

CHARTER RESOLUTION NO. 68

PURCHASING AND CONTRACTING PROCEDURES

Effective: April 10, 2017

A CHARTER RESOLUTION OF SEDGWICK COUNTY, KANSAS, PROVIDING THAT K.S.A. 19-260a AND 19-260b DO NOT APPLY TO SAID COUNTY AND EXEMPTING SAID COUNTY THEREFROM AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS UPON THE SAME SUBJECT; AND PROVIDING THAT SAID COUNTY PURCHASE GOODS AND SERVICES, AND CONTRACT FOR GOODS AND SERVICES PURSUANT TO THE PROVISIONS HEREIN; AND REPEALING CHARTER RESOLUTION NO. 65.

SECTION I. INTRODUCTION AND GENERAL INFORMATION

1.1 Purpose. Pursuant to K.S.A. 19-260a and 19-260b, all Kansas counties have the option of creating for themselves specific purchasing and contracting policies and procedures. The purpose of this document is to formalize and outline those purchasing and contracting policies and procedures adopted by Sedgwick County. The provisions of this Charter Resolution shall replace any previous purchasing and/or contracting policies and procedures. If any portion of this Charter Resolution is, for any reason, determined to be invalid by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such determination shall not affect the validity of the remaining portions of this Charter Resolution.

1.2 Application. Regulations and procedures set forth in this Charter Resolution apply to all purchases made by Sedgwick County of any goods, materials, equipment, construction and/or services without regard to the funding source used. It also applies to those situations wherein Sedgwick County is providing goods and/or services. All purchases must be for the use or benefit of Sedgwick County. Such determination shall be made by the Purchasing Director, the County Manager and the Board of Sedgwick County Commissioners.

An employee's failure to comply with the policies and procedures set forth herein may result in disciplinary action(s), up to and including termination, in accordance with Sedgwick County's Personnel Policies.

1.3 Definitions. Whenever they appear in this Charter Resolution, certain terms have specific definitions, as set forth in Appendix A.

1.4 Adoption of Procedures. Pursuant to and in conjunction with this Charter Resolution, the Purchasing Director may adopt procedures governing the purchase of all goods and services for Sedgwick County and for the Board of Bids and Contracts. Any procedures promulgated by the Purchasing Director shall be consistent with the provisions of this Charter Resolution.

1.5 Execution of Contracts. Any and all contracts, except for Purchase Orders, entered into and executed under this Charter Resolution shall be so executed in three (3) copies, an **original** of which

shall be filed with the County Clerk, with a copy filed with the Purchasing Division, and a copy filed with the vendor.

SECTION II. KEY PLAYERS

2.1 Purchasing Director. The Purchasing Director is responsible for the direction and management of the County's procurement processes and operations. The Director's responsibilities shall include, but not be limited to the following: (1) assist and advise County departments, the County Manager, and the Board of County Commissioners in the administration of, and compliance with, Sedgwick County's purchasing policies; (2) supervise the timely procurement of all goods and services in accordance with applicable federal, state and local laws, policies and procedures; (3) ensure compliance with applicable laws and procurement policies by reviewing and monitoring procurements conducted by staff, departments and public agencies; (4) maintain the integrity of the purchasing/contracting process(es); (5) recommend policies to the governing body regarding procurement of goods, supplies and services; (6) ensure purchasing practices are consistent, open and designed to encourage maximum competition and best value for the County; (7) research vendors and market sources to locate the most cost effective and competitive sources of supply; (8) prepare and issue solicitations; (9) receive and evaluate bids and proposals, and assist with contract creation and review; (10) establish working relationships with vendors; (11) conduct performance reviews of vendors and act as liaison between County departments and various suppliers in negotiations and conflict resolution; (12) review and assist in executing contracts, purchase orders, change orders and other documents within delegated authority; (13) formulate strategic plans between departments and vendors to maximize buying power and minimize inefficiencies; (14) continuously review best practices, policies and procedures pertaining to government procurement in order to improve upon and standardize processes; (15) conduct performance evaluations of staff to ensure compliance with applicable laws, policies and procedures; (16) establish and supervise a contract administration system designed to ensure that vendors are performing in accordance with terms and conditions of their contracts; (17) make determinations with regard to bid protests or contract claims; (18) suspend or debar vendors for cause from consideration of award of contracts; (19) execute and negotiate contracts according to delegated authority; and (20) reject bids and proposals when in the best interest of the County.

2.2 Purchasing Division. Except as specified in this Charter Resolution or otherwise authorized by the Purchasing Director, the Purchasing Division is responsible for the purchase or acquisition of commodities, materials, equipment and services (including construction) for all County agencies. All purchases made on behalf of the County shall be made in accordance with all applicable federal, state and local laws and regulations, as well as all modern purchasing principles and techniques. The Purchasing Division's responsibilities include, but are not limited to, the following:

- a. Receiving and processing all requisitions for purchases;
- b. Collaborating with all County divisions with regard to the purchase of goods, supplies, services and construction;
- c. Maintaining a current list of vendors and contractors seeking to or already doing business with Sedgwick County;

- d. Preparing and advertising solicitations and maintaining bid files;
- e. Soliciting bids and making awards for purchases;
- f. Handling complaints, claims, adjustments, etc. pertaining to procurement activities; and
- g. Conducting or participating in procurement education and training programs for County employees.

2.3 Evaluation Team. A team of individuals whose responsibility it is to evaluate all responses to Requests for Proposal. The team shall be appointed by the Purchasing Director and shall be comprised of no less than three (3) members and must include at least one (1) representative from each of: (1) the user division(s), (2) the Purchasing Division, and (3) a pre-selected pool of neutral County employees. As deemed appropriate by the Purchasing Director, the evaluation team also may include individuals not employed by Sedgwick County. The Evaluation Team will meet in person and confer; email communication is insufficient.

2.4 Board of Bids and Contracts. There shall hereby be established a Sedgwick County Board of Bids and Contracts (“Bid Board”), which Board shall be responsible for recommending the purchase of goods and services (including construction) to the Board of County Commissioners and, from time to time, to the County Manager and the Purchasing Director.

The Bid Board shall be comprised of five (5) members, as follows: (1) Deputy County Manager, (2) a Sedgwick County Elected Official (i.e., Sheriff, Register of Deeds, Treasurer, Clerk or District Attorney), (3) one representative from the Eighteenth Judicial District, (4) one staff representative from the office of a Sedgwick County Elected Official (i.e., Sheriff, Register of Deeds, Treasurer, Clerk or District Attorney), and (5) one member appointed by the County Manager. As deemed appropriate by the County Manager, the Bid Board may include individuals not employed by Sedgwick County. The Deputy County Manager shall serve as the Bid Board Chairperson. The Elected Official will serve as the Vice Chairperson. The Elected Official shall be chosen by and serve at the pleasure of those elected officials listed in this section. The staff representative from the office of an Elected Official shall be chosen by and serve at the pleasure of those elected officials listed in this Section and shall not work within the same office as that of the serving Elected Official. Membership on Bid Board, except for the Elected Official and the Elected Official staff representative, shall be reviewed annually by the County Manager.

Each member of the Bid Board shall select an alternate designee to be used in the event that the member is unable to perform his or her duties. All alternates, with the exception of the Elected Official and the staff representative from the office of an Elected Official, shall be approved by the County Manager. The alternate of the Elected Official and the alternate of the staff representative of the Elected Official shall be approved by the other elected officials listed in this Section.

Any member of the Bid Board who has an interest, either direct or indirect, in any matter before the Bid Board must disclose that interest at the start of Bid Board discussions and must subsequently recuse him or herself from all discussions concerning the item and from voting on the item. Examples of “interest,” as that term is used in this section, include, but are not limited to the following: (1) participation on the

evaluation team, and (2) benefit of approval of the item (e.g., the member's department will specifically benefit from approval, or the member will personally benefit from approval of the item).

In the event that recusal results in a tied vote, the Purchasing Director shall inform the Board of County Commissioners at its next regularly scheduled meeting of the tied vote and the Board of County Commissioners shall make the final determination on approval or disapproval of the item.

2.5 Delegation of Authority. Whenever duties or responsibilities are assigned to the County Manager, Purchasing Director or County Counselor herein, the designated official may delegate the duties or responsibilities to a subordinate as he or she sees fit.

SECTION III. COMPETITIVE PROCUREMENT

The County will obtain goods and services under a system of competitive procurement. This system allows multiple willing and able firms to compete openly and equally for the opportunity to provide goods or services to the County, while simultaneously providing for maximum competition to affect maximum cost savings and value for tax dollars spent. Unless otherwise authorized by the Board of County Commissioners or this Charter Resolution, open and competitive procurement is required for the purchase of all supplies, materials, equipment and contractual services whose cost is estimated to be greater than or equal to \$10,000.

The Purchasing Director shall make the determination as to: (1) whether a solicitation is made, and (2) if so, what type of solicitation shall be made on behalf of any County agency (e.g., request for proposal, request for bid, request for quote/informal bid, etc).

3.1 Dollar-Amount Thresholds

A. **Purchases of less than \$10,000.** Any non-recurring purchase(s) of less than \$10,000 **in total** may be made without competition on the open market by any County employee upon pre-approval of his or her Division Director. Purchases made pursuant to this provision should not require a contract (other than a Purchase Order); however, if a contract is required, such contract must be obtained through the Contract Approval Process and must be submitted to the County Counselor's Office for approval prior to signing. Contracts entered into under this provision must not exceed one (1) year. Contracts entered into pursuant to this provision shall be signed by the County Manager.

Purchases made pursuant to this provision may also be made using a County purchasing card. Such purchases made using a County purchasing card must be made in accordance with the County's Policy concerning Purchasing Cards.

B. **Purchases between \$10,000 and \$24,999.99.** Subject to any exceptions set forth herein, each purchase in an amount reasonably expected to **equal or exceed \$10,000, but no more than \$24,999.99 in total**, shall be publicly offered to responsible vendors by competitive bid or proposal, unless otherwise excepted by the Purchasing Director pursuant to Section IV below. A purchase order or contract shall be awarded to the bidder submitting the bid or proposal that offers the lowest and best bid (for those purchases covered by K.S.A. 19-214) or the best value selection (for all other purchases) to the County.

For purchases competitively bid pursuant to this section, the Purchasing Director shall make the final determination as to which bidder(s) meets the required threshold (i.e., “lowest and best bid,” or “best value selection”). The Purchasing Director shall have the authority to authorize, enter into, negotiate specific terms and/or sign all purchase orders and/or contracts related to purchases made under this provision, including change orders and/or contract amendments.

- C. **Purchases between \$25,000 and \$49,999.99.** Subject to any exceptions set forth herein, each purchase in an amount reasonably expected to **equal or exceed \$25,000, but no more than \$49,999.99 in total**, shall be publicly offered to responsible vendors by competitive sealed bid or proposal, unless otherwise excepted by the Purchasing Director pursuant to Section IV below. A purchase order or contract shall be awarded to the bidder submitting the bid or proposal that offers the lowest and best bid (for those purchases covered by K.S.A. 19-214) or the best value selection (for all other purchases) to the County. For purchases competitively bid pursuant to this section, the County Manager shall make the final determination as to which bidder(s) meets the required threshold (i.e., “lowest and best bid,” or “best value selection”).

Once approved by the County Manager, the Purchasing Director shall have the authority to authorize, enter into, negotiate specific terms and/or sign all purchase orders and/or contracts related to purchases made under this provision, including change orders and/or contract amendments.

The County Manager may, in his or her sole discretion, direct that purchases subject to this Section 3.1(C) be directed to the Bid Board for either: (1) review and recommendation to the County Manager, (2) review and recommendation to the Board of County Commissioners, or (3) review and final decision.

- D. **Purchases for \$50,000+ (including Professional Services).** Subject to any exceptions set forth herein, each purchase in an amount reasonably expected to equal or exceed \$50,000 in total shall be publicly offered to responsible vendors by competitive sealed bid or proposal, unless otherwise excepted by the Purchasing Director pursuant to Section IV below. A purchase order or contract shall be awarded to the bidder submitting the bid or proposal that offers the lowest and best bid (for those purchases covered by K.S.A. 19-214) or the best value selection (for all other purchases) to the County.

For purchases competitively bid pursuant to this section, the Board of County Commissioners shall make the final determination as to which bidder(s) meets the required threshold (i.e., “lowest and best bid,” or “best value selection”). Approval for purchases made pursuant to this provision shall follow the process set forth below in Section 3.3

Once approved by the Board of County Commissioners, the Purchasing Director shall have the authority to authorize, enter into, negotiate and/or sign all purchase orders and/or contracts related to purchases made under this provision, including change orders and/or contract amendments.

- 3.2 Competition Parameters.** The Purchasing Director has the sole discretion to determine competition parameters, once it has been determined that a purchase must be made through competitive bidding.

- A. Purchases between \$10,000 and \$24,999.99 shall be offered by means of an RFQ/informal bid/proposal process;
- B. Purchases of \$25,000 or more shall be offered by means of a sealed bid/proposal process;
- C. Competitive sealed bids/proposals shall be opened at a time and place as specified in the bid/proposal documents.

3.3 Approval Process(es)

- A. **Request for Proposal.** Purchases advertised via a Request for Proposal (RFP) shall follow the following approval process:
 - 1. The Purchasing Division shall consult with the user division(s) and create the RFP. In drafting the RFP, staff should consider the following items: (1) operational requirements, (2) financial requirements, (3) site preparation requirements, (4) installation and maintenance requirements, (5) expendable goods and parts requirements, (6) schedule of performance, (7) delivery terms, (8) applicable warranties, and (9) any other consideration relevant to the purchase. The RFP must **clearly state** the criteria to be used to evaluate all proposals.
 - 2. The Purchasing Division will publicly advertise the RFP for an appropriate period of time, which may vary based on the type of purchase.
 - 3. Response proposals shall be subject to the following evaluation process:
 - i. All proposal responses must be submitted for review to each member of the Evaluation Team. Each team member will individually and collectively review each proposal response based on a standard checklist, a sample of which can be found in this Charter Resolution as Appendix B. Each Evaluation Team member will score the proposals based on his or her personal evaluation of each proposal. The Evaluation Team will subsequently meet as a group to discuss the scoring. A decision will then be made to either “short list” the most qualified responders for possible interviews and/or further review or to make a recommendation for award.
 - ii. The Evaluation Team shall submit its recommendation to the Purchasing Director who shall, in turn, submit the recommendation of the Evaluation Team to either the County Manager or Bid Board for review at least one (1) week prior to consideration of the recommendation by the County Manager or Bid Board.
 - iii. The Purchasing Director, on behalf of the Evaluation Team, shall make a recommendation to either the County Manager or Bid Board. The Purchasing Director’s recommendation shall be that of the Evaluation Team. Either the County Manager or the Bid Board, after responsible inquiry of the Evaluation Team, may accept the recommendation, reject the recommendation and adopt a new recommendation, or take any other action as appropriate to the circumstance.

4. The Purchasing Director shall present the recommendation of the Bid Board to the Board of County Commissioners. The Board of County Commissioners shall have the authority to take whatever action it deems appropriate under the circumstances.
5. The Purchasing Director shall notify all proposers of the decision and/or shall notify all proposers of the rejection of all proposals.
6. At all times, all members of the Evaluation Team shall be prohibited from engaging in certain types of specified communication regarding RFI, RFB or RFP solicitations. This is used to protect the integrity of the procurement process by shielding it from undue influence prior to the recommendation of contract award.

B. Request for Bid. Purchases advertised via a Request for Bid (RFB) shall follow the following approval process:

1. The Purchasing Division shall consult with the user division(s) to create the RFB. In drafting the RFB, staff should consider the following items: (1) operational requirements, (2) financial requirements, (3) site preparation requirements, (4) installation and maintenance requirements, (5) expendable goods and parts requirements, (6) schedule of performance, (7) delivery terms, (8) applicable warranties, and (9) any other consideration relevant to the purchase.
2. The Purchasing Division will publicly advertise the RFB for an appropriate period of time, which may vary based on the type of purchase.
3. Bid responses shall be reviewed by a representative from the Purchasing Division and the user division(s), who shall subsequently present their recommendation to the Purchasing Director.
4. The Purchasing Director shall present the recommendation to the County Manager or the Bid Board, as set forth in Section 3.3(A)(3)(iii). The County Manager and/or the Bid Board may accept or reject the recommendation in making a final decision.
5. For all construction-related projects administered by Sedgwick County Public Works that involve funding from the Kansas Department of Transportation (KDOT), Sedgwick County Division 100 (“Division 100”), as amended, shall govern the bid process and requirements for such bids. To the extent that this Charter Resolution conflicts with Division 100, Division 100 shall control. However, in all other respects, the terms of this Charter Resolution, including but not limited to the requirements regarding dollar-amount thresholds and decision-making authorities, shall apply to such construction-related projects.

C. Request for Quotation/Informal Bid. Purchases advertised via a Request for Quotation (RFQ) and/or informal bid shall follow the following approval process:

1. The Purchasing Division shall consult with the user division(s) to create the RFQ/request for informal bid. In drafting the RFQ/ informal bid, staff should consider the following items: (1) operational requirements, (2) financial requirements, (3) site preparation requirements, (4) installation and maintenance requirements, (5) expendable goods and parts requirements,

(6) schedule of performance, (7) delivery terms, (8) applicable warranties, and (9) any other consideration relevant to the purchase.

2. The Purchasing Division will send the RFQ/informal solicitation to at least three (3) vendors and will allow an appropriate period of time for response, which may vary based on the type of purchase.
3. Responses shall be reviewed by a representative from the Purchasing Division and the user division(s), who shall subsequently present their recommendation to the Purchasing Director.
4. The Purchasing Director shall make the final determination.

3.4 Authority to Reject Bids. The Purchasing Director shall have the authority, at any time prior to approval of the final decision-maker, to reject any and all bids and/or proposals when rejection is deemed to be in the best interest of Sedgwick County.

In instances where submitted bids and/or proposals exceed the budgeted amount, the Purchasing Director may negotiate with the vendor submitting the lowest and best/best value selection bid and/or proposal in an effort to bring such bids and/or proposals within the budgeted amounts, as long as such negotiations do not change the scope of the original solicitation.

3.5 Cancellation of Solicitation. At any time prior to signing of the purchase order or contract, the Purchasing Director may, in his/her sole discretion, cancel the solicitation and reject all bids and/or proposals, if such action is determined to be in the best interest of the County. Upon such occurrence, the Purchasing Division shall issue a notice to all bidders who submitted a response of the cancellation. The solicitation cannot be cancelled solely to avoid awarding the purchase order or contract to a particular bidder. Upon cancellation of a solicitation, the County will reject all bids and/or proposals submitted in response thereto.

3.6 Authority to Suspend Vendors. The Purchasing Director may issue a written determination to suspend a vendor from doing business with the County pending an investigation to determine whether just cause exists for debarment in accordance with approved operating procedures.

A written notice of the suspension, including a copy of the determination, shall be sent to the suspended vendor. The suspension period will be effective upon issuance of the notice of suspension.

3.7 Authority to Debar Vendors. A vendor may be debarred for any of the following reasons:

- a. Conviction of a criminal offense in relation to obtaining or attempting to obtain a Sedgwick County contract or in the performance of such contract;
- b. Conviction under State of Kansas or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records or receiving stolen property;
- c. Conviction under State of Kansas or federal antitrust statutes;

- d. Failure to perform in accordance with the terms of one or more contracts following notice of such failure, or a history of failure to perform, or of unsatisfactory performance of one or more contracts;
- e. The vendor is currently under debarment by any other governmental entity that is based upon a settlement agreement or a final administrative or judicial determination issued by a federal, state or local government entity.

Following completion of the investigation to determine whether a vendor has engaged in activities that are cause for debarment, the Purchasing Director may debar the vendor for a period of time commensurate with the seriousness of the findings.

A written notice of debarment shall be sent to the vendor. The notice shall:

- a. State the debarment period; and
- b. Inform the debarred vendor that any person(s) representing the debarred vendor during the debarment period may not conduct business with the County and that any solicitation responses received from the debarred vendor during the debarment period shall not be considered.

The debarment period will be effective the date of the written notice being sent to the debarred vendor and all County divisions.

A vendor may appeal a suspension and/or debarment to the County Manager, who, upon appropriate appeal, shall render a final decision as to the vendor's status.

SECTION IV. EXCEPTIONS TO COMPETITIVE BIDDING

With the exception of items A, D and F, below, the following purchases made as exceptions to competitive bidding are still subject to those dollar threshold and approval process procedures set forth in Section 3.1, herein. Purchases made under the following situations may be so made without going through competitive bidding only upon prior approval of the Purchasing Director.

- A. Emergencies.** An emergency exists when there is an imminent threat to life, health or property and there is insufficient time for adhering to the competitive procurement requirements as set forth herein. This emergency purchase procedure will not apply to procurements resulting from poor planning or scheduling. The requesting division must submit, in writing, a request to the Purchasing Director detailing: (1) the division's needs, (2) why the purchase must be procured as an emergency purchase, and (3) how the selected vendor was chosen. If applicable, the written request must include the name of three (3) vendors that the division has used in the past for the procurement of the same or similar goods and/or services. Emergency purchases shall be approved solely by the Purchasing Director and shall not be subject to the provisions of Section III herein.
- B. Public Exigency.** Exists when unexpected or unforeseen events may have economic impact on County business unless immediate action is taken to purchase said goods or services or when,

after advertising for bids, no bids are received and the needs of the County warrant purchasing said goods or services without further delay.

- C. Joint Governmental Services.** Purchases made in cooperation with other city, county, state or federal agencies when it is in the best interest of the County to purchase supplies, services and equipment from contracts and agreement of other governmental agencies or consortiums thereof.
- D. Sheriff's Office Undercover Vehicles.** Sheriff's Office undercover vehicle purchases shall be approved solely by the Purchasing Director and shall not be subject to the provisions of Section III herein.
- E. Insurance.** All purchases made pursuant to this provision shall be recommended by the Risk Manager.
- F. Legal Services.** Services that can only be performed by a licensed attorney (including support staff) in representing and/or advising the Board of County Commissioners and/or any agent or employee of Sedgwick County. All purchases pursuant to this provision shall be approved solely by the County Counselor and shall not be subject to the provisions of Section III herein.
- G. Professional Services.** Services that can only be performed by individuals or firms possessing a certification or license that is mandated by local, state or federal government (i.e., architectural, engineering, investment consulting, accounting, and medical services) (excluding Legal Services).
- H. Sole Source.** Situation in which only one vendor or supplier has the capability to provide the required goods and/or services.
- I. Single Source.** Situation in which there is a need for standardization; compatibility with existing services, materials or equipment; maintenance of warranty; or other factors, even though other competitive sources may be available.
- J. Annual Hardware and Software Maintenance and Support Agreements.** Purchases for annual maintenance and support agreements for computer hardware and/or software. Contracts entered into for purchases made pursuant to this exception may be executed and signed by the Purchasing Director.
- K. Major Equipment Repair.** When, in order to repair major items of equipment, there is a necessity to tear down said equipment prior to any repair and it is not thereafter reasonable to reassemble the piece of equipment in order to gather additional quotes for the repair itself. For purposes of this section, "major items of equipment" means those repairs needed for vehicles, construction and other heavy equipment that go beyond the scope of standard maintenance.

SECTION V. CONTRACT APPROVAL PROCESS

Any contract that has a total spend equal to or less than \$49,999.99 that is **not** the result of the competitive bidding process, or is otherwise so indicated herein is subject to the approval process set forth in this Section.

5.1 Approval Process. Divisions seeking approval for a contract will use the Legistar system as they would an agenda item. When the approval request has completed the Legistar review process, the County Manager will review each requested contract.

Using the Legistar system for contract approval requests follows the same general steps currently used to process regular agenda items. “Contract Request Approval” should be selected as the type of item and the submitter should select the “Contract Request Approval Form” template. Submitters must include all of the information listed in the “Contract Request Approval Form” template so that reviewers and the County Manager are prepared to make an informed decision.

The County Manager shall make a final determination as to the request for contract. In the alternative, the County Manager may refer the request for contract to the Board of Bids and Contracts for review and recommendation to the Board of County Commissioners.

Once the County Manager approves the contract approval request, the request will be sent to the County Counselor’s Office for contract drafting. The County Counselor’s Office will submit a draft contract to the user division(s) for approval. Once approved by the County Counselor’s Office and the user division(s), the user division(s) will submit the contract to the outside party(ies) for review and signature. Upon signature of the outside part(ies), the user division(s) will submit the signed copy to the County Counselor’s Office for signature.

5.2 Signature Authority. All contracts approved through the Contract Approval Process shall be signed by the County Manager.

5.3 Exempt Purchase(s) and/or Contracts. The following purchases and/or contracts are exempt from the Contract Approval Process:

- a. Affiliation agreements with universities or institutes of higher learning
- b. Automatic contract renewals
- c. Emergencies (as that term is defined in Section IV(A) herein)
- d. Legal Services
- e. Insurance

SECTION VI: PARTNERSHIP AGREEMENTS

The County may negotiate and execute contracts for purposes other than the procurement of goods and/or services. For purposes of this Charter Resolution, these contracts shall be referred to as “partnership agreements.” The defining aspect of these partnership agreements is the creation of a mutual benefit and the sharing of risk(s). Examples of such partnership agreements include, but are not limited to, the following types of contracts:

- a. Affiliation agreements
- b. Funding agreements

To ensure compliance with this Charter Resolution, a Division must consult with the Purchasing Division and receive permission from the Purchasing Director prior to beginning negotiations for a partnership agreement to ensure that no aspect of the agreement must be let for competitive bidding. Once approved, the subsequent approval process depends upon the anticipated total spend, if any, of the contract. If the anticipated total spend is from \$0-\$49,999.99, the contract is subject to the following Partnership Agreement Approval Process.

Divisions seeking approval for a partnership agreement will use the Legistar system as they would an agenda item. When the approval request has completed the Legistar review process, the County Manager will review each requested contract.

Using the Legistar system for partnership agreement approval requests follows the same general steps currently used to process regular agenda items. "Partnership Agreement Approval" should be selected as the type of item and the submitter should select the "Partnership Agreement Approval Form" template. Submitters must include all of the information listed in the "Partnership Agreement Approval Form" template so that reviewers and the County Manager are prepared to make an informed decision.

The County Manager shall make a final determination as to the request for partnership agreement.

Once the County Manager approves the partnership agreement approval request, the request will be sent to the County Counselor's Office for drafting. The County Counselor's Office will submit a draft partnership agreement to the user division(s) for approval. Once approved by the County Counselor's Office and the user division(s), the user division(s) will submit the partnership agreement to the outside party(ies) for review and signature. Upon signature of the outside part(ies), the user division(s) will submit the signed copy to the County Counselor's Office for signature.

If the anticipated total spend is expected to be \$50,000.00 or more, the contract does not have to go through the Partnership Agreement Approval Process and instead shall be submitted to the Board of County Commissioners for approval.

Regardless of the approval process, all partnership agreements require a written contract that must be drafted and approved by the County Counselor.

SECTION VII: CONTRACTS FOR SALE OF COUNTY GOODS AND/OR SERVICES

The County may, at times, see fit to enter into contracts whereby the County is providing its goods and/or services to an outside entity. Such transactions require a written contract and approval via the Partnership Agreement Approval Process, as outlined in Section VI herein. This Section does not apply to those items governed by the County's Disposition of Surplus Property Policy.

SECTION VIII. CONTRACT CHANGES

All contracts, regardless of approval process, are subject to the provisions set forth in this section.

8.1 Change Order. A change order is used to (1) authorize the contractor to perform extra work to complete any construction or improvement project that had been awarded under a contract, or (2) increase or decrease the quantities resulting from variations between estimated quantities in a fixed-unit cost contract and the actual quantities.

8.2 Contract Modifications. A contract modification is a formal change to an existing contract. The following are formal changes to an existing contract:

- a. A **contract renewal** awards the contractor an additional contract period upon successful completion of the initial or subsequent contract period. The terms and conditions of a contract renewal may be the same as, or may be appropriately changed from, the terms and conditions of the contract being renewed. A renewed contract is typically, but not always, for the same duration of the contract being renewed. A competitively-procured contract cannot be renewed without rebidding unless the original contract contains a renewal provision. The beginning of the term of a contract renewal must be prior to or the same as the termination date of the contract being renewed.
- b. A **contract extension** is used when additional time is required for the contractor to complete the contract obligations. Typically a contract is extended for a short duration (e.g., 6 months), and the remaining terms and conditions of the contract remain the same and in full force and effect. The beginning of the term of a contract extension must be prior to or the same as the termination date of the contract being extended.
- c. A **contract amendment** is used to increase the maximum funding allocation; change the scope of services; change any of the terms and conditions; or change a contractor's name. Competitively-procured contracts cannot be modified unless such change was provided for in the solicitation and resulting contract.

8.3 Contract Modification Approval. Unless the contract provides for automatic modifications, any contract modification is subject to the following limitations:

- a. The Purchasing Director may approve and sign any and all contract modifications that involve multiple divisions, so long as the cumulative value of the modification(s) does not exceed ten percent (10%) of the original contract cost and/or ten percent (10%) of the original contract term or time of performance. This provision shall apply both to those contracts that were awarded via competitive bidding, or an exemption thereto, and those that were entered into as a result of either the Contract Approval Process or the Partnership Agreement Approval Process.
- b. The Purchasing Director may approve modifications to any contract that is used solely by a single Department or Division provided that:
 - i. The modification does not alter the original intended result of the project in any way;

- ii. The value of all modifications of the contract cumulatively do not exceed six percent (6%) of the original contract price, or \$75,000, whichever is greater;
 - iii. All modifications to the contract cumulatively do not extend by more than ten percent (10%) the contract term or time of performance; and
 - iv. Uncommitted appropriation sufficient to pay any increased cost is available in the budget against which the contract is charged
- c. Any modification(s) that would cause the cumulative total of modification(s) to a contract to exceed the limitations set forth in Section 8.3(a) and (b) shall be submitted to the Bid Board for recommendation, and subsequently to the Board of County Commissioners for approval. Upon approval, the Purchasing Director shall be authorized to sign any and all related documents.
- d. Any change or changes that do not have an effect on time or cost may be approved by the appropriate division director.
- e. Every modification shall be executed in writing. Prior to approval, every modification shall be: (1) reviewed by the Finance Department, an official of which shall affirm by signature that the modification does not cause the project to exceed its project authorization amount; and (2) reviewed by the County Counselor's Office for approval as to proper legal form. The modification shall be signed by the County official authorized to give approval and the authorized official of the vendor.

8.4 Termination of Contract. The termination of any contract at a time other than that specified in the contract must be approved and signed by the County Manager.

SECTION IX: NOTIFICATIONS TO BOARD OF COUNTY COMMISSIONERS

9.1 Manager-Approved Purchases. The Purchasing Director shall, within one (1) week of the date of purchase, notify the Board of County Commissioners of each purchase in excess of \$24,999.99 but not more than \$49,999.99. This notification shall include:

- a. The good(s) and/or service(s) purchased
- b. Amount of purchase
- c. Name of user division
- d. Number of bid/proposals received; and
- e. Any waiver of competitive bidding and an explanation thereof.

9.2 Emergency Purchases. The Purchasing Director shall, within one (1) week of any emergency purchase, notify the Board of County Commissioners in writing of such purchase and the nature of the emergency.

9.3 Annual Maintenance and Support Purchases. The Purchasing Director shall monthly deliver to the Board of County Commissioners a report of all annual maintenance and support contracts executed since the prior report. This report shall include:

- a. The user division

- b. A description of the maintenance and support
- c. The term of the agreement; and
- d. The value of the expenditure.

9.4 Undercover Vehicle Purchases. The Purchasing Director shall notify the Board of County Commissioners of any purchase of undercover vehicles for the Sheriff's Office within one (1) week of acquisition.

9.5 Contract Modifications. The Purchasing Director shall monthly deliver to the Board of County Commissioners a report of all completed contract modifications. This report shall include:

- a. The purpose of the modification
- b. The financial impact of the modification
- c. The cumulative modification(s) total for the project; and
- d. The percentage of the original contract total represented by the cumulative modification(s).

The Purchasing Director, in cooperation with the County Counselor's Office, will also deliver to the Board of County Commissioners any contracts targeted for renewal at least four (4) months prior to a renewal term.

9.6 Contract Terminations. The County Manager will notify the Board of County Commissioners within one (1) business day of all contract terminations.

SECTION X. GENERAL GUIDELINES

10.1 Avoidance of Competition/Split Invoice. No purchase shall be artificially divided to avoid competitive procurement requirements pursuant to this Charter Resolution. A split invoice results when a total purchase of more than \$10,000 is divided into more than one invoice for the same or similar goods or services from the same vendor (or multiple vendors) to avoid obtaining approval by the appropriate decision-making authority, as specified in Section 3.1 herein. When purchases are foreseen to be repetitive to the extent that the total purchase of a specific good or service will exceed \$10,000 within a single fiscal year, or extend over multiple fiscal years, the department must consult the Purchasing Division.

10.2 Total Spend. The total spend of any purchase order or contract is to be determined by multiplying the spend per fiscal year by the total number of fiscal years set forth in the purchase order or contract (i.e., a 3-year contract for services with a spend of \$10,000 per year has a **total spend** of \$30,000). The amount of the total spend must be used to determine whether the purchase needs to be competitively bid.

10.3 Budget Authority. Prior to requesting a purchase (for either competitive bid or non-competitive purchase), **the requesting division(s) must ensure and verify that funds are available for such purchase.**

10.4 Purchase vs. Contract. There is often no difference between a “purchase” and a “contract:” contracts are entered into typically for the sole purpose of making a purchase of something, whether that be goods or services.

10.5 Conflict of Interest. No County official or employee shall make, participate in making or use his or her official position as a County official or employee to influence a county government decision in which he or she knows or has reason to know he or she has any financial interest. Officials and employees should avoid any action which might result in or cause the appearance of: (i) using public office for private gain; (ii) giving preferential treatment to any person and/or vendor; (iii) impeding government efficiency or economy; (iv) losing complete independence or impartiality; (v) making a government decision outside of official channels (as set forth herein or under any governing County policy); or (vi) affecting adversely the confidence of the public in the integrity of County government.

10.6 Protest Procedure. The Purchasing Director shall adopt a separate protest procedure, which may be obtained by contacting the Purchasing Director.

10.7 Use of Federal Funds. In 2014, the Federal Office of Management and Budget issued its Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, commonly known as “Uniform Guidance,” set forth in 2 CFR 200. This Uniform Guidance provides a government-wide framework for grants management and aims to reduce the administrative burden on award recipients while simultaneously guarding against the risk of waste and misuse of Federal funds. Effective January 1, 2017, Sedgwick County is required to and will follow the provisions set forth in the Uniform Guidance for those purchases that are made using any Federal funds.

10.8 Publication. This Charter Resolution shall be published once each week for two consecutive weeks in the official County newspaper.

10.9 Effective Date. This Charter Resolution shall take effect sixty (60) days after final publication unless a sufficient petition for referendum is filed and a referendum held on the resolution pursuant to provisions of K.S.A. 19-101(c), in which case this Charter Resolution shall become effective when approved by a majority of the electors voting thereon.

APPENDIX A

Definitions

Amendment. Any written alteration to an existing document regarding specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract, accomplished by mutual action of the parties to the contract.

Best Bid. The evaluation of the overall bid, considering the quality, price, various elements of the required goods or services and the responsiveness and responsibility of the bidder.

Best Value Selection. A selection based upon objective criteria related to price, features, functions, life-cycle costs and other factors.

Chairman. Chairman of the Sedgwick County Board of County Commissioners.

Change Order. A written order signed by an authorized representative of the County directing the contractor to make changes, which the contract authorizes the County to order without the contractor's consent.

Competition. The effort of two or more vendors to secure the business of a purchaser by the offer of the most favorable terms as to price, quality, promptness of delivery, and/or service, etc.

Competitive Sealed Bidding. A method of procurement that includes the issuance of an RFB, public advertisement of the RFB, public bid opening and announcement of all bids received, evaluation of the bids based on specifications in the RFB, and award of the contract to the lowest and best bidder.

Competitive Sealed Proposal. A method of procurement that includes the issuance of an RFP, public advertisement of the RFP, evaluation of the proposals based on criteria specified in the RFP, and award of the contract to the bidder offering the best value to the County.

Cone of Silence. The prohibition of certain types of specified communication regarding RFI, RFB or RFP solicitations. Used to protect the integrity of the procurement process by shielding it from undue influence prior to the recommendation of contract award.

Construction. Defined as pursuant to K.S.A. 19-214.

Contract. All types of enforceable agreements, regardless of what they may be called, consummating the total legal obligation of the parties that results from the parties' agreement. For purposes of this Charter Resolution, all agreements should be considered a contract, no matter what other name it may be given (e.g., MOU, Letter of Engagement, Agreement, Purchase Order, etc.).

County. The County of Sedgwick, Kansas.

Debarment. The removal of a supplier, for cause, from consideration of a contract award by the County for a period not to exceed five (5) years.

Designee. A duly authorized representative of a person holding a superior position.

Formal Bid. A bid that must be forwarded in a sealed envelope or other means, in conformance with the format prescribed in the solicitation, to be publicly opened and read at a specified time. See "Sealed Bid."

Grant. The furnishing of assistance, whether financial or otherwise, to any vendor to support a program authorized by law. It does not include an award whose primary purpose is to procure an end product, whether in the form of goods, services, or construction.

Informal Bid. An unsealed, competitive offer conveyed by letter, telephone, fax or other means, in accordance with the format prescribed in the solicitation. Informal bids are not publicly opened or read aloud. For purposes of this Charter Resolution, an Informal Bid may also be referred to as a Request for Quotation (“RFQ”).

Invoice. A written request for payment for goods delivered or services rendered under the contract.

May. Denotes permissive language; used when a party is not required to undertake an obligation but is authorized to exercise a right or privilege.

No Bid. A response to the solicitation stating the vendor does not wish to submit a bid.

Non-disclosure. A requirement for confidentiality in regards to information shared between two parties as a necessary part of doing business together.

Non-recurring. A purchase that is anticipated to be a one-time event during the fiscal year. A purchase shall **not** be considered non-recurring if the item and/or service to be purchased is within the scope of a recurring purchase agreement established and maintained in the County’s financial system at the time of purchase.

Non-responsible. A response to a bid or offer from a contractor, business entity or individual that does not have the ability or capability to fully perform the requirements of the bid or offer. A business entity or individual who does not possess the integrity and reliability to assure contractual performance.

Non-responsive. A bid or proposal that does not conform to the essential requirements of the solicitation. Such bid or proposal will not be considered for contract award. The term is used interchangeably in this Charter Resolution with “nonconforming” or “unresponsive.”

Procurement. Buying, purchasing, renting, leasing, or otherwise acquiring any goods, services or construction. It also includes all functions that pertain to obtaining any goods, service, or construction, including a description of the requirements, selection and solicitation of sources, preparation and award of the contract, and all phases of contract administration.

Proposal. An offer made to a Request for Proposals (RFP) as a basis for negotiations for entering into a contract.

Public Advertisement. The distribution or dissemination of information to interested parties using methods that are reasonably available. Such methods will often include, but not be limited to, publication in newspapers of general circulation, electronic or paper mailing lists, and/or web site(s) designated by the County and maintained for that purpose.

Purchase Order. A procurement document issued by the Purchasing Division, in accordance with purchasing policies and procedures, to establish an agreement for the purchase of similar goods or services during a period of twelve (12) months or less.

Request for Bid (RFB). A solicitation document, whether attached or incorporated by reference, utilized for soliciting bids/quotes for specified goods or services.

Request for Information (RFI). A solicitation document, whether attached or incorporated by reference, utilized for soliciting input from interested parties for an upcoming solicitation. Pricing is not requested during this process and no award is made.

Request for Proposals (RFP). A solicitation document, whether attached or incorporated by reference, utilized for soliciting proposals for specified services.

Responsible Bidder. A vendor who has, in all respects, the capacity, resources, competence, and qualifications to fully perform the contract requirements, and the reliability, integrity, reputation and past performance that will assure good faith performance of the contract in a timely manner.

Responsive Bidder. A vendor who meets the applicable legal requirements and conforms to specifications.

Sealed Bid. A bid that must be forwarded to the Purchasing Division in a sealed envelope or other means, in conformance with the prescribed format, to be opened at a specified time. See "Formal Bid."

Services. The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports that are merely incidental to the required performance. This term does not include employment agreements or collective bargaining agreements.

Shall. Mandatory language. This term is used interchangeably with "must" in this document.

Signature. A manual or electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

Specifications. Any description of the physical, functional, or performance characteristics, or of the nature of goods, services or construction to be purchased. It may include, as appropriate, a description of any requirement for inspecting, testing or preparing the goods, services or construction for delivery.

Suspension. The temporary removal of a supplier from consideration of a contract award by the County for a temporary period of up to one (1) year where there is a possible cause for debarment.

APPENDIX B
Evaluation Team Sample Checklist

	Proposal #1	Proposal #2	Proposal #3
Price			
Price methodology			
Responsiveness			
Timeline/Availability			
Financial Resources of Bidder <ul style="list-style-type: none"> • Bonding capacity • Insurance coverage • Working capital 			
Skill and Ability of Bidder (and subcontractors) <ul style="list-style-type: none"> • Previous experience on similar size/type of project • Having met previous standards of workmanship • Forecasting and controlling costs • Meeting contract schedules • Ability to properly sequence work schedules 			
Integrity of Bidder <ul style="list-style-type: none"> • Character and reputation in the industry • Past history of violations/lawsuits/claims • Records of conforming to contract requirements 			
General Considerations <ul style="list-style-type: none"> • Customer service record • Use of programs to encourage minority population • Use of local subcontractors/workforce • Prevailing wage/project labor agreements • Use of safety programs to avoid accidents and delays • Environmental and recycling efforts 			
Considerations Specific to RFP/RFB			

Commissioners present and voting were:

DAVID M. UNRUH	<u>Aye</u>
MICHAEL B. O'DONNELL, II	<u>Aye</u>
DAVID T. DENNIS	<u>Aye</u>
RICHARD RANZAU	<u>Aye</u>
JAMES M. HOWELL	<u>Aye</u>

Dated this 18th day of January, 2017.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

ATTEST:

for Karen Arnold
 KELLY B. ARNOLD, County Clerk


David M Unruh
 DAVID M. UNRUH, Chairman
 Commissioner, First District

Michael B. O'Donnell, II
 MICHAEL B. O'DONNELL, II, Chair Pro Tem
 Commissioner, Second District

APPROVED AS TO FORM:

Misha C. Jacob-Warren
 MISHA C. JACOB-WARREN
 Assistant County Counselor

David T. Dennis
 DAVID T. DENNIS
 Commissioner, Third District

Richard Ranzau
 RICHARD RANZAU
 Commissioner, Fourth District

James M. Howell
 JAMES M. HOWELL
 Commissioner, Fifth District