

## DIVISION 2. PURCHASES, CONTRACTS AND SALE OF PROPERTY\*

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\*Charter references: Contracts, ch. 12.

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### Sec. 2-191. Purchasing agent.

The city manager shall act as purchasing agent for the city and each of its departments, boards, commissions, committees, component units and entities created pursuant to statute or ordinance including, but not limited to, the economic development corporation, the tax increment finance authority and the downtown development authority, each identified as a "using agency," and shall be responsible for making all purchases or selling or disposing of surplus or obsolete materials or property of the city or any using agency. The city manager shall, with the consent of the city council, prepare any necessary rules and forms to implement the procedures contained in this division.

(Ord. No. 240, § 1, 12-12-1994; Ord. No. 269, § 1, 2-12-2001)

### Sec. 2-192. Purchase and contractual requirements generally.

(a) *Purchases of less than \$300.00.* All requests for purchase shall be requisitioned and approved by the person in charge of a using agency for whose benefit the purchase is to be made, provided that for purchases of \$300.00 or less, the requisition may be oral, but the subject invoice must be approved in writing by the department head, the city manager, or the appropriate officer of any using agency. The police chief and the public services director may make purchases not to exceed \$1,000.00 for their respective city departments, subject to compliance with this division and the city manager's implementing procedures.

(b) *Purchases \$300.00 -- \$5,000.00.* Purchases involving expenditures of more than \$300.00, but less than \$5,000.00, the appropriation for which has been approved by the city council as part of the fiscal budget, may be made on the open market. Such purchases shall, where practicable, be based on at least three comparative price quotations. The bids may be solicited in person, by telephone or by written communication, but must be memorialized in a writing which identifies the items and reflects the date of the communication, the price that was bid and the identity of the bidder. Written approval of the city manager is required prior to all such purchases.

(c) *Purchases of more than \$5,000.00.* No requisition or purchase of more than \$5,000.00 shall be made unless authorized by the city manager and approved by the city council, and no contract in excess of \$5,000.00 shall be made or awarded without securing competitive bids, except under the following circumstances:

- (1) When the subject of the contract is other than a public work improvement and the product or material contracted for is not competitive in nature, no advantage to the city would result from authorizing competitive in nature, no advantage to the city would result from authorizing competitive bidding, and the city council authorizes execution of a contract without competitive bidding;
- (2) In the employment of professional services of professional services;
- (3) Emergency purchases as authorized by section 2-193; or

(4) When the city council determines a public interest will be best served by purchase from joint purchase with another unit of government.

(d) *Contracts of \$20,000.00 or more.* The sealed competitive bidding process set forth at section 13.3 of the city charter shall be used for any contract of \$20,000.00 or more, except a contract for professional services, or repairs, or where the contract is between government units.

(e) *Blanket orders.* Using agencies which periodically make purchases from a single vendor for reasons of time savings, availability and competitive pricing may, through the purchasing agent, establish a blanket order with such vendor; provided, however, that all requirements set forth in this section with respect to the dollar value of purchases are met with respect to the aggregate total of the blanket purchases made in a single fiscal year. Blanket orders must be approved in writing annually by the city manager, and the authorization shall expressly designate all authorized users and the dollar limits per purchase and the total annual dollar limit.

(f) *Competitive bidding.*

(1) *Advertisement for bids.* The purchasing agent shall solicit bids from a reasonable number or such qualified prospective bidders as are known to the purchasing agent, either by sending each a copy of a notice requesting bids or by newspaper advertisement. In either event, a copy of such notice shall be posted at city hall.

(2) *Bids.* Each bid shall be in writing on a form provided by the purchasing agent. Each bid shall be signed by the bidder and shall contain the full name and address of the bidder.

(3) *Bid deposits; performance bonds.* Bid deposits or sureties may be prescribed in the notice inviting bids. Performance bonds, bid deposits or sureties may be required in such amounts as shall be deemed necessary to protect the best interest of the city.

(4) *Certification of bids.* The purchasing agent shall tabulate all bids and certify them in writing to the city manager for approval of the lowest responsive, responsible bids.

(5) *Awarding of contract.* The city manager shall report to the city council the bids and tabulation thereof, and shall recommend to the council, the selection of the lowest responsive, responsible bidder, or if the interest of the city would be better served, the rejection of any or all bids.

(6) *Disqualification of bidders.* No bid shall be accepted from or contract awarded to any person who is in arrears to the city or any of its using agencies upon any debt, taxes contract, or who has defaulted upon an obligation to the city or any of its using agencies, or who shall in any other respect be disqualified according to the provisions of the ordinances of the city or its charter.

(7) *Most advantageous price.* The city council is not required to accept the lowest bid or price, but may waive any irregularities in any bid, and, may accept the responsive, responsible bid most advantageous to the city.

(g) *Local preference.* If all other relevant factors are met, the purchasing agent is authorized to negotiate with a local bidder to reduce their bid to that of the lowest responsive, responsible bid received from a bidder not a local bidder, if the local bidder's bid is within three percent of the lowest responsive, responsible bid and is itself responsive and responsible. For purposes of this section, the term "local bidder" shall mean an individual residing in the city or a business having a regular place of business located in the city.

(h) *Documentation of purchases.* All purchases shall be evidenced either by written contract or by a purchase order. The city manager shall establish and enforce procedures for the documentation, verification, and inspection of purchases. Copies of any purchase order or

blanket order shall be given to the city treasurer at the time of the order.

(i) *Encumbrance accounting; available funds.* The city shall utilize encumbrance accounting procedures for all purchases. Except for emergency purchases authorized under section 2-193, no purchase of supplies, materials, or equipment shall be made unless the city treasurer has certified that there are funds in a proper account of such department or office available for the payment of such purchase.

(Ord. No. 240, § 2, 12-12-1994; Ord. No. 269, § 2, 2-12-2001)

### **Sec. 2-193. Emergency purchases.**

(a) In the event of an emergency or such circumstance where time is of the immediate essence, the city manager deems necessary to protect the public health, safety and welfare of the city without complying with the bidding procedures outlined in this division. In the event of any such emergency purchase, the city manager shall report the details of the purchase to the city council at its next regular meeting.

(b) In the event of an emergency, the city council may enter into a contract or purchase exceeding \$5,000.00 without competitive bidding. The nature of the emergency shall be set forth in the council minutes.

(Ord. No. 240, § 3, 12-12-1994; Ord. No. 269, § 3, 2-12-2001)

**State law references:** Bids on public works contracts, MCL 123.501 et seq.; bonds for public works contracts, MCL 129.201 et seq., 570.101 et seq.

### **Sec. 2-194. Sale of surplus city property.**

The purchasing agent is authorized to sell supplies or equipment which has become unsuitable for city or using agency use by reason of obsolescence, or other reason, or may exchange the same for, or trade in the same on, new supplies or equipment. Surplus supplies or equipment shall be sold on a competitive basis to the highest responsive, responsible bidder if the estimated value exceeds \$2,000.00, or in a manner prescribed by the city manager if less than \$2,000.00.

(Ord. No. 240, § 4, 12-12-1994)

### **Sec. 2-195. Additions to construction contracts.**

Should the city council or using agency determine that additional construction needs to be undertaken as part of, or in conjunction with, an already awarded construction contract, it may authorize a contract or change order for such additional work with the original contractor, and without the necessity of putting the additional work out for competitive bidding, if:

(1) The price of the additional work does not exceed 50 percent of the original contract price.

(2) It is not economically feasible for another contractor to undertake such additional work because of the cost or setup or because of the cost of work which would have to be duplicated by such other contractor.

(3) The city manager, public works director or the project engineer retained to design such additional work indicates that the price offered by the original contractor for doing the additional work is a fair price considering the cost of materials and labor on the present market, and that such price gives the using agency the benefit of savings which the contractor will realize as a result of doing work in conjunction with the original

contract work.

(Ord. No. 240, § 5, 12-12-1994)

**Sec. 2-196. Additional purchases after competitive bidding.**

The city and using agencies may purchase materials, supplies or devices which are substantially identical to those previously purchased after complying with the terms of this division, and without obtaining new competitive bids, under the following conditions:

- (1) The purchase does not exceed in value 50 percent of the prior purchase.
- (2) The purchase occurs not more than six months after the prior purchase.
- (3) The purchasing agent has made diligent inquiry as to the market price of the item being purchased and has been reliably informed that such price has not declined since the original purchase was made.

(Ord. No. 240, § 6, 12-12-1994)

**Sec. 2-197. Procurement of construction, architect-engineer and land surveying services.**

(a) Except as otherwise provided in this division, the city and using agencies shall not engage in the construction of a public work involving the practice of architecture or professional engineering unless all of the following requirements are met:

- (1) The plans, specifications and estimates have been prepared by a licensed architect or licensed professional engineer.
- (2) The review of the materials used and completed phases of construction is made under the direct supervision of a licensed architect or licensed professional engineer.
- (3) Each survey of land on which the public work has been or is to be constructed is made under the supervision of a licensed professional surveyor.

(b) This section does not apply to a public work for which the contemplated expenditure for the completed project is less than \$15,000.00.

(Ord. No. 240, § 7, 12-12-1994)

**Sec. 2-198. Conflict of interest.**

(a) Any purchase, contract or sale, within the purview of this division in which the purchasing agent, the purchasing agent's designee or agent, or any officer or employee of the city or any using agency is financially interested, directly or indirectly, shall be void, except that before the execution of any such purchase, contract or sale, the city council shall have the authority to waive compliance with this section when it finds such action to be in the best interest of the city.

(b) The purchasing agent, the purchasing agent's designee or agent, and all officers or employees of the city or any using agency are expressly prohibited from accepting, directly or indirectly, from any person to whom any purchase order or contract is, or might be, awarded, any rebate, gift, money or anything of value whatsoever, except where given for the use and benefit of the city.

(Ord. No. 240, § 8, 12-12-1994)

**Sec. 2-199. Violations declared municipal civil infractions.**

Except as otherwise provided by state law, persons who violate any of the provisions of this division are responsible for a municipal civil infraction.

(Ord. No. 240, § 9, 12-12-1996)

**State law references:** Authority to make violation municipal civil infraction, MCL 117.4I; municipal civil infraction, MCL 600.8701 et seq.

Secs. 2-200--2-230. Reserved.