

MINUTES OF BOARD OF COUNTY COMMISSIONERS
MILLARD COUNTY THE 7th of FEBRUARY 2005
AT THE COURTHOUSE, FILLMORE, UTAH

PRESENT: John C. Cooper Chairman
Daron P. Smith. Commissioner
Kathy Y. Walker Commissioner

LeRay Jackson County Attorney
Norma Brunson County Clerk
Janice Robins. Deputy County Clerk

PURSUANT TO AN AGENDA WHICH HERETOFORE HAD BEEN PROVIDED TO each member of the governing body, the local news and located on the front and back doors of the County Courthouse as required by law the following proceedings were had.

COORDINATION SESSION

The Commissioners scheduled events for the month of February 2005.

PUBLIC WAS WELCOMED

The meeting began at 10:00 a.m. after a brief welcome by Commissioner Cooper to the public and Commission members.

OPENING STATEMENTS

Commissioner Cooper asked if anyone had an opening statement to give? Commissioner Smith said the invocation. Everyone stood and said the Pledge of Allegiance to the Flag.

FOLLOW UP ACTION ITEMS FROM MINUTES OF JANUARY 24, 2005

There were none.

APPROVAL OF THE AMENDED MINUTES OF JANUARY 24, 2005

Commissioner Walker made a motion to approve the amended minutes of January 24, 2005. Commissioner Smith SECONDED. The voting was unanimous.

AUDITORS REPORT

Millard County Auditor Brandy Grace was excused from meeting today.

Chief Deputy Auditor Bonnie Gehre reported that the contract between Millard County and Utah State University for Jim Stevens includes a COLA. The Commissioners agreed that Millard County would match a 1.25 percent COLA with USU. Mr. Stevens has been with Millard County more than three years.

Chief Deputy Auditor Gehre gave the Commissioners various invoices to review and approve for payment through the Auditor's Office.

Chief Deputy Auditor Gehre gave the Commissioners the Check Edit Report of February 4, 2005 to review and sign.

FILING OF DISCLOSURE STATEMENTS

Disclosure Statements were filed by:

Brandon Bartholomew

DECISION ON PART TIME EMPLOYEES COLA BENEFITS

Commissioner Walker made a motion to pay a COLA to all regular part time county employees after three years of employment and make it effective by the February 15, 2005 pay period. Commissioner Smith SECONDED the motion and said he would be comfortable to pay a COLA after two years employment, but agreed with the three-year period. Commissioner Walker amended the motion to revise the Millard County Policy & Procedures Manual to reflect the change in the COLA payments. Commissioner Smith SECONDED. The voting was unanimous. The motion carried. Attorney Jackson and Auditor's Office will prepare an amendment for the Millard County Policy and Procedures Manual along with several other amendments that need to be made.

RATIFY THE APPOINTMENTS TO THE MILLARD COUNTY WATER CONSERVANCY DISTRICT BOARD

Commissioner Smith made a motion to ratify the reappointment of Ladd Holman Unit #2, Glade Stevens, Unit #6, Dean Hayward Unit #8, Clayton Jeffery Unit #4 to serve on the Millard County Water Conservancy District Board for a two-year term. Commissioner Walker SECONDED. The voting was unanimous. The motion carried.

MILLARD COUNTY ROAD DEPARTMENT - BID OPENINGS FOR MAG CHLORIDE, TIRES, CHEMICALS AND CHIPS

Dean Draper, Delyle Carling, Rob Greenburg, Sharee Hall were present for the bid openings. Chief Deputy Auditor Bonnie Gehre gave Attorney Jackson the bids previously turned into the Auditor's Office for Mag Chloride, Tires, Chemicals, and Chips for the Millard County Road Department. Attorney LeRay Jackson opened the bids from the following companies.

<u>Chips</u>	<u>To Delta</u>	<u>To Fillmore</u>
Searle Truck	\$10.84 per ton	\$12.05 per ton
Westside Grading	\$12.30 per ton	\$12.30 per ton
Carling & Company	\$11.49 per ton	\$11.49 per ton
Kent Bethers Construction	\$14.32 per ton	\$14.32 per ton
G & G Excavation Company	\$14.44 per ton	\$14.44 per ton
Bull Dog Construction	\$11.75 per ton	\$11.90 per ton

Commissioner Smith said that Millard County Road Department Supervisor Thayne Henrie will evaluate the bids and determine which bid will be the best value for Millard County. The company awarded the bid will be announced at Commission Meeting on February 14, 2005.

Two bids for various chemicals were opened by Attorney Jackson from:

Chemicals

IFA	\$272.03 average bid
Steve Regan	\$261.20 average bid

The bids will be given to Millard County Road Department Supervisor Thayne Henrie for review to determine which offer meets the road department's requirements and is the best value for the county.

Attorney LeRay Jackson opened four bids for MagChloride from:

<u>MagChloride</u>	<u>Eskdale</u>	<u>Lime Plant</u>	<u>Fillmore</u>	<u>Delta</u>
Redmond Minerals	\$50.31	\$44.45	\$41.17	\$40.35
Hill Bros.	\$24.43	"	"	"
Dustbusters	\$35.53	"	"	"
Enviro Tech Service	\$40.49	\$32.43	\$36.58	\$34.79

The Mag Chloride bids will be given to Millard County Road Supervisor Thayne Henrie to review and determine who will be awarded the bid.

Attorney Jackson opened three tire bids with various tire sizes from:

Tires

Steve's Tire	\$1,139.52 over all bid
Quality Tire	\$1,162.72 over all bid
Les Schwab Tire Center	\$1,192.73 over all bid

The bids will be reviewed by road department supervisor Thayne Henrie and Commissioner Smith and the bid awarding will be announced at next week's meeting.

DISCUSSIONS FROM EACH COMMISSIONER, COUNTY ATTORNEY, AND ELECTED OFFICIALS, AND SECRETARY

All the Commissioners and Randy Johnson attended the ICE Meeting in Beaver, Utah on January 24, 2005. The Commissioners went over the Millard County Comprehensive Land Use Plan with Iron County and Beaver County Commissioners and recommended they follow Millard County's lead to make a comprehensive land use plan for their counties.

On Wednesday, January 27, 2005, Commissioner Walker attended a MEDA Meeting with new board. The meeting dealt mainly with the introduction of their goals and the direction the MEDA Board will take for the coming year.

All the Commissioners attended a meeting with Lt. Governor Herbert at the State Capitol to discuss the Help America Vote Act, HAVA project. Afterwards they visited with the Lt. Governor over the proposed pipeline to Las Vegas and the negative impact it would have on the Snake Valley.

Commissioner Walker attended the Millard County Housing Authority Meeting and reviewed the Mt. Catherine and the Delta Sands audits. Commissioner Walker explained that both facilities are funded by Farm Home. She said room rates were increased by the State which will add extra funds for needed improvements and for utility increases but not affect the tenants. The Housing Authority Committee approved a 3 percent pay increase to managers and employees.

On February 1, 2005, all the Commissioners, John Hansen, Brandy Grace, and Leon Smith took a tour of IPP to get an update on plans for the third unit. One of the top five things on their list is to develop a conditional use permit from Millard County.

Commissioner Smith on February 2, 2005, met with Bureau of Land Management Directors, Jim Hughes, National Deputy Director, Sally Wisely, State Director, Sherry Hirst, Fillmore Field Director, Pat Shea, Kai Martens and others to tour the Cosmic Array site on the west desert. The meeting was set up by Millard County Economic Director Gary Church to show the visitors what the project will look like, the environmental impact, and the great benefit this project will be to Millard County. The Commissioner expressed their support of the project

during the tour.

Commissioner Walker attended the UAC Newly Elected Officials Workshop in Salt Lake City, Utah on Thursday, February 3, 2005. She reported the training was very beneficial and said she met twenty other newly elected county commissioners.

On Friday, February 4, 2005 Commissioner Smith and Commissioner Walker attended County Officials Day at the Legislature in the State Capitol building. They talked with Representative Richard Wheeler and discussed issues pertaining to Millard County. They talked with Randy Johnson, the mediator for Millard County's Comprehensive Land Use Plan, who explained that because of the change in the Governor's Office, his status has changed, but he is still committed to help Millard County with the process.

Commissioner Smith reported that the State of Utah has filed two roads in Millard County on RS2477 issues under the Memorandum of Understanding with the BLM. The two roads are the Snake Pass Road and the Swasey Bottom Road. The BLM will go through their process to see if the roads qualify under the MOU.

Commissioner Smith was contacted by Kenton Call from the USDA Forest Service requesting a letter from the Commissioners with any comments they have on the roadless areas in Millard County. The Commissioners will draft a letter and mail it to Mr. Call.

Commissioner Smith attended the Millard County Road Department training meeting. One of the items discussed was the upcoming payroll change of March 15, 2005, going from a biweekly pay period to a two-week pay period. Commissioner Smith said the road department's new crusher is getting set up and operational.

Commissioner Smith attended the Six County Mental Health Authority meeting where he served as the chairman. The Chair will rotate to Piute County Commissioner David Blackwell and the Vice Chair will be Scott Durfey. Brent Berkley will continue to serve as the attorney on the Mental Health Authority Board. The bylaws will be amended to allow Attorney Berkley to continue on in this position. Usually the attorney from the acting Chairman's county serves as attorney for the board.

Commissioner Cooper and Commissioner Smith attended the Millard County Planning and Zoning on Wednesday, February 2, 2005. An update on the Millard County Comprehensive Land Use Plan was given. Commissioner Cooper reported that Michael and Joyce Barney had turned in an application for a trailer park on their property near the golf course. The application was approved.

Commissioner Cooper said he attended some of the above-mentioned meetings.

Commissioner Cooper attended the Central Utah Public Health meeting in Richfield, Utah. Director Robert Resendes had been asked for job descriptions for all Central Utah employees.

Commissioner Cooper has received a binder with the information in it. Commissioner Cooper invited the other Commissioners to review the CUPH job information.

Commissioner Cooper attended the Six County AOG meeting in Richfield, Utah. Commissioner Cooper reported that the list of the project rankings of the entities wanting CDBG money was given out. Scipio Town's project, the only project on the list from Millard County, is for renovation of the fair grounds grandstands and it received a 40 rating. Commissioner Cooper reported he has a list of all the applications for the other Commissioners to review.

After the meeting, Commissioner Cooper visited with Mark Walsh who has been appointed as representative of the Western Counties Alliance for Representative Chris Cannon. Mr. Walsh did a presentation in behalf of the Western Counties Alliance and said that now is a good time to go ahead with western public land issues. Commissioner Cooper reported that the annual fee to join the Western Alliance is \$7,500. The Commissioners agreed to have Mr. Walsh give his presentation to them before they make a decision of whether or not to join the Western Counties Alliance. Commissioner Cooper will contact Mr. Walsh to schedule the presentation.

Commissioner Cooper said Glade Stevens asked to have the road near a newly purchased dairy (Morgan Dairy) in the Delta area maintained. The family moving into the home at the dairy will have children riding a school bus. The Commissioners agreed to maintain the road if the owners will give up the right of way rights to enable the county to maintain the road.

Attorney LeRay Jackson reported he had checked on the offer from a gentleman wanting to purchase 520 acres west of Hinckley, Utah on the north side of Hwy 6. The drain system runs through the property to the old Sevier Lake bed. Attorney Jackson recommended not selling the property. The Commissioners denied the request to sell the property at this time.

Millard County Clerk Norma Brunson asked if Commissioner Cooper was receiving his messages and faxes in a timely fashion. He said he was.

Deputy Clerk Janice Robins reported that she had sent out the letters, under the direction of the Commissioners, to the clergymen in Millard County, Millard County Department Heads, and the departments that went over on their 2004 budgets. The letters and a list of where the letters were sent are attached as Exhibit A, Exhibit B, and Exhibit C.

OTHER BUSINESS

Commissioner Smith reported that UDOT had opened the bids for the Hwy 99 Project. The low bid was submitted by George W. Johanson Company for \$294,315.00. Millard County had already committed to put up twenty thousand dollars in case it was needed. UDOT asked for a letter stating Millard County will cover the full amount of \$401,440.00. The project meets the requirements of an RLF and the Commissioners agreed to have Auditor Grace use the money in the revolving loan fund leaving a zero balance in the fund.

Commissioner Cooper presented the names of Greg Greathouse and Paula Christensen to

serve on the Millard County Planning and Zoning Commission.

Commissioner Smith made a motion to reappoint Greg Greathouse and Paula Christensen to the Millard County Planning and Zoning Commission. Commissioner Walker SECONDED. The voting was unanimous. The motion carried.

Commissioner Walker made a motion to reappoint Roland Comeau to the Millard County Housing Board and to serve as the Chairman. Commissioner Smith SECONDED. The voting was unanimous. The motion carried.

Commissioner Walker said that Jamie Lester asked to have their land fill fee waived while her husband is deployed. She said that Hinckley Town had waived their utility bills for the length he was gone. Commissioner Walker said the landfill fees had been waived for three other people by Delta City. Commissioner Walker will call the city to talk to them about this issue.

Commissioner Walker made a motion to waive the land fill fee for military people on active duty, while they are deployed. Commissioner Smith SECONDED and asked for a discussion. The Commissioners discussed the issue. The voting was unanimous. The motion carried.

Commissioner Walker reported she was contacted by Nickle Mortuary on February 5, 2005 regarding a person who died at University of Utah Hospital. The Mortuary needed approval from the Commissioners before they could pick up the body. Mr. Nickle had attempted to get hold of Commissioner Cooper and Commissioner Smith but only could get hold of Commissioner Walker. The body had to be picked up within twenty-four hours in order to be cremated or embalmed. Commissioner Walker met with the Hispanic family but because of the language barrier was not able to gather the information needed. The family was given the proper paper work to be filled out later. Commissioner Walker gave Mr. Nickle approval to pick up the body. Commissioner Walker suggested the county's burial policy be amended to state that any one Commissioner can give approval after efforts are made to contact the other two Commissioners.

Deputy County Attorney Brent Berkley asked for Commissioners' approval for out of state travel for John Holliday and himself. Attorney Berkley said a death penalty case had been filed involving the death of the victim on the freeway near Kanosh. The victim's family, the experts and the witnesses all live out of state. An appointment to meet with the victim's brother and mother on will take place on President's Day weekend. Right now the total of the three cards is three thousand dollars (\$3,000.00) and this case will exceed that amount. Attorney Berkley asked to have a temporary increase on the trial credit card and on his credit card to cover expenses. He also asked preapproval be granted for any quick out of state travel expenses that may be involved in this case, with the approval of Attorney LeRay Jackson.

Commissioner Smith made a motion to approve the out of state travel expenses for Chief Deputy County Attorney Berkley and Deputy County Attorney Holliday and to grant a temporary limit increase of five thousand dollars to the trial card and two thousand five hundred dollars on Attorney Beckley's card and pre-approve out of state travel expenses, approved by Attorney Jackson, involved in trying this case. Commissioner Walker SECONDED. The voting was unanimous. The motion carried.

Commissioner Smith talked with Scipio Town Mayor Quarnberg who asked to have the

landfill fees waived for the debris of an old station they had torn down. The Commissioners agreed to waive the land fee charges for Scipio Town on this project.

Clerk Norma Brunson stated that when she left her position as a Deputy Clerk her sick leave was reserved in her name. She asked if the sick leave could be donated to another employee if needed? She also asked if the sick leave could be donated to someone in another department if the department head agrees? The Commissioners will check Millard County's policy on sick leave. The decision will be made at next week's meeting.

PUBLIC INPUT

There were none.

POSSIBLE CLOSED MEETING PURSUANT TO UTAH CODE ANNOTATED SECTION 52-4-4&5

There were none.

WHERE UPON THE MEETING ADJOURNED

The meeting adjourned at 11:45 p.m..

Attest: _____ Approved: _____

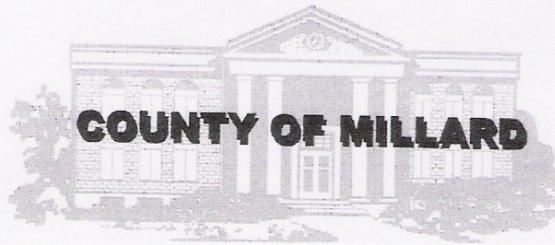
Commissioner Daron P. Smith

Commissioner Kathy Y. Walker

Commissioner John C. Cooper

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January 28, 2005

Dear Clergymen,

The Millard County Commissioners would like to extend an invitation to participate in giving an opening statement at a regularly scheduled Millard County Commission Meeting.

A copy of Millard County's Resolution Setting Forth a Policy on Opening Statements in County Meetings is enclosed for your information.

Please note that giving an opening statement in a meeting is voluntary and needs to be scheduled with the Millard County Clerk's Office by calling 435-743-6223.

Sincerely,

A handwritten signature in black ink, which appears to read "John C. Cooper". The signature is written in a cursive style with a large, prominent "C" at the end.

John C. Cooper
Millard County Commission Chairman

JCC;jir

Enc: Resolution No. 04-04-12

MILLARD COUNTY
RESOLUTION NO. 04-04-12

COPY

A RESOLUTION OF MILLARD COUNTY, UTAH SETTING FORTH A
POLICY ON OPENING STATEMENTS IN COUNTY MEETINGS

WHEREAS, the Commission is aware of, and sensitive to, the "establishment" and "free exercise" clauses of the First Amendment of the Constitution of the United States, which clauses preclude compulsion by law of the acceptance of any religious creed or the practice of any form of worship but at the same time said clauses safeguard the free exercise of each and every person's chosen form of belief, or creed, whether secular or non-secular.

WHEREAS, the Commission is aware of, and sensitive to, Sections 1 and 4 of Article I of the Constitution of Utah which basically provide the same rights and protections regarding "establishment" and "free exercise" as the mentioned provisions of the Constitution of the United States in addition to providing that no public money or property be appropriated for or to any religious worship, exercise or instruction, or for the support of any ecclesiastical establishment.

WHEREAS, the Commission is aware of, and sensitive to, the holdings of the Utah Supreme Court in its two landmark decisions on this subject, namely, the Society of Separationists v. Whitehead and Snyder v. Murray cases.

WHEREAS, The Commission is desirous of providing and protecting the guarantees of each of these cases and Constitutional provisions and at the same time is desirous of creating and setting forth a legal policy allowing opening statements in meetings of the County; and

WHEREAS, by virtue of Utah Code Annotated, Section 17-53-207, the Commission is empowered to make and enforce rules regarding the preservation of order in transacting the business of the County.

THEREFORE, BE IT RESOLVED THAT the following shall be the Policy of Millard County, Utah, on opening statements in public meetings conducted by the County:

1. Time Limit. No opening statement offered shall exceed two (2) minutes in duration.
2. Voluntary. Any person offering such opening statement shall do so only as a volunteer. Because of the possibility of embarrassment or the appearance of coercion, no one shall be called upon to offer an opening statement. Arrangements for the offering of an opening statement shall be done so in advance by the Chairperson of the Commission or designee.
3. Religious Preference Forbidden. No preference or favoritism shall be

shown or extended to any belief, whether secular or non-secular. Affirmative action shall be taken to extend the right or opportunity to offer an opening statement in county meetings to persons of any and all beliefs, whether secular or non-secular.

4. Disruption and Irreverence Forbidden. Any opening statement offered in a County meeting shall be non-disruptive, respectful, and done so in a positive manner.
5. Repealer. This Resolution and Policy supersedes and replaces Millard County Resolution No. 02-01-14 which is hereby repealed and made null and void.

RESOLUTION adopted by the following vote of the Millard County Commission this 12th day of April, 2004.

VOTING

Commissioner Smith

<u>X</u>	<u> </u>
Yes	No

Commissioner Cooper

<u>X</u>	<u> </u>
Yes	No

Commissioner Greathouse

<u>X</u>	<u> </u>
Yes	No

MILLARD COUNTY COMMISSION

By Daron P. Smith
DARON P. SMITH, Chairperson

Attest:

Norma Brunson
Clerk

**CHURCHES IN MILLARD COUNTY THAT WERE SENT A COPY OF MILLARD
COUNTY RESOLUTION NO. 04-04-12 AND A LETTER OF INVITATION TO
PARTICIPATE IN AN OPENING STATEMENT AT A COMMISSION MEETING
SENT JANUARY 28, 2005**

GRACE BAPTIST CHURCH
CHURCH ST JOHN BOSCO CATHOLIC
DELTA FOURSQUARE CHURCH
JEHOVAH'S WITNESS KINGDOM HALL
FAITH CHRISTIAN FELLOWSHIP OF DELTA
CENTRAL BAPTIST CHURCH
DELTA COMMUNITY CHURCH
LIVING WORD FELLOWSHIP
FILLMORE FIRST WARD
FILLMORE SECOND WARD
FILLMORE THIRD WARD
FILLMORE FOURTH WARD
FILLMORE SPANISH WARD
MILLARD COUNTY JAIL BRANCH
MEADOW WARD
KANOSH WARD
HOLDEN WARD
SCIPIO WARD
FLOWELL WARD
DELTA FIRST WARD
DELTA SPANISH WARD
GUNNISON BEND WARD
DELTA THIRD WARD
DELTA FOURTH WARD
DELTA FIFTH WARD
DELTA SIXTH WARD
DELTA SEVENTH WARD
HINCKLEY FIRST WARD
HINCKLEY SECOND WARD
SUTHERLAND FIRST WARD
SUTHERLAND SECOND WARD
OAK CITY FIRST WARD
OAK CITY SECOND WARD
LEAMINGTON WARD
DESERET & OASIS WARD
DELTA UTAH STAKE PRESIDENT
DELTA UTAH WEST STAKE PRESIDENT
FILLMORE UTAH STAKE PRESIDENT

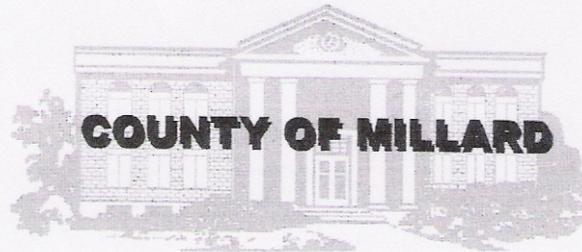
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January 27, 2005

Dear Millard County Department Head:

The Millard County Commissioners would like to meet with you on Monday,
February 7, 2004 at _____ in the Commission Chambers, 50 South Main Street in
Fillmore, Utah to discuss the overage on the Millard County _____ Department's
2004 budget.

Please call 435-743-2623 if you are unable to attend at your scheduled time.

Sincerely,

A handwritten signature in black ink that reads "John C. Cooper". The signature is written in a cursive style.

John C. Cooper
Millard County Commission Chairman

JCC:jir

cc: Scott Damron
Sherri Callister
Cindy Manning
Thayne Henrie
Kevin Morris
Gary Hone
Sue Paxton
Sheri Shepherd
Nola Whatcott

FEBRUARY 7, 2005

SCHEDULE FOR INTERVIEWS - 2004 BUDGET OVERAGE

1:30 DAYS OF THE OLD WEST RODEO
 SCOTT DAMRON & SHERI CALLISTER

1:45 WEST MILLARD SWIMMING POOL
 CINDY MANNING

2:00 MILLARD COUNTY ROAD DEPARTMENT
excused THAYNE HENRIE

2:15 WEST MILLARD MAINTENANCE DEPARTMENT
 KEVIN MORRIS

2:30 EAST MILLARD MAINTENANCE DEPARTMENT
 GARY HONE

2:45 MISS MILLARD CONTEST
 SUE PAXTON

3:00 ATV JAMBOREE
 SHERRY SHEPARD & NOLA WHATCOTT

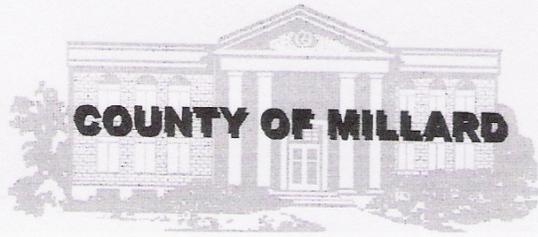
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January 28, 2005

Dear Millard County Elected Official/Department Head,

Please find enclosed a copy of the current Purchasing Policy for Millard County. Please read the policy and follow the proper procedures for making purchases for your department.

Please pay extra attention to ARTICLE 2 - OFFICE OF THE PURCHASING AGENT- APPROVAL OF PURCHASE.

Thank you for your support in this matter.

Sincerely,

A handwritten signature in black ink that reads "John C. Cooper". The signature is written in a cursive style.

John C. Cooper
Millard County Commission Chairman

JCC:jir
Enc: Section XXI - Administrative Policies
Purchasing Policy for Millard County

SECTION XXI - ADMINISTRATIVE POLICIES
PURCHASING POLICY FOR MILLARD COUNTY

ARTICLE 1
GENERAL PROVISIONS

The underlying purposes of this policy are:

1. To ensure fair and equitable treatment of all persons who wish to, or do conduct business with Millard County, hereafter referred to as "County".
2. To provide for the greatest possible economy and long-term value in County purchasing activities.
3. To foster effective broad-based competition within the free enterprise system to ensure that County will receive the best possible service and/or product at the lowest possible price while, at the same time, attempting to attain the greatest long-term value in procurements or purchases.
4. In County's attempt to attain the greatest long-term value, County may show preference to local vendors even though their bid may not be the lowest bid. In showing such preference, County shall justify this by determining that such decision will result in equal to or greater long-term value of such procurement for certain reasons such as better and/or more convenient service, maintenance, warranty, etc.

Compliance - Exemptions from this policy.

1. This policy shall not prevent County from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.
2. When a procurement or purchase involves the expenditure of federal assistance funds, County shall comply with applicable federal law and regulations.

Definitions.

1. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
2. "Change order" means a written order signed by the purchasing agent, directing the contractor to suspend work or make changes, which the appropriate clauses of the contract authorize the purchasing agent to order without the consent of the contractor or any written alteration in 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.
3. "Contract" means any County agreement for the procurement or disposal of supplies, services, or construction.
4. "Invitation for bids" means all documents, whether attached or incorporated by reference used for soliciting bids.
5. "Person" means any business, individual, union, committee, club, other organization, or group of individuals.
6. "Purchase" means buying, procuring, renting, leasing, leasing with an option to purchase or otherwise acquiring any supplies, services, or construction.
7. "Purchasing agent" means the person duly authorized by the governing body of County to enter into and administer contracts and make written determinations with respect thereto.
8. "Purchase description" means the words used in a solicitation to describe the supplies, services, or construction to be purchased, and includes specifications attached to or made a part of the solicitation.

9. "Request for information" (RFI) means to solicit information and/or to determine the level of vendor interest and availability to provide a service or product to County.
10. "Request for proposals" (RFP) means all documents, whether attached or incorporated by reference, used for soliciting proposals. Normally used when other factors in addition to price and delivery are important in the procurement.
11. "Request for quotation" (RFQ) means to solicit low dollar bids with no other considerations.

ARTICLE 2
OFFICE OF THE PURCHASING AGENT - APPROVAL OF PURCHASE

The Millard County Auditor shall be the official Purchasing Agent of County. However, each other elected row official or department heads appointed and supervised by such elected row officials or the County Commission shall be responsible to make procurements, solicit bids and proposals, enter into and administer contracts, and make written determinations for County, with each of said actions to be approved in advance by the elected row official whose department is involved or by the County Commission when the department involved is under the direct supervision of the County Commission. All purchases costing in excess of \$15,000 shall be approved in advance by the County Commission.

ARTICLE 3
GENERAL PROVISIONS - PURCHASING PROCEDURE

A. Purchases not requiring sealed bids.

1. Purchases costing less than \$2,500.00 in total, shall not require bids of any type. (Purchases shall not be artificially divided so as to constitute a small purchase under this section.)
2. Purchases costing more than \$2,500.00 but less than \$25,000.00 in total, shall require three (3) telephone bids, which shall be documented and submitted to Auditor's Office prior to payment to vendor.
3. Purchases made through the cooperative purchasing contracts administered by the Utah State Division of Purchasing or direct comparison thereto, which shall be documented.
4. Purchases made from a single-source provider, which shall be documented.
5. Purchases required during an emergency, i.e., an eminent threat to the public's health, welfare, or safety. However, as much competition as practical should be obtained, and, such purchases should be limited to amounts necessary to the resolution of the emergency.
6. This policy does not preclude following the sealed bid process for purchases under \$25,000.

B. Purchases requiring sealed bids.

1. All purchases or procurements in excess of \$25,000 shall be made pursuant to sealed bidding requirements provided hereafter.
2. An invitation for bids shall be issued when a purchase is to be made by competitive sealed bidding. The invitation shall include a detailed description of specifications and all contractual terms and conditions applicable to the procurement. Notice of the invitation for bids shall be given at least ten (10) days prior to the date set forth therein for the opening of bids. The notice may include publication in a newspaper of general circulation. The bids shall be mailed to the office of the Millard County Auditor, 50 South Main, Fillmore, Utah 84631.

3. Any purchase in excess of \$25,000.00 shall require at least three (3) invitations for bid in writing or by telephone, being properly documented, or one (1) advertisement in a local newspaper of general circulation. However, if the procurement is for the repair, alteration, or construction of a public building, the bid shall be let to the lowest responsive and responsible bidder after publication of notice at least once a week for three (3) consecutive weeks in a newspaper of general circulation published in County.
4. Bids shall be opened publicly in a regularly scheduled meeting of the governing body of County and in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and any other relevant information, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection.
5. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this policy. Bids shall be evaluated based on the requirements set forth in the invitation for bids.
6. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted. After bid opening no changes in bid prices or other provisions of bids prejudicial to the interests of County or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes shall be supported by a written determination made by the purchasing agent.
7. The contract shall be awarded with reasonable promptness, by written notice, to the lowest bid or bid of best long-term value to County, as determined by County, so long as the bid meets the requirements, specifications, and criteria set forth in the invitation for bids and the policies and provisions of this purchasing policy.

C. Cancellation and rejection of bids.

An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected, in whole or in part, as may be specified in the solicitation, when it is in the best interests of County. The reasons shall be made part of the contract file.

D. Use of competitive sealed proposals in lieu of bids.

When the purchasing agent or designee determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to County, a contract may be entered into by competitive sealed proposals. Competitive sealed proposals are most appropriately used for professional service-type contracts.

1. Proposals shall be solicited through a request for proposals. Public notice of the request for proposals shall be given at least ten (10) days prior to the advertised date of the opening of the proposals.
2. Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be prepared and shall be open for public inspection after contract award.
3. The request for proposals shall state the relative importance of price and other evaluating factors.
4. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

5. Award shall be made to the person whose proposal is determined, in writing, to be the most advantageous for County, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

E. Architect-Engineer services are qualification-based procurements.

Requests for such services should be publicly announced. Contracts should be negotiated by County based on demonstrated competence at fair and reasonable prices.

F. Determination of non-responsibility of bidder.

Determination of non-responsibility of bidder or offeror shall be made in writing. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to the bidder or offeror. Information furnished by a bidder or offeror pursuant to this section shall not be disclosed outside of the purchasing division without prior written consent by the bidder or offeror.

G. Cost-plus-a-percentage-of-cost contracts prohibited.

Subject to the limitations of this section, any type of contract which will promote the best interests of County may be used, provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost-reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to County than any other type or that it is impracticable to obtain the supplies, services, or construction required except under such a contract.

H. Telemarketing solicitations prohibited.

Procurements shall not be made pursuant to or in response to telephone or telemarketing solicitations to County employees.

I. Required contract clauses.

1. The unilateral right of County to order, in writing, changes in the work within the scope of the contract and changes in the time of performance of the contract that do not alter the scope of the contract work.
2. Variations occurring between estimated quantities of work in a contract and actual quantities.
3. Suspension of work ordered by County.

ARTICLE 4 SPECIFICATIONS

All specifications shall seek to promote overall economy and best value and use for the purposes intended and encourage competition in satisfying County's needs, and shall not be unduly restrictive. Where practical and reasonable, and within the scope of this article, all Utah and Millard County products and services shall be given preference so long as proper justification is given.

ARTICLE 5
APPEALS

- A. Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may appeal to the purchasing agent. An appeal shall be submitted in writing within 5 working days after the aggrieved person knows or should have known of the facts.
- B. The purchasing agent shall promptly issue a written decision regarding any appeal, if it is not settled by a mutual agreement. The decision shall state the reasons for the action taken and inform the protestor, contractor, or prospective contractor of the right to appeal to the governing board.
- C. County's governing board shall be the final appeal on County level.
- D. All further appeals shall be handled as provided in Section 63-56-59 and 63-56-61 through 64 of the Utah Code.

ARTICLE 6
ETHICS IN PUBLIC CONTRACTING

- A. No person involved in making procurement decisions may have personal investments in any business entity which will create a substantial conflict between their private interests and their public duties.
- B. Any person involved in making procurement decisions is guilty of a felony if the person asks, receives, or offers to receive any emolument, gratuity, contribution, loan, or reward, or any promise thereof, either for the person's own use or the use or benefit of any other person or organization from any person or organization interested in selling to County.

January 28, 2005

Letters sent to Department Heads

Auditor Brandy Grace

Assessor James Talbot

Recorder Connie Hansen

Treasurer John Hansen

I T Computer Richard Beckstrand

Clerk Norma Brunson

Sheriff Ed Phillips

Justice Court Judge Ron Hare

Maintenance Supervisor Gary Hone

Attorney LeRay Jackson

Delta Office/Landfill Sheryl Dekker-Phil Lovell

P&Z Leon Smith

Economic Development Gary Church

West Maintenance Kevin Morris

Road Department Thayne Henrie

Recreation Max Wood

USU Extension

East Swimming Pool Terri Cummings

West Swimming Pool Cindy Manning

Golf Pro Steve Wathen

Days of the Old West Rodeo Scott Damron

Fair Chairman Connie Christensen

Tourism Robert Sanderson

