

**NORTHWEST ARCTIC BOROUGH ASSEMBLY
ORDINANCE 13-11**

AN ORDINANCE OF THE NORTHWEST ARCTIC BOROUGH ASSEMBLY AMENDING THE BOROUGH BUDGETARY AND PROCUREMENT CODES AND FOR RELATED PURPOSES.

WHEREAS: Title 6 of the Borough Code establishes guidelines for the Borough's budgetary process and procurement; and

WHEREAS: the Assembly has determined that it is in the Borough's best interest to update sections of its budgetary and procurement codes.

NOW THEREFORE BE IT ENACTED BY THE NORTHWEST ARCTIC BOROUGH ASSEMBLY:

Section 1: Title 6 of the Borough Code is amended as follows with additions indicated by underlining in blue, deletions by ~~strikethrough in red~~, and renumbers by underlining and strikethrough in green:

6.12 Budgetary Requirements and Procedures

6.12.060. Budgetary Control.

- A. No budget appropriations can be encumbered without certification by the borough treasurer that there is an unencumbered appropriation and available funds.
- B. No officer, department or agency shall, without assembly approval, during any budget year, expend or contract to expend any money or incur any liability in excess of the amounts appropriated for that general classification of expenditures by the current budget.
- C. All appropriations lapse at the end of the budget year to the extent that they have not been expended or lawfully encumbered.
- D. Unencumbered appropriation balances may be transferred within a department by the mayor at any time. At the request of the mayor, or on its own prerogative, the assembly may transfer unencumbered appropriation balances from one office, department or agency to another.
- E. Subject to assembly approval by resolution, the mayor may (1) establish line item expenditures within an authorized appropriation, or (2) transfer from one

authorized appropriation to another any amount which would not annually exceed 10 percent or ~~\$10,000, whichever is less~~ 25,000, whichever is greater. In no circumstance may the total of all such transactions exceed \$150,000 prior to the assembly reappropriation process, pursuant to NABC 2.08.020(E).

F. Without assembly approval, the mayor is authorized to revise budgets of state or federal contracts ~~or grants~~; such total revisions are limited to a maximum of 10 percent of the total ~~grant or~~ contract amount or ~~\$10,000, 25,000~~, whichever is ~~less~~ greater.

G. The mayor may accept a grant award up to \$100,000 without assembly approval. The mayor must inform the assembly of any such administratively-accepted grant funds at the next regular assembly meeting.

~~6.12.300 Authority of mayor – Appropriations.~~

H. The mayor may revise grant budgets, accept additional grant funds, or amend a corresponding grant-funded contract without assembly approval so long as the scope of services or grant project is not substantially changed. The mayor must inform the assembly of any such administratively-approved grant changes at the next regular assembly meeting.

~~The mayor may establish line item expenditures within an authorized appropriation or transfer from one authorized appropriation to another any amount which would not exceed 10 percent of the appropriation category or \$10,000, whichever is less. In no circumstance may the total of all such transactions exceed \$50,000 prior to the assembly reappropriation process, pursuant to NABC 2.08.020(E).~~

~~Code~~

I. By resolution, the assembly may approve a borough grant-funded contract that terminates at the end of the borough's fiscal year to extend up to 120 days past the end of the fiscal year. (Ord. 13-11, 2013; Ord. 87-2am, 1987; Code 1986 § 6.12.060)

Chapter 6.16 PROCUREMENT

Article I. Procurement Process Generally

6.16.100 Contracting and procurement authority.

A. The borough may, pursuant to an award in accordance with this chapter, procure any supplies, services or construction required by the offices, departments and agencies of the borough government.

B. The mayor or the mayor's designee shall serve as the procurement officer and shall conduct all procurements of supplies, services and construction for the borough under this chapter.

C. Subject to assembly approval where required under this chapter, the procurement of all supplies, services and construction shall be conducted either by the procurement officer, or a specifically designated contracting officer.

D. The mayor may designate a department head as procurement officer for the purposes of purchasing supplies and services ~~of \$5,000 up to \$10,000~~. The mayor may also designate a contracting officer for a particular contract or project. (Ord. 13-11, 2013; Ord. 03-08 § 1, 2003)

6.16.110 Procurement officer - Other powers and duties.

A. The procurement officer shall:

~~1. Keep informed of current developments in the field of purchasing, prices, market conditions and new products, and secure for the borough the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition, and by private businesses and organizations;~~ Procure supplies, services and construction required by the borough;

2. Sell, trade, or otherwise dispose of surplus supplies belonging to the borough;

3. Maintain all records pertaining to the procurement of supplies; services and construction, and the disposal of supplies by the borough;

4. Join with other units of government in cooperative purchasing ventures where the best interests of the borough would be served;

5. Prescribe the time, manner, authentication, and form of making requisitions for supplies and services and construction; and

~~2-6.~~ Act so as to procure for the borough all state and federal tax exemptions to which the borough is entitled.

B. The procurement officer shall inspect, as far as possible, and supervise the inspection of all deliveries of supplies or contractual services to determine their conformance with the specifications set forth in the contract.

~~C.—The procurement officer may require chemical and physical tests of samples submitted with bids or proposals and samples of deliveries, which are necessary to determine their quality and conformance with contract specifications. The procurement officer may make use of the laboratories of any agency of the borough government or of any outside laboratory.~~D.— The procurement officer may authorize an agency having adequate staff and facilities to inspect deliveries to the agency. (Ord. 13-11, 2013; Ord. 03-08 § 1, 2003)

~~6.16.120—Requisitions and estimates.~~

~~A.—All agencies of the borough which use supplies, services or construction shall, either by or with the authorization of the department head under which the agency operates, submit written requisitions or estimates of their requirements for supplies, services and construction on forms provided by the procurement officer.~~

~~B.—The procurement officer shall examine each requisition or estimate and may recommend revisions as to quantity, quality or estimated costs.~~

~~6.16.200 Execution of contracts.~~

~~All borough contracts for supplies, services and construction, and any amendments thereto, shall be signed by the mayor.~~

Article II. Contracting

6.16.200 Execution of Contracts

All borough contracts for supplies, services and construction, and any amendments thereto, shall be signed by the mayor. (Ord. 03-08 § 1, 2003)

6.16.210 Assembly approval of contracts.

No contract for supplies, services or construction which obligates the borough to pay more than \$~~10,000~~,25,000, per single transaction or in the aggregate may be executed unless the assembly has passed a resolution setting forth the following essential terms of the contract:

- A. The identity of the contractor;
- B. The contract price;
- C. The nature and quantity of the performance that the borough shall receive under the contract; and

D. The time for performance under the contract. (Ord. 13-11, 2013; Ord. 03-08 § 1, 2003)

6.16.220 Contract amendments.

A. All amendments to contracts for supplies, services and construction, including change orders, shall be approved in writing by the procurement officer, subject to assembly approval where required under this section. Contract amendments shall not be used to avoid procurement by the competitive bid procedures established under this chapter.

B. No contract amendment which will cause the total price of the contract, as amended, to exceed the greater of \$~~10,000~~25,000 or 100 percent of the original contract price may be executed unless the assembly has passed a resolution setting forth any modifications to the essential terms of the contract. (Ord. 13-11, 2013; Ord. 03-08 § 1, 2003)

6.16.230 Contracts enforceable against borough.

No contract for supplies, services or construction, or any amendment thereto, may be enforced against the borough unless its terms have been approved in accordance with this chapter and unless the contract or amendment has been set forth in a writing on behalf of the borough in accordance with this chapter. (Ord. 03-08 § 1, 2003)

6.16.240 Availability of funds.

No contract for supplies, services or construction may be approved or executed unless funds have been appropriated for the borough's performance under the contract. No contract amendment that will increase the contract price may be approved or executed unless funds are available to fulfill the borough's performance under the contract as amended. (Ord. 13-11, 2013; Ord. 03-08 § 1, 2003)

6.16.250 ~~Limitation on contract duration~~ Multiyear Contracts.

~~No contract for supplies, services or construction which by its terms will not be fully executed within five years and which cannot be terminated by the borough upon not more than one month's notice without penalty, may be approved. Contracts requiring the payment of funds from the~~
A. The borough may enter into contracts for a term exceeding one year provided that the finance director certifies in writing at the time of contract execution that funds are available for the contract's first fiscal year. The borough's payment and performance obligations for succeeding fiscal years shall be subject to the borough's appropriation of funds for that contract.

B. Multiyear contracts requiring the payment of funds from an appropriation at a later fiscal year or for more than one fiscal year shall be approved by ordinances as required under NABC 6.04.020(A).

C. By resolution, the assembly may approve a borough grant-funded contract that terminates at the end of the borough's fiscal year to extend up to 120 days past the end of the fiscal year. (Ord. 13-11, 2013; Ord. 03-08 § 1, 2003)

Article III. Purchasing

6.16.300 Sole source procurements.

The borough may procure supplies, services or construction having a value of \$10,000 or less without competition where the procurement officer determines in writing that one of the following circumstances applies:

1. Supplies, services or construction that reasonably meet the borough's requirements are available from only one vendor;

2. The supplies, services or construction have a uniform price wherever purchased;

3. The supplies, services or construction may be purchased from or through another governmental unit at a price lower than that obtainable from private vendors;
or

4. The price of the supplies, services or construction is fixed by a regulatory authority. (Ord. 13-11, 2013; Ord. 03-08 § 1, 2003)

6.16.310 Open market procurements.

A. The procurement officer may procure on the open market without formal advertising or other formal bid procedures all supplies, services and construction having an estimated value of \$25,000 or less.

B. Whenever practicable, at least three informal bids or quotations shall be solicited for any procurement under this section. The solicitation may be either oral or written and shall be in a form reasonably calculated to yield the lowest responsive bid by a responsive quotation. Whenever practicable, purchases shall be made from vendors, service companies, and contractors at the lowest and best quotation. The procurement officer shall keep a written record of all bids or quotations received and awards made under this section. (Ord. 13-11, 2013; Ord. 03-08 § 1, 2003)

6.16.320 ~~Emergency procurements~~ Professional Services.

A. Professional services shall be procured in accordance with the terms of this section.

B. For professional services having an estimated value of \$150,000 or less, the borough may procure the services without competition. Whenever practicable, at least three informal bids or quotations shall be solicited for a procurement under this subsection.

C. Except as provided under subsection (D) of this section, professional services having an estimated value above \$150,000 shall be acquired through the competitive sealed bid process in 6.16.300-.370

D. Subject to assembly approval by resolution, the mayor may determine ~~it is in the best interest of the borough to~~ waive competitive bidding for professional services. The mayor shall make specific best interest findings as to the reasons for not using the competitive bid process.

E. Subject to assembly approval by resolution, the mayor may renew a professional service contract without a competitive process if the mayor determines that renewal is in the best interests of the borough.

F. This section shall not apply to NABC 2.20 and NABC 6.20. (Ord. 13-11, 2013)

6.16.330 Informal bid requirements.

~~B. Whenever practicable, at least three informal bids or quotations shall be solicited for any procurement under this section. The solicitation may be either oral or written and shall be in a form reasonably calculated to yield the lowest responsive bid by a responsive quotation. Whenever practicable, purchases shall be made from vendors, service companies, and contractors at the lowest and best quotation. The procurement officer shall keep a written record of all bids or quotations received and awards made under this section.~~

In this chapter, when informal bids or quotations are solicited for a procurement, the same information shall be provided to all bidders; and bids shall be submitted in writing or by electronic means. (Ord. 13-11, 2013)

6.16.340 Emergency Procurements.

The borough may procure supplies, services or construction without competition, formal advertising or other formal procedures where the mayor determines in writing that an emergency threatening the public health, safety or welfare requires that the contract be awarded without delay. The mayor shall at no time expend emergency funds in excess of appropriated funds for the current fiscal year without assembly approval. (Ord. 03-08 § 1, 2003)

6.16.350~~6.16.430~~ Credit card usage.

- A. The purpose of this section is to establish the procedures utilized by the procurement officer in the distribution, authorization, control and payment of bills related to the use of credit cards issued to or for the benefit of the borough and used by borough elected officials and employees.
- B. The authority to assign credit cards is the responsibility of the procurement officer or designee. Credit cards may be distributed to those borough elected officials and employees who, in the opinion of the procurement officer, have official borough duties and responsibilities that would benefit or otherwise be facilitated by use of a credit card. The activation and administration of all credit cards shall be coordinated through the finance department. The individual to whom the card is issued is responsible for the card and its proper use.
- C. All elected officials and employees who use borough credit cards shall satisfy the criteria established for credit card use. Prior to the assignment and activation of a credit card, all persons assigned a credit card must sign and agree to specific conditions and requirements as determined by the procurement officer or designee.
- D. All credit cards shall have a credit limit of up to \$3,000, except the assembly president whose credit card shall have a credit limit of \$5,000, principal staff whose credit card shall have a credit limit of \$9,000, and the borough mayor whose card ~~shall~~may have a credit limit of up to \$15,000.
- E. The use of a borough credit card is for official borough business only, and all credit card purchases must be within established appropriations ~~after following all borough procurement policies and procedures~~. Issuance of a borough credit card does not indicate preapproval of expenditures or expenses.
- F. All credit balances shall be paid in full each month according to each monthly statement received and shall not become debts of the borough. The original monthly statements shall be kept on file in the borough finance department. The borough treasurer or designee is responsible for verifying and ~~reconciliation of~~reconciling all credit card usage and charges pursuant to this section and the borough code.

G. Whenever possible, credit cards will not be used in lieu of the normal procurement and purchasing procedures of the borough. The use of credit cards shall be limited to those instances in which there is a demonstrated need to perform essential borough business, to improve borough management efficiency in the best interest of the borough, or in situations in which necessary purchases and procurement cannot be provided by any other procurement means.

H. All credit card holders are responsible for delivery of all original credit card receipts or other appropriate documentation for every credit card purchase describing and appropriately coding each transaction to the procurement officer or designee not later than 10 days after use. In the event of a lost or missing receipt, the credit card holder must complete a statement explaining the absence of the documentation and confirming that the expenses were legitimately incurred in the conduct of borough business. Any purchases made without such documentation may be cause for deactivation of that credit card. Failure to comply with this section may constitute grounds for disciplinary action and may subject the violator to be held responsible for the cost of said purchases.

I. Borough elected officials and employees who are assigned credit cards are required to immediately report any damaged, lost or stolen credit card to the procurement officer, or designee. All damaged, lost or stolen credit cards shall be deactivated. When the borough elected official or employee no longer requires use of a credit card, it is the responsibility of the elected official or employee to ensure that the credit card is immediately returned to the procurement officer. Failure to comply with this section shall constitute grounds for disciplinary action and may subject the violator to be held responsible for monetary losses incurred by the borough caused by a delay in reporting the theft or loss or returning a credit card.

J. The procurement officer or mayor may immediately cancel or order the surrender of any card that appears to have been misused. If any credit card ~~holders~~holder uses a borough credit card for purchases for personal business, personal purchases of any kind or purchases otherwise contrary to public policy forbidden by law or otherwise disallowed, the procurement officer reserves the right to set aside such purchase and hold the person authorizing the purchase personally liable for any charges, interest, fees fines or any other damages caused by the unauthorized purchase and may subject the card holder to disciplinary action under applicable borough and state law.

K. The procurement officer is authorized to implement any additional policies or administrative procedures necessary to implement the provisions of this section, including developing any specific administrative guidelines and accounting controls to ensure the proper usage of credit cards and borough funds. (Ord. 13-11, 2013; Ord. 09-04 § 1, 2009; Ord. 03-08 § 1, 2003)

Article IV. Competitive Procedure

6.16.400 ~~6.16.300~~ Competitive sealed bidding.

Unless otherwise authorized under this chapter or another provision of law, all borough contracts for supplies, services and construction having an estimated value of more than \$25,000 shall be awarded by competitive sealed bidding. (Ord. 13-11, 2013; Ord. 03-08 § 1, 2003)

6.16.410 ~~6.16.310~~ Solicitation and acceptance of competitive sealed bids.

A. The procurement officer shall initiate competitive sealed bidding by issuing an invitation for bids. The invitation for bids shall:

1. State, or incorporate by reference, all material specifications and contractual terms and conditions applicable to the procurement;
2. State the time and place where the bid must be submitted; and
3. State the time and place of the bid opening.

B. ~~—~~ Notice of the invitation for bids shall be provided as follows:

1. Publication of the notice at least once not less than 14 days before the last day on which bids will be accepted, ~~in~~ using one or more of the following methods to ensure there is sufficient notice to create competitive conditions:

a. ~~—~~ In a newspaper of general circulation either in the borough or elsewhere, depending on the purpose of the procurement;

b.2. ~~—~~ Posting the notice at prominent local public notice boards or such other place that is accessible to the public;

c.3. ~~—~~ Mailing the notice to prospective bidders known to the borough; or

~~4. Publication in a newspaper may be waived by the mayor, if the mayor determines in writing that posting and mailing notices are sufficient to secure three bids and create competitive conditions.~~

~~5. Publication in a newspaper and posting in public places may be waived by the mayor, if the mayor determines in writing that mailing notices are sufficient to secure three bids and create competitive conditions.~~

d. Posting by electronic means.

~~6.~~2. The contents of the notice shall be sufficient to inform interested readers of the general nature of the supplies, services or construction being procured and the procedure for obtaining bid documents.

~~7.~~3. The procurement officer shall keep a written record of the name of each person receiving notice and of the date and manner of delivery. The failure of any person to receive notice under this subsection shall not affect the validity of any award or contract.

C. The terms of an invitation for bids may be modified or interpreted only by written addendum issued by the procurement officer. Addenda to bids shall be sent to each recipient of the original bid documents. Bidders are required to acknowledge receipt of all addenda in their bid documents.

D. Sealed bids shall be signed by the bidder and shall be submitted by mail, electronic delivery, delivery service or in person at the place and not later than the time specified in the invitation for bids. Upon receipt by the borough, sealed bids will be forwarded immediately to the borough clerk, who will mark on the sealed bid the time and date of receipt. Bids not submitted at the proper place or within the time specified shall not be opened or considered.

E. Bids shall be opened at the time and place designated in the invitation for bids. All bid openings shall be open to the public. Bids are not open to public inspection until after the notice of intent to award a contract is issued. The bids shall be opened and read aloud by the procurement officer. ~~The~~ A borough ~~clerk~~employee shall tabulate the amount of each bid and shall record such other information, as may be necessary or desirable for evaluation together with the name of each bidder. The tabulations shall be open to public inspection, and a copy of the tabulation shall be furnished to each bidder. To the extent the bidder designates in writing and other provisions of law permit, trade secrets and other proprietary data contained in a bid document shall be withheld from public inspection.

F. A bid may be considered nonresponsive if it is illegible, missing information requested, missing pages, lacking acknowledgement of addenda, or is otherwise

incomplete. Upon determination by the procurement or contracting officer that a bid is nonresponsive, it shall be immediately rejected.

G. Bids shall be accepted unconditionally without alteration or correction. No criteria except those set forth in the invitation for bids, including all specifications and addenda, may be used in determining the low bidder and the responsiveness of bids. (Ord. 13-11, 2013; Ord. 05-02 § 1, 2005; Ord. 03-08 § 1, 2003)

6.16.420 ~~6.16.320~~ Procedure for award.

A. Contracts shall be awarded by written notice issued by the procurement officer to the lowest responsive and responsible bidder. The notice shall be in the form of an "Intent to Award" letter. Assembly approval of the contract and the execution of a signed contract by the bidder and the mayor are required before the award is finalized.

B. If the lowest responsive and responsible bid exceeds the amount of funds available for the procurement, and if sufficient additional funds are not made available, the procurement officer may:

1. Reject all bids, as further described in NABC 6.16.350;
2. Issue a new invitation for bids that reduces the scope of the procurement so that its estimated cost does not exceed the amount of available funds; or
3. Upon finding that the efficient operation of the borough requires that the contract be awarded without delay, negotiate a reduced procurement with the lowest responsive and responsible bidder ~~or not more than three of the~~, starting first with the lowest bidder and then proceeding to the second and third lowest responsive and responsible bidders, if any, and award the reduced procurement based on the best negotiated price and terms. (Ord. 13-11, 2013; Ord. 03-08 § 1, 2003)

6.16.430 ~~6.16.330~~ Competitive sealed proposals.

A. If the procurement officer determines in writing that the use of competitive sealed bidding is not practicable, the borough may procure supplies, services or construction by competitive sealed proposals under this section.

B. The procurement officer shall solicit competitive sealed proposals by issuing a request for proposals. The request for proposals shall state, or incorporate by reference, all material 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 shall be given in

accordance with NABC 6.16.310(B). A request for proposals may be modified or interpreted only in the manner provided in NABC 6.16.310(C).

C. Sealed proposals shall be submitted by mail, electronic delivery, delivery service or in person at that 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 opened so as to avoid disclosing their contents to competing proposers before notice of intent to award a contract is issued. Proposals, tabulations and evaluations thereof shall be open to public inspection only after notice of intent to award a contract is issued. To the extent the proposer designates in writing and other provisions of law permit, trade secrets and other proprietary data contained in a proposal document shall be withheld from public inspection.

E. In the manner provided in the request for proposals, the procurement officer may negotiate with those responsible proposers whose proposals are determined by the procurement offices to be reasonably responsive to the request for proposals. Negotiations shall be used to clarify and ensure full understanding of the requirements of the request for proposals.

F. Award shall be made by written notice to the responsible and responsive proposer whose final proposal is determined to be the most advantageous to the borough. No criteria other than those set forth in the request for proposals, including all specifications and addenda, may be used in proposal evaluation. (Ord. 13-11, 2013; Ord. 05-02 § 2, 2005; Ord. 03-08 § 1, 2003)

6.16.440 ~~6.16.340~~ Award to responsible bidder or proposer.

A. A contract award under this chapter shall be made only to a responsible bidder or proposer. The procurement officer shall evaluate whether a bidder or proposer is responsible on the basis of the following criteria:

1. The skill and experience demonstrated by the bidder or proposer in performing contracts of a similar nature;
2. The bidder's or proposer's record for ~~honesty and~~ integrity, judgment, experience and efficiency;
3. The bidder's or proposer's capacity to perform in terms of facilities, equipment, personnel and financing;

4. Whether the bidder can perform the contract within the time specified, without delay or interference;

5. The past and present compliance by the bidder or proposer with laws and ordinances related to its performance under the contract;

~~5.—6.~~ The bidder's or proposer's past performance under other contracts. If, including whether the bidder or proposer has failed in any material way to perform its obligations under any other contract, ~~the procurement officer may recommend to the mayor the bidder to be not responsible;~~ and

~~6.—7.~~ The bidder's past performance under borough contracts. If, including whether, at the time of the award, the bidder is delinquent, overdue or in default on the payment of any money, debt or liability to the borough, ~~the procurement officer may recommend to the mayor that the bidder to be not responsible.~~

B. If the bidder or proposer has failed in any material way to fulfill the criteria established in subsections (A)(1) through (A)(~~4~~7) of this section, ~~to the extent that the further consideration of the bid or proposal puts the borough at risk,~~ the procurement officer may recommend to the mayor that the bidder be considered not a responsible bidder.

C. The mayor shall make all final decisions regarding the responsibility of a bidder or proposer. (Ord. 13-11, 2013; Ord. 03-08 § 1, 2003)

6.16.450 ~~6.16.350~~ **Rejection of bids or proposals.**

If the procurement officer makes a written recommendation and the mayor concurs in writing that it is in the best interest of the borough to do so, the borough may reject all bids or proposals submitted for a procurement.

6.16.460 ~~6.16.360~~ **Waiver of irregularities.**

The procurement or contracting officer may waive irregularities in any and all bids or proposals, except that timelines and manual or electronic signature requirements shall not be waived. (Ord. 13-11, 2013; Ord. 03-08 § 1, 2003)

6.16.470 ~~6.16.370~~ **Local bidder preference.**

All evaluations of bids or proposals based on price shall be made after a local bidder preference of five percent has been applied. In this section, "local bidder" means a business or firm who:

- A. Holds a current state of Alaska business license; ~~and is a sole proprietorship, and the proprietor is a resident of the borough; or, is a partnership, and at least one of the partners is a resident of the borough; or, is incorporated under the laws of the state of Alaska and whose corporate headquarters are located within the borough; and~~
- B. Submits a bid or proposal for supplies, services or construction under ~~that~~the name that appears on the firm's current business license; ~~and~~
- C. Has maintained a place of business within the borough, which is the primary place of business staffed by the bidder or an employee of the bidder for a period of six months immediately preceding the date of the bid; and
- D. ~~—If a joint venture, is composed entirely of venturers that qualify under subsections (A) through (C) of this section.~~ Not less than 40% of the ownership of a bidder is held directly or indirectly by a natural person or persons who reside in the borough. (Ord. 13-11, 2013; Ord. 03-08 § 1, 2003)

6.16.480. Evaluation Committee.

A. The procurement officer shall determine the composition for an evaluation committee in each solicitation for bids or request for proposals. Whenever practicable, the appropriate assembly committee chair or the chair's designee shall participate on the evaluation committee.

B. The procurement officer is responsible for ensuring that no member of a procurement evaluation committee has a conflict of interest as defined in Chapter 2.36. (Ord. 13-11, 2013)

Article V. Definitions

6.16.500 Definitions.

As used in this chapter:

"Construction" means the process of building, altering, repairing, maintaining, improving or demolishing a public highway, structure, building or other public improvement of any kind to real property, and includes services related to planning and design required for the construction;

"Contract" means all types of borough agreements, regardless of what they may be called, for the procurement of supplies, services or construction;

"Contract amendment," means any change in the terms of a contract accomplished by agreement of the parties, including change orders;

"Professional services" means those advisory, consulting, legal, financial, architectural, engineering, research or developmental services that involve the exercise of discretion and independent judgment together with an advanced or specialized knowledge, including cultural and traditional knowledge, or expertise or training gained by formal studies or experience;

"Services" means the furnishing of labor, time or effort by a contractor, not involving the delivery of a tangible end product other than reports that are incidental to the required performance; however, employment agreements and collective bargaining agreements are not contracts for services; and

"Supplies" means any tangible personal property. (Ord. 13-11, 2013; Ord. 03-08 § 1, 2003

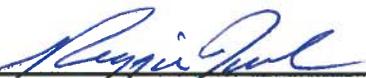
Section 2: This Code Ordinance shall be effective immediately.

PASSED AND ADOPTED THIS 28th DAY OF January 2014.



Walter G. Sampson, Assembly President

PASSED AND APPROVED THIS 28th DAY OF January 2014.



Reggie Joule, Mayor

SIGNED AND ATTESTED TO THIS 28th DAY OF January 2014.



Stella Atoruk, Acting Borough Clerk

First Reading: December 3, 2013
Second Reading: January 28, 2014

