order Act, if there is a change order for a City public works contract that authorizes or necessitates any increase in the contract price that is 50% or more of the original contract price or that authorizes or necessitates any increase in the price of a subcontract under the contract that is 50% or more of the original subcontract price, then the portion of the contract that is covered by the change order must be resubmitted for bidding in the same manner for which the original contract was bid.

B. CHANGE ORDERS RELATED TO TIME OF COMPLETION.
A change order that extends the time of completion of a project for less than ninety (90) days may be approved by the City Manager. The City Council shall approve a change order for a request for more than ninety (90) days.

C. CHANGE ORDERS RELATED TO SCOPE OF WORK.
No change order shall be requested or approved for a “cardinal change”, which is one that materially alters the initial goods or services being purchased. For example, and illustrative purposes only, it would be inappropriate to bid for construction of a closet in a City building, award that bid, and then request a change order to construct a kitchenette. The City Manager may however approve a change order for something less than a cardinal change.

V. AUTHORITY TO SUSPEND AND DEBAR.
The Procurement Officer is authorized to suspend or debar a person for cause from consideration for award of contracts after reasonable notice to the person involved and reasonable opportunity for that person to be heard. The debarment shall be for a period of not more than three (3) years. The suspension shall be for a period not to exceed three (3) months.

The causes for disbarment or suspension include, but are not limited to:
1. Conviction or commission 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 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 vendor;
3. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
4. Violation of contract provisions, as set forth below, of a character which is regarded by the Procurement Officer to be so serious as to justify suspension or debarment action;
5. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract;
6. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms, conditions, or specifications of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the vendor shall not be considered to be a basis for debarment;
7. For violation of ethical standards set forth in applicable local, state, or federal law, including, the commission of any fraud or misrepresentation in connection with a bid, quotation, proposal, or contract with the City;
8. Any other cause the Procurement Officer determines to be so serious and compelling as to affect responsibility as a vendor, including debts owed by a vendor to the City, insolvency, or suspension or debarment by another governmental entity.

The Procurement Officer, in consultation with the City Attorney, shall issue a written decision to debar or suspend and a copy of such decision shall be immediately mailed via the U.S. Postal Service, certified, return receipt requested, or personally delivered to the debarred or suspended person. The decision shall state the reasons for the action taken and inform the affected person involved of its right to administrative review. A decision under this section shall be final and conclusive, unless fraudulent, or the affected person makes an appeal to the City Manager within ten (10) business days after receipt of the decision by certified mail. The City Manager shall have the authority to review the Procurement Officer’s decision regarding suspension or debarment and decide, whether, or the extent to which, the debarment or
suspension was in accordance with this section, was in the best interest of the City, and was fair. The City Manager’s decision shall be final and conclusive.