

**CITY OF SOUTH TUCSON, ARIZONA  
ORDINANCE NO 09-02**

**RELATING TO PROCUREMENT; AMENDING THE CITY OF SOUTH TUCSON, ARIZONA CODE, CHAPTER 28, SECTIONS 28- 20(3); 20-21; AND 28-23, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the South Tucson Procurement Code was adopted pursuant to Ordinance 06-07 and HUD regulations and 24 CFR Section 85.36 require procurement methods that need to be incorporated into the Procurement Code; and

**WHEREAS**, the City of South Tucson desires to amend the Procurement Code to incorporate HUD regulations and 24 CFR Section 85.36 procurement requirements; and

**WHEREAS**, it is necessary for the preservation of the peace, health, and safety of the City of South Tucson, Arizona that this Ordinance become immediately effective, an emergency is hereby declared to exist and this Ordinance shall be effective immediately upon its passage and adoption.

**BE IT ORDAINED** BY THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA, AS FOLLOWS:

**SECTION 1:** The South Tucson City Code, Chapter 28, Sections 28-20(3); 28-21 and 28-23 are hereby amended, to read as follows:

**Sec. 28-20: Small Purchases.**

Sec. 28-20(3): Small Purchases for Municipal purchases under \$5,000.00 shall be used and authorized by the City Manager pursuant to adopted procedures. Small purchase between \$2,000 and \$5,000 require no less than three quotations to be submitted before the purchase is made. Procurement methods under HUD Procurement Handbook and 24CFR85.36 (d) (1) are those relatively simple and informal procurement methods for securing services, supplies or other property that do not cost more than the simplified acquisition threshold fixed by 41 U.S.C. 403(11) (currently set at \$100,000).

The STHA shall follow "Buy American" requirements of section 1605 of the Recovery Act and use only iron, steel and manufactured goods produced in the United State in their projects.

### **Sec. 28-21: Sole Source Procurement.**

A contract may be awarded without competition when the City Manager determines in writing, after conducting a good faith review of available sources, that there is only one source for the required material, service, or construction item. The using agency, department or entity requesting sole source procurement shall provide written evidence to support a sole source determination. The City Manager may require that negotiations be conducted as to price, delivery, and terms. The City Manager may require the submission of cost or pricing data in connection with an award under this section. Sole source procurement shall be avoided, except when no reasonable alternative sources exist. A record of sole source procurements shall be maintained as a public record. Procurement methods under HUD Procurement Handbook and 24CFR85.36 (d) (4) for procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, and competition is determined inadequate. Such procurement may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and requires HUD prior approval.

The STHA shall follow "Buy American" requirements of section 1605 of the Recovery Act and use only iron, steel and manufactured goods produced in the United State in their projects.

### **Sec. 28-23: Special Procurements.**

Notwithstanding any other provisions of this Chapter, the City Manager or his designee may make procurements above the small purchase amount specified in Section 28-20 when, due to unusual or special circumstances, it would be in the best interest of the City to accomplish the procurement without compliance with Sections 28-17 (Competitive Sealed Bidding), 28-18 (Competitive Sealed Proposals), 28-49 (Procurement of Professional Design Services), or 28-50 (Procurement of Construction Services). Any special procurement under this Section shall be limited to those materials, services, or construction necessary to satisfy the City's need and shall be made with sound fiscal discretion. A written determination by the City Manager of the basis for the special procurement and for the selection of the particular contractor shall be included in the contract file. The determination and the award shall be made in accordance with internal departmental procedures ensuring that the procurement is in the public interest, fair, honest, prudent and a wise exercise of discretion. Procurement under HUD Procurement Handbook and 24CFR85.36 for procurement by noncompetitive methods is procurement done without a sealed bid. Such procurement may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and requires HUD prior approval.

The STHA shall follow "Buy American" requirements of section 1605 of the Recovery Act and use only iron, steel and manufactured goods produced in the United State in their projects.

**SECTION 2:** The sections and/or sub-sections of Chapter 28 that have been amended herein serve to repeal the former sections or sub-sections. All other sections and sub-sections of Chapter 28 that have not been amended herein shall remain in full force and effect as they currently exist.


**SECTION 3:** If any provision of this Ordinance or the Application thereof to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications of this Ordinance, which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

**SECTION 4:** The various City officers and employees are authorized and directed to publish this Ordinance as required by law and to perform all acts necessary or desirable to give effect to this Ordinance.

**SECTION 5:** An emergency is hereby declared to exist and this Ordinance shall be effective immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED BY THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA, this 17<sup>th</sup> day of August, 2009

APPROVED/EXECUTED

  
\_\_\_\_\_  
Mayor, Jennifer Eckstrom

ATTEST:

  
\_\_\_\_\_  
Interim City Clerk, Veronica B. Moreno

APPROVED AS TO FORM:

  
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City Attorney, Hector M. Figueroa, Esq.