

**TOWN OF WEST SENECA &  
THE WEST SENECA TOWN BAND  
MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding (“MOU”) is made as of October \_\_\_, 2016, by and between the Town of West Seneca (the “Town”), a New York State Municipal Corporation, and The Town of West Seneca Band (the “Band”), an unincorporated association (collectively the “Parties”).

**RECITALS:**

Whereas, the Town offers various resources to recreation groups and its residents to improve quality of life; and

Whereas, although willing, the Band has been unable to operate for the past several years due to its limited resources; and

Whereas, the Town recognizes the benefit of the Band to the local arts community; and

Whereas, the Parties believe that a combination their respective resources and talent will result in a mutually beneficial relationship.

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

- 1.) The Band shall operate under the advice and guidance of the West Seneca Recreation Department.
- 2.) The Band shall be entitled to the benefits conveyed to the Town through agreements to which the Town is a party, including but not limited to: the Town’s liability insurance and licenses for use of content.
- 3.) The Band shall follow the Town’s Procurement Policy (the “Policy”), adopted on July 27, 2015, and readopted at its annual meeting. A copy of the Policy is attached hereto as Exhibit A, and its terms incorporated herein.
- 4.) The Town shall have the right, upon reasonable prior notice, from time to time to inspect the Band’s financial records, to make copies thereof and to check, test, and appraise whether the Band has complied with the terms of the Policy.
- 5.) The Town Recreation Department shall offer the following services: noticing of Band events on social media and process registration for new members.

- 6.) The Band shall perform four (4) concerts annually at the direction of the Town of West Seneca; provided that the Band does not have another performance previously scheduled for that time and date.
- 7.) This terms of this MOU shall be revisited annually. Either Party has the right to sever this relationship upon written notice to the other Party.

TOWN OF WEST SENECA

\_\_\_\_\_  
By: Sheila M. Meegan  
Supervisor

THE TOWN OF WEST SENECA BAND

\_\_\_\_\_  
By: \_\_\_\_\_

PROCUREMENT AND PURCHASING POLICY  
Updated 7/20/15

**Background**

This policy has been developed to ensure that the Town of West Seneca, New York (the "Town") is in compliance with New York State Municipal Law concerning the procurement of goods and services as defined herein.

Pursuant to Section 104-b of the New York State General Municipal Law, each municipal governing body is to adopt a procurement policy for all goods and services which are not required by law to be publicly bid. This ensures that goods and services which are not required by law to be procured pursuant to competitive bidding must be procured in a manner so as to assure the prudent and economical use of public moneys, in the best interests of the taxpayers, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and corruption.

In accordance with New York State General Municipal Law §103, all purchase contracts involving an expenditure of more than \$20,000<sup>1</sup> and all contracts for public works involving an expenditure of more than \$35,000<sup>2</sup> must be publicly bid.

This policy supersedes any policy previously issued and approved. This policy should be revisited annually at the Town's reorganization meeting.

**Guidelines**

**A. Determine Aggregates**

- (1) Every prospective purchase of goods or services shall be evaluated to determine the applicability of § 103 of the General Municipal Law. To determine whether the intended procurement is subject to competitive bidding, Town Officers, board members, department heads or other personnel must first determine if the expected town wide aggregate will exceed the aforementioned thresholds of \$20,000 for purchase contracts or \$35,000 for public works within 12 months of the planned purchase.

Under General Municipal Law §103, aggregates must be examined in two ways:

- a) By Commodity or Service – Every town officer, board, department head or other personnel must determine the reasonably expected aggregate amount of all purchases of the same commodities, services or technology that will be made within 12 months of the date of the planned purchase.
  - b) By Vendor – Every town officer, board, department head or other personnel must also determine the reasonably expected aggregate amount of all purchases of the same commodities, services or technology within 12 months of the date of the planner purchase will be made from the same vendor.
- (2) Every town officer, board, department head or other personnel with the requisite purchasing authority (purchaser) shall estimate the cumulative amount of the items of supply or equipment needed in a given fiscal year. That estimate shall include the canvass of other departments and past history to determine the likely yearly value of the commodity to be acquired. The information gathered and conclusions reached shall be documented and kept with the file or other documentation supporting the purchase activity.

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<sup>1</sup> Chapter 56 N.Y. Laws of 2010  
<sup>2</sup> Chapter 494 N.Y. Laws of 2009

*B. Quotes and proposals*

**Estimated Amount of Purchase Contract**

\$20,000 and above (required)

**Method**

Formally bid pursuant to §103 of the General Municipal Law

\$10,000 - \$19,999.99

Require a written request for proposal (RFP) and written quotes from three (3) vendors

\$5,000 - \$9,999.99

Require an oral request for the goods and written/email quotes from two (2) vendors

\$2,500 - \$4,999.99

Written/email approval from Town Board liaison, as designated at reorganization meeting

\$0 - \$2,499.99

Left to the discretion of the purchaser

**Estimated Public Works Contract**

\$35,000 and above (required)

**Method**

Formally bid pursuant to §103 of the General Municipal Law

\$10,000 - \$34,999.99

Require a written request for proposal (RFP) and written quotes from three (3) vendors

\$5,000 - \$9,999.99

Require an oral request for the goods and written/email quotes from two (2) vendors

\$2,500 - \$4,999.99

Written/email approval from Town Board liaison, as designated at reorganization meeting

\$0 - \$2,499.99

Left to the discretion of the purchaser

Any exceptions to the aforementioned thresholds (i.e. sole source provider, etc.) and quote requirements must be documented with a detailed explanation.

*C. Documentation*

- (1) Any written RFP shall describe the desired goods, quantity and the particulars of delivery. The purchaser shall compile a list of all vendors from whom written/fax/oral quotes have been requested and the written/fax/oral quotes offered.
  - (2) Any information gathered in complying with the procedures of this chapter shall be preserved and filed with documentation supporting the subsequent purchase of public works contract.
  - (3) All purchases greater than \$4,999.99 require submission of the Town's standardized quotes form.
  - (4) Electronic documentation shall be held in accord for compliance with Electronic Signatures and Records Act.
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*D. Good Faith Effort*

A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser shall document the attempt made at obtaining the proposals. In no event shall the inability to obtain the proposals or quotes be a bar to the procurement.

*E. Claims approval*

All expenditures are subject to the Town's claims approval process. Each claim shall be individually approved by the Department Head, the Finance Department and a Board Member. Prior to processing for payment all claims should be reviewed and audited by the remaining Board Members (2). After such audit the Board shall pass a resolution acknowledging the claims have been audited.

**Exceptions to the Procurement Policy**

Except when directed by the Town Board, no solicitation of written proposals or quotations shall be required under the following circumstances:

- (1) Acquisition of professional services\*.
- (2) Emergencies.
- (3) Sole source situations.
- (4) Goods purchased from agencies for the blind or severely handicapped.
- (5) Goods purchased from another governmental agency.
- (6) Goods purchased at auction.
- (7) Goods purchased for less than two thousand four hundred ninety-nine dollars and ninety-nine cents (\$2499.99).
- (8) Public works contracts for less than two thousand four hundred ninety-nine dollars and ninety-nine cents (\$2499.99).

\* All professional services contracts shall be examined by the Town Board every five years; however, such review does not necessitate a written proposal or quotation.

The decision that a purchase is not subject to competitive bidding should be documented in writing by the individual making the purchase. This documentation may include a memo from the purchaser explaining the decision, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase, or any other written documentation that is appropriate.