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## **Chapter 3.04**

### **Capital Improvement Fund**

Sections:

- 3.04.010 Established
- 3.04.020 Source of funds

#### **3.04.010 Established.**

There is established a fund to be known as the capital improvement fund pursuant to the provisions of Article VII, Part III, Section 27 of the Charter of the city. (Ord. 421 §1, 1974)

#### **3.04.020 Source of funds.**

The excess, unbudgeted funds of the city for the year 1974 are transferred to the capital improvement fund for the payment of sewer, water and other capital improvements made by the city during the year 1974. Any funds so transferred may be used for the purposes set forth in this chapter in any year in which payment for the same shall be due and payable. From and after the year 1974, there shall be budgeted in the annual appropriations ordinance of the city such funds as the city council shall deem necessary to be placed in the capital improvement fund. (Ord. 421 §2, 1974)

## **Chapter 3.06**

### **Public Utilities' Depreciation and Obsolescence Accounts**

Sections:

- 3.06.010 Established
- 3.06.020 Excess cash to be allocated to accounts

#### **3.06.010 Established.**

Depreciation and obsolescence investment accounts are established for each utility operated by the city, including water, wastewater and refuse. (Ord. 757 §4 (part), 1990)

#### **3.06.020 Excess cash to be allocated to accounts.**

For the year 1989 and thereafter, excess cash remaining in an enterprise fund at year end shall be retained in the fund from which it was generated and allocated to the depreciation and obsolescence investment account; provided, however, that such allocation does not reduce working capital in the enterprise fund to zero or below. (Ord. 757 §4 (part), 1990)

## **Chapter 3.08**

### **Purchasing**

Sections:

- 3.08.010 Definitions
- 3.08.020 Purchasing agent; duties

- 3.08.030 Authorizations required
- 3.08.040 Formal competitive bidding
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- 3.08.100 Disposal of city-owned property

**3.08.010 Definitions.**

For the purposes of this chapter, the words set out in this section shall have the following meanings:

A. *Supplies* includes all supplies, materials and equipment procured by the city or any of its departments or agencies.

B. *Service contracts* covers agreements and contracts for maintenance and repair on or rental of equipment of machinery, but excludes professional service contracts.

C. *Construction contracts* includes contracts for construction installation, major maintenance or repair of public buildings, facilities or works.

D. *Professional and technical contracts* are specialized design management, consulting or similar service contracts including but not limited to:

1. Engineering services;
2. Architectural and design services;
3. Materials testing services;
4. Legal, medical and insurance services;
5. Appraisal services;
6. Consulting services;
7. Accounting services; and
8. Court reporting services. (Ord. 542 §1, 1980)

**3.08.020 Purchasing agent; duties.**

A. *Duties of Purchasing Agent.* The responsibilities of the purchasing agent shall be in accordance with Article VII, Part IV of the city's Charter. The purchasing agent shall perform all duties required by state statutes and the city's Charter, and shall be responsible for the centralized control of the purchasing of supplies. The purchasing agent shall maintain lists of prospective vendors or bidders by the type of supplies, services or construction work. Applications shall be actively solicited, accepted and processed and qualified applicants placed on such lists at any time.

B. *Purchasing and Contracting Procedures.* All purchasing and contracting shall be

accomplished in the best interests of the city.

1. Whenever feasible, purchasing shall be done in bulk in order to take full advantage of discounts. Departments shall be responsible for anticipating needs in a timely fashion in order to consolidate and expedite procurement of the same type of supplies or construction contracts.

2. City purchasing or contracting shall be performed so as to secure for the city the highest quality in supplies and contractual services at the least expense. Payments to vendors or contractors shall be expedited whenever possible in order to realize discounts and enhance the city's reputation as a responsible customer.

3. Full and open competition shall be encouraged in bidding for supplies or construction contracts and uniform bidding shall be discouraged. Specifications, bidding procedures, forms and contract terms shall be simplified as much as possible in order to encourage participation in bidding.

4. Vendors or contractors who perform unsatisfactorily or default on terms of their bid may be declared irresponsible bidders and be disqualified from receiving any business from the city for a stated period of time. No vendor or contractor shall be declared an irresponsible bidder until an opinion regarding the same has been obtained from the city attorney's office.

5. Notwithstanding any provision to the contrary, the provisions of this chapter shall not be applicable to the leasing, rental or acquiring of real property, including improvements thereon. (Ord. 542 §2, 1980)

### **3.08.030 Authorizations required.**

No purchase shall be made unless said purchase is authorized by the proper department head, or his or her designated and authorized representative, or by the city council. No single purchase for goods exceeding one hundred dollars (\$100.00) shall be made without a purchase order signed by the purchasing agent. No purchase of equipment or services shall be made until the finance department certifies that a sufficient unencumbered balance exists in the appropriate department's budget. (Ord. 542 §3, 1980)

### **3.08.040 Formal competitive bidding.**

All supplies, service contracts other than professional service contracts, and construction contracts, except as otherwise provided in this chapter, with an estimated cost in excess of two thousand five hundred dollars (\$2,500.00), shall be awarded through formal written bid procedures. After due notice inviting proposals, purchase orders and contracts shall be awarded to the lowest responsible bidder.

A. Bid Procedure for the Purchasing of Supplies and Equipment with an Estimated Cost Exceeding Two Thousand Five Hundred Dollars (\$2,500.00).

1. Notice inviting bids shall be published at least three (3) times in an area newspaper, in the ten (10) days preceding the public bid opening. Other publications of various types may be utilized as deemed necessary in addition to the required publication. Notice shall include a general description of the supplies or general services to be purchased or sold, or the facilities to be constructed, where bid specifications and forms may be secured, deadline for submission of bids, and time and place for opening bids.

2. When deemed necessary by the city, bid bonds or deposits may be required. A bid bond shall be required for any bid in excess of one hundred thousand dollars (\$100,000.00).

B. Bid Procedure for Construction Contracts (as defined by Subsection C of Section 3.08.010).

1. Notice inviting bids: Same as set forth in subdivision 1 of subsection A of this section.

2. Bid deposits: Same as set forth in subdivision 2 of subsection A of this section.

3. Performance bonds: A bond for the proper performance of any contract may be waived, unless specifically required. The form and sufficiency of a bond shall be subject to the approval of the city attorney.

a. A performance bond shall be required of any person, company, firm or corporation entering into a contract with the city for the construction of any public building or the prosecution or completion of any public works in excess of fifty thousand dollars (\$50,000.00).

4. Lien waivers: All persons, companies, firms or corporations entering into contracts with the city in excess of ten thousand dollars (\$10,000.00) shall be required to provide to the city lien waivers for that project, prior to final payment. In addition, the amount of retainage to be held by the city for all projects in excess of fifty thousand dollars (\$50,000.00) shall be ten percent (10%) of the contract amount. For those contracts of less than fifty thousand dollars (\$50,000.00), the retainage amount shall be equal to five percent (5%) of the contract amount. Retainage amount shall be paid only upon successful completion of the contract.

C. Bid Procedure for Professional and Technical Service Contracts.

1. At the option of the city, professional and technical services can be obtained in the following manner:

a. Selection of a firm or firms after entertaining proposals for services. Said proposals shall be made at a city council meeting and only after a request for proposal has been solicited from the firm in question by the city; or

b. Selection of a firm or firms based on past performance and service to the city which has been satisfactory. Such selection shall be made at a council meeting after the proposed contract for services has obtained the approval of the city attorney and the city council. (Ord. 542 §4, 1980)

**3.08.050 Bid opening.**

A. Sealed Bids shall be submitted sealed and shall be identified as bids on the envelope.

B. Opening. Bids shall be opened in public at the time and place stated in the public notice, unless all bidders are notified of a change by written addendum. (Ord. 542 §5, 1980)

### **3.08.060 Rejection of bids.**

City staff may recommend to the city council the rejection of all bids, parts of bids, or all for any one (1) or more supplies or construction projects included in a proposed contract when the public interest will be served thereby. (Ord. 542 §6, 1980)

### **3.08.070 Award of contract.**

Contracts for purchase of supplies or construction work shall be awarded to the lowest responsible bidder. In determining the lowest responsible bidder, in addition to price, the city council shall consider:

A. The ability, capacity and skill of the bidder to perform the contract or furnish the supplies required;

B. Whether the bidder can perform the contract or furnish the supplies promptly, or within the time specified, without delay or interference;

C. The character, integrity, reputation, judgment, experience and efficiency of the bidder;

D. The quality of performance on previous contracts;

E. Previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;

F. Sufficiency of financial resources and ability of the bidder to perform the contract or furnish the supplies;

G. The quality, availability and adaptability of supplies or contractual services to the particular use required;

H. The ability of the bidder to provide future maintenance and service; and

I. The number and scope of conditions attached to the bid. (Ord. 542 §7, 1980)

### **3.08.080 Award to other than lowest bidder.**

A. When it appears appropriate not to make the award to the lowest bidder or special and unusual circumstances exist, a full and complete statement of the reasons for the recommendation shall be prepared by the city attorney and filed with the papers relating to the transaction. No award to a person, firm or corporation who is other than the lowest bidder shall be made until a legal opinion regarding the same is obtained from the city attorney's office.

B. Tie Bids. The bids shall be awarded by drawing lots in public, except that if bids received are for the same total amount or unit price and the quality and service, as described in Section 3.08.070 are equal, the contract shall be awarded to a local bidder. (Ord. 542 §8, 1980)

### **3.08.090 Informal competitive bidding.**

A. Contracts for supplies, construction and maintenance may be accomplished in the open market through informal competitive bidding procedures under either of the following circumstances:

1. The estimated cost is less than twenty-five hundred dollars (\$2,500.00); or

2. Market conditions or special circumstances necessitate that informal bidding procedures be used or that the following conditions apply:

- a. Standardization of parts, modules, accessories or additions will minimize excessive inventory or maintain compatibility with existing furnishings or installations.
- b. Used, discontinued or otherwise unique equipment or supplies become available or are offered only for a limited time and may be acquired at considerably below the cost of similar new or regular items.
- c. Closer location, more advantageous time allowances or similar variable factors can reduce the total cost of the product or service.
- d. It is not feasible to prepare definite, certain and precise written specifications.
- e. Formal, competitive bidding procedures have failed to provide sufficient responsible bidders.
- f. The city has been obligated by past annexation or other agreements to enter into a contract with only one (1) principal.
- g. A vendor offers to extend an existing contract under the same conditions and at the same lower price, and such extension is in the best interest of the city.
- h. It is to the city's advantage to obtain parts, repair or service on existing equipment from local factory authorized dealer or distributor.
- i. Supplies are perishable or cannot be purchased on ordinary procedures because of imminent spoilage or decay.

B. Informal bidding procedures shall, whenever possible, be based upon at least three (3) competitive bids and shall be awarded to the lowest responsible bidder in accordance with criteria set forth in this section. Solicitation for bids may be made orally or in writing. (Ord. 542 §9, 1980)

### **3.08.100 Disposal of city-owned property.**

All sales of obsolete or unusable property with an estimated cumulative value in excess of one hundred dollars (\$100.00) shall be through formal written bid, or by public auction, to the highest bidder, after due notice inviting proposals. (Ord. 542 §10, 1980)

## **Chapter 3.10**

### **Transfer of Real Property**

Sections:

- 3.10.010 Transfer of water, sewer or other utility property
- 3.10.020 Sale or transfer of other city-owned real property
- 3.10.030 Lease of real property
- 3.10.040 Intergovernmental transfers of property
- 3.10.050 Method of marketing real property
- 3.10.060 Appraisal, survey and title work
- 3.10.070 Purchase of real property

### **3.10.010 Transfer of water, sewer or other utility property.**

The sale, lease or disposition of water, sewer or other utility property shall be authorized by a vote of the electors as required by Article III, Section 2(3)(f) of the Charter. An election shall not be necessary for real property which is not in use or has been abandoned for use as part of the water, sewer or other utility plants or systems. Upon a finding by the city council of nonuse or abandonment, such property shall be authorized for sale, lease or other transfer by ordinance. (Ord. 897 §1, 2001)

### **3.10.020 Sale or transfer of other city-owned real property.**

The city council shall authorize the sale or transfer of all other real property by ordinance. Where feasible, the city council shall first pass a resolution or motion stating the intent to sell real property, designating the method of marketing of the property and further instructing staff as how to proceed. Prior to closing of the sale of real property, the city council shall authorize the sale or transfer by nonemergency ordinance. Any contract to sell real property shall be conditioned upon authorization by ordinance of the sale and shall be voidable by the city until the ordinance is finally passed. (Ord. 897 §1, 2001)

### **3.10.030 Lease of real property.**

The city council may authorize the lease of real property by motion or resolution, except for the lease of water or sewer utility property required by Charter and Section 3.10.010, to be approved by vote of the electors. (Ord. 897 §1, 2001)

### **3.10.040 Intergovernmental transfers of property.**

The city may enter into exchanges or otherwise transfer real property to another branch of local, state or federal government when such a transfer is in the best interest of the city or for the public good. Any intergovernmental agreement describing the transfer shall be approved by ordinance. This section shall not apply to water, sewer or other utility property which can only be transferred after authorization by vote of the electors pursuant to Section 3.10.010. (Ord. 897 §1, 2001)

### **3.10.050 Method of marketing real property.**

The city council shall determine how to offer city-owned real property for sale. The city council shall choose a method which allows for adequate notice to the public and which is likely to achieve a greater return to the city. The city council may choose to market the property by public auction or bid, to list the real property with a real estate broker or some other method. (Ord. 897 §1, 2001)

### **3.10.060 Appraisal, survey and title work.**

The staff shall obtain an appraisal, a survey of the property and a title commitment prior to the sale of any real property under this Chapter. (Ord. 897 §1, 2001)

### **3.10.070 Purchase of real property.**

The purchase of real property shall be authorized by resolution after the staff has completed due diligence in obtaining an appraisal, survey and title commitment. (Ord. 897 §1, 2001)

## Chapter 3.12

### Utility Business and Occupation Tax

#### Sections:

- 3.12.010 Purpose
- 3.12.020 Utilities defined
- 3.12.030 Levy and schedule
- 3.12.040 Dates payable
- 3.12.050 Filing of gross figure
- 3.12.060 Failure to pay
- 3.12.070 Penalty clause
- 3.12.080 Inspection of records
- 3.12.090 Successors
- 3.12.100 Local purpose

#### **3.12.010 Purpose.**

The city council finds, determines and declares that considering the nature of the utility businesses and occupations, as defined in this chapter, and the relation of such business to the municipal welfare, as well as the relation thereof to the expenditures required of the city and all other matters proper to be considered thereto, the classification of such businesses and occupations as separate businesses and occupations is reasonable, proper, uniform and nondiscriminatory and that the amount of tax imposed by this chapter is reasonable, proper, uniform and nondiscriminatory and necessary for a just and proper distribution of tax burdens within the city. (Ord. 663 §1, 1985)

#### **3.12.020 Utilities defined.**

The utility businesses and occupations subject to this chapter shall be those utilities defined as public utilities by the laws of the state, except for utilities specifically excluded in this chapter. (Ord. 663 §2, 1985)

#### **3.12.030 Levy and schedule.**

There is levied on and against all utility companies, except as excluded in this chapter, maintaining facilities and carrying on functions and operations within the city, a tax on the business and occupation of installing, maintaining and operating such utility within the city, and of supply services to the inhabitants of the city. The amount of the tax levied shall be a fixed sum equal to three percent (3%) of the gross revenues received by such utility for the calendar year 1985 arising from the supplying, furnishing, distributing and selling of local exchange telephone service, artificial or natural gas, electricity or electrical energy, and any other utility service defined under Section 3.12.020 of this chapter as of December 31, 1985. (Ord. 663 §3, 1985)

#### **3.12.040 Dates payable.**

The tax shall be due on the first day of July of each year, commencing with the year 1986, for the preceding calendar year. The tax shall become delinquent thirty (30) days after such tax becomes due. (Ord. 663 §4, 1985)

### **3.12.050 Filing of gross figure.**

For the purpose of ascertaining the fixed amount of tax to be paid as required by this chapter, it shall be the duty of such corporations, and the president, secretary and treasurer thereof, or such of them as shall reside in this state or city, or, if neither of such officers resides in the state or city, thereof the manager or officer or agent of such corporation having general control, management or supervision of the business within the state or city, to transmit a statement, under oath, to the city clerk of the gross figure for the calendar year 1985, as prescribed in Section 3.12.030 of this chapter, at the time of the payment of the first annual tax due under the terms of this chapter, and said statement shall become delinquent thirty (30) days after July 1st of each calendar year. (Ord. 663 §5, 1985)

### **3.12.060 Failure to pay.**

If any utility company subject to the provisions of this chapter shall fail to pay the taxes as provided in this chapter, the full amount thereof shall be due and collected from such company, and the tax, together with an addition of eighteen percent (18%) of the amount of taxes due, shall be and is declared to be a debt due and owing from such company to the city. The city attorney, upon the direction of the council, shall commence and prosecute to final judgment and determination, in any court of competent jurisdiction, an action at law to collect the debt. (Ord. 663 §6, 1985)

### **3.12.070 Penalty clause.**

Any corporation or the agent, officer or manager of any public utility covered by the terms of this chapter that shall fail, neglect or refuse to file the annual statement for the year 1985 as required by the provisions of Section 3.12.050 of this chapter or to pay the tax imposed pursuant to the provisions of Section 3.12.030 of this chapter shall, upon conviction, be punished by a fine of three hundred dollars (\$300.00) or by imprisonment of not less than ten (10) days nor more than ninety (90) days or by both such fine and imprisonment; provided, however, that each day after the failure to file the annual statement as provided in this chapter, after the same has become delinquent, or failure to pay the taxes as in this chapter, shall constitute a separate and distinct offense. (Ord. 663 §7, 1985)

### **3.12.080 Inspection of records.**

The city, its officers, agents or representatives shall have the right at all reasonable hours and times to examine the books and records of such corporations and to make copies of the entries or contents thereof relating to the annual income of such utility and/or corporation for the year 1985. (Ord. 663 §8, 1985)

### **3.12.090 Successors.**

The provisions of this chapter shall apply to the successors and assignees of the companies as set out in Section 3.12.020 of this chapter and to any and all corporations, partnerships, persons or others furnishing and supplying, operating, engaging in or carrying on any business of the same nature as set out in Section 3.12.020 of this chapter. (Ord. 663 §9, 1985)

### **3.12.100 Local purpose.**

The tax provided in this chapter is upon occupations and businesses in the performance of local functions and is not a tax upon those functions relating to interstate commerce. (Ord. 663 §11, 1985)

## Chapter 3.16

### SALES TAX

#### Sections:

- 3.16.010 Imposition; amount
- 3.16.020 Applicability and exemptions
- 3.16.030 Credit for sales or use taxes previously paid
- 3.16.040 Calculations
- 3.16.045 Expenses of collection and remittance
- 3.16.050 Collection, administration and enforcement
- 3.16.060 Effective date

#### **3.16.010 Imposition; amount.**

A. There is imposed upon all retail sales of tangible personal property and upon furnishing those services taxable by the state, pursuant to Section 39-26-104, C.R.S., a tax equal to two and one-quarter percent (2¼%) of the gross receipts from such sales or services. Gross receipts shall include delivery charges when such charges are subject to the state sales and use tax imposed by Article 26 of Title 39, C.R.S., regardless of the place to which delivery is made.

B. For the purposes of this chapter, all retail sales shall be considered consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his or her agent to a destination outside the limits of the city or to a common carrier for delivery to a destination outside the limits of the city.

C. If a retailer has no permanent place of business within the city or has more than one (1) place of business, the place at which a retail sale is consummated for the purposes of imposing the sales tax created by this chapter shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by the rules and regulations promulgated by the Colorado Department of Revenue. (Ord. 889 §1, 2000; Ord. 774 §4, 1990; Ord. 674 §1, 1986)

#### **3.16.020 Applicability and exemptions.**

A. The tangible personal property and services taxable pursuant to this chapter shall be the same as those taxable pursuant to Section 39-26-104, C.R.S., and subject to the same exemptions as those specified in Section 39-26-114, C.R.S., except for the exemption allowed by Section 39-26-114(11), C.R.S., for the purchases of machinery or machine tools, and except for the exemption of sales and purchases of those items included in Section 39-26-114(1)(a)(XXI), C.R.S., and except for the exemption of sales of food as specified in Section 39-26-114(1)(a)(XX), C.R.S.

B. No sales tax shall apply to the sale of construction and building materials, as those terms are used in Section 29-2-109, C.R.S., if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the city evidencing that a local use tax has been paid or is required to be paid. Likewise, notwithstanding any other provisions of law, no sales tax shall apply to the sale of construction and building materials, as those terms are used in Section 29-2-109, C.R.S., if such materials are delivered by the retailer or his or her agent to a site within the limits of the city, and if a use tax has been previously paid by the retailer and collected by the city with respect to those materials. (Ord. 674 §2, 1986)

### **3.16.030 Credit for sales or use taxes previously paid.**

The sales tax shall not fully apply to the sale of tangible personal property at retail or the furnishing of taxable services if the underlying transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule city, town or home rule city and county. A credit shall be granted against the sales tax imposed by this chapter with respect to such transaction in an amount equal to the lawfully imposed local sales or use tax previously paid by the purchaser or user to such other statutory or home rule city, town or home rule city and county. The amount of the credit shall not exceed the amount of the sales tax imposed by this chapter. (Ord. 674 §3, 1986)

### **3.16.040 Calculation.**

The calculation of the sales tax by retail merchants shall be in accordance with schedules set forth in the rules and regulations promulgated by the Colorado Department of Revenue. (Ord. 674, §4, 1986)

### **3.16.045 Expenses of collection and remittance.**

Every retailer or vendor shall be liable and responsible for the collection and remittance of the sales tax herein imposed, less three and one-third percent ( $3\frac{1}{3}\%$ ) of the sum so remitted to cover the vendor's expense in collecting and remitting said tax; but, if any vendor is delinquent in remitting said tax, the vendor shall not be allowed to retain any amounts to cover his or her collection expenses. (Ord. 784 §4, 1991)

### **3.16.050 Collection, administration and enforcement.**

The collection, administration and enforcement of this sales tax shall be performed by the Director of Revenue of the state in the same manner and with the same authority as the collection, administration and enforcement of the Colorado State Sales Tax. For the purposes of collection, administration and enforcement of this chapter, the provisions of Article 26 of Title 30, C.R.S., and all rules and regulations promulgated by the Director of Revenue, shall apply and are incorporated into this chapter. (Ord. 674 §5, 1986)

### **3.16.060 Effective date.**

The tax rate changes established by election on April 6, 1999, and adopted by Ordinance No. 889 (2000) shall take effect on December 1, 2000. (Ord. 889 §2, 2000; Ord. 774 §6, 1990)