

DIVISION 3. PURCHASING, CONTRACTING AND SELLING PROCEDURES

§ 2-176 DEFINITIONS.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

AGENT. The Clerk, Deputy Clerk or any other officer or employee designated by the Council to act as purchasing agent.

CONTRACT. Includes contracts for services, subject to the exclusion mentioned in this division, and shall include any type of service, leases for grounds, buildings, offices or maintenance of equipment, machinery and other city-owned personal property. The term contract shall not include professional and other contract services which may be unique and not subject to competition.

(1993 Code, § 2-176)

Charter reference:

City contracts, see Chapter 15

Cross-reference:

Definitions and rules of construction generally, see § 1-2

§ 2-177 PURCHASING AGENT.

The purchasing agent shall prepare rules concerning purchasing, the necessary forms therefor and a purchasing manual. Copies of the manual shall be issued to all departments of the city, to the members of the Council and to the Manager. The rules, forms and manual shall be in effect, except as and when amended by the majority vote of the Council.

(1993 Code, § 2-177)

§ 2-178 GENERAL PURCHASING POLICY.

(A) Competitive prices for all purchases and public improvements shall be obtained and the purchase made from or the contract awarded to the lowest competent bidder.

(B) Formal sealed bids shall be obtained in all transactions involving the expenditure of \$5,000 or more or such other amount which may be established by the Council by resolution.

(C) When other considerations are equal, contracts shall be awarded to local vendors.

(D) If the lowest competent bids are for the same amount, the purchasing agent shall negotiate with the low bidders for a reduced bid and shall make or recommend purchase which shall appear to be to the advantage of the city.

(E) Competitive bidding may not be required in the following cases:

(1) Where the subject of the contract is other than a public work or improvement and the product or material contracted for is not competitive in nature or no advantage to the city would result from requiring competitive bidding and the Council by resolution authorizes execution of a contract without competitive bidding;

(2) In the employment of professional services;

(3) Where the city elects to do, with city forces, work suitable for contracting, provided such work is authorized by the Council;

(4) In purchasing any type of insurance coverage.

(1993 Code, § 2-178)

§ 2-179 PURCHASES OR CONTRACTS UNDER \$5,000.

(A) Purchases of supplies, materials or equipment, the cost of which is less than \$5,000 or such other amount which may be established by the Council by resolution, may be made in the open market by the purchasing agent, but such purchase shall be based on competitive prices and shall be awarded to the lowest competent bidder, except as otherwise provided in this section.

(B) The agent may solicit prices verbally, by telephone or by written communication, provided that where bids are solicited by written communication, a copy of such request for bids shall be posted in the City Hall.

(C) In determining the competency of a bidder, the agent shall be guided by his judgment of the ability of the bidder to provide the required material or services in compliance with the specifications set forth. If the purchase is not made from the lowest bidder, a statement of the reasons for placing the order with a higher bidder shall be prepared by the agent, provided that when the amount of the transaction shall be \$500 or more or such other amount which may be established by the Council by resolution, the agent shall report such purchase to the Council with a copy of the required statement.

(1993 Code, § 2-179) (Am. Ord. passed 12-27-2004)

§ 2-180 PURCHASES OR CONTRACTS OVER \$5,000.

(A) Any expenditure for supplies, materials, equipment, construction projects or contracts obligating the city, where the amount of the city obligation is in excess of \$5,000 or such other amount which may be established by the Council by resolution, must be approved by the Council.

(B) Sealed bids shall be requested by the purchasing agent by mailing a copy of the specifications or requirements to such qualified vendors as may be known to him and by posting a copy of the request in the City Hall.

(C) Unless fixed by the Council, the agent with the concurrence of the Manager shall prescribe the amount of any security to be deposited with any bid and, in the case of construction contracts, the amount of labor and material or performance bonds to be required of the successful bidder. Such security shall be in the form of certified or cashier's check or bond written by a surety company authorized to do business in the state.

(D) Bids shall be opened in public at the time and place designated in the notice requesting bids. Bids shall be opened in the presence of the agent and at least 1 other city employee. Immediately following the opening, the bids shall be examined, tabulated and made available for inspection.

(E) The full tabulation of all bids shall be submitted to the meeting of the Council next following the opening of bids, together with the recommendation of the agent, department head or City Manager. The Council in its discretion may accept the low bid, reject all bids or determine the low bid to be unsatisfactory and make the award to the lowest competent bidder.

(F) After the opening of the submitted bids, such bids may not be withdrawn without forfeiture of the bid deposit. Deposits of security accompanying the 3 low bids shall be retained until the contract is awarded and signed, other deposits shall be returned to the unsuccessful bidders immediately after the bids have been tabulated. If any successful bidder fails or refuses to enter into the contract awarded to him within 10 days after being notified of such an award or file any bond required within the same time, the deposit accompanying his bid shall be forfeited to the city, and the Council may, in its discretion, award the contract to the next lowest bidder or readvertise the project.

(G) At the time the contract of a construction project is executed by the contractor, he shall file a bond executed by a surety company authorized to do business in the state, assuring payment of all just debts incurred in the performance of the contract, including wages and material bills, and shall file a performance bond when one is required in the bid specification. The contractor shall also file evidence of public liability insurance and workers' compensation insurance in an amount satisfactory to the Manager and shall also protect the city from loss or damage caused to any person or property by reason of negligence of the contractor or his employees.

(H) The Council shall reserve the right to accept or reject any or all bids as submitted if in the Council's discretion such action would be in the best interests of the city.

(1993 Code, § 2-180)

§ 2-181 PROHIBITIONS.

(A) No contract or purchase shall be subdivided to avoid the requirements of this division.

(B) The purchasing agent and every officer and employee of the city are expressly prohibited from accepting, directly or indirectly, from any person doing business or contemplating doing business with the city, any rebate, gift, money or anything of value.

(1993 Code, § 2-181)

§ 2-182. EMERGENCY PURCHASES.

In an emergency or an apparent emergency endangering the public peace, health or safety of the city, the purchasing agent, the Manager or any department head may purchase directly any supplies, materials or equipment which he deems immediately necessary. The agent shall advise the Council of the purchase no later than the next regular meeting of the Council.

(1993 Code, § 2-182)

§ 2-183 INSPECTION OF MATERIALS.

The responsibility for the inspection and acceptance of all materials, supplies and equipment purchased under this division shall rest with the department head.

(1993 Code, § 2-183)

§ 2-184 SALE OF PERSONAL PROPERTY.

(A) Whenever any city personal property is no longer needed for corporate or public purposes, the property may be offered for sale in accordance with the restrictions established in Charter, § 15.2.

(B) The purchasing agent shall have the authority to initiate the disposal of obsolete or excess materials or equipment.

(C) Sealed bids shall be taken if the estimated value of the materials or equipment is \$2,500 or more.

(D) Verbal bids may be taken if the estimated value of the materials or equipment is less than \$2,500.

(1993 Code, § 2-184)

§ 2-185 SALE OF REAL PROPERTY.

Whenever any city real property or utility plant is no longer needed for corporate or public purposes, the property may be offered for sale in accordance with the restrictions established in Charter, §

14.12.

(1993 Code, § 2-185)

§ 2-186 COOPERATIVE PURCHASES.

The Council or purchasing agent shall have the power to enter into purchase contracts with and from other governmental agencies, should there be an opportunity for a saving to the city or where the Council determines that it would be in the best interests of the city. However, the Council shall give its prior approval to such purchases, and all such purchases shall be in compliance with the provisions of this division and the Charter.

(1993 Code, § 2-186)

§§ 2-187 -- 2-195 RESERVED.

CHAPTER 15. CONTRACTS

SECTION 15.1. CONTRACTING AUTHORITY OF COUNCIL.

(A) The power to authorize the making of contracts on behalf of the city is vested in the Council and shall be exercised in accordance with the provisions of law.

(B) All contracts, except as otherwise provided by ordinance in accordance with the provisions of Section 15.2 hereof, shall be authorized by the Council and shall be signed on behalf of the city by the Mayor and the Clerk.

SECTION 15.2. PURCHASE AND SALE OF PERSONAL PROPERTY.

The Council shall establish, by ordinance, the procedure for the purchase and sale of personal property. Such ordinance shall also provide for centralized purchasing on behalf of the city. The ordinance shall also provide the dollar limit within which purchases and sales of personal property may be made without the necessity of securing competitive bids, and the dollar limit and conditions within which purchases and sales of personal property may be made without the necessity of Council approval and signature by the Mayor and the Clerk. No purchase of personal property shall be made unless a sufficient unencumbered appropriation is available therefor.

SECTION 15.3. LIMITATIONS ON CONTRACTUAL POWER.

(A) The Council shall only have power to enter into contracts which, by the terms thereof, will be fully executed within a period of ten years, unless such contracts shall first receive the approval of a majority of the qualified electors of the city voting thereon at a regular or special election. This limitation shall not apply to any contract for services with a public utility or one or more other governmental units, nor to contracts for debt secured by bonds or notes which are permitted to be issued by the city by law.

(B) The city shall not have power to purchase, sell, lease, or dispose of any real estate unless:

(1) The resolution authorizing the sale, lease, or disposal thereof shall be completed in the manner in which it is to be finally passed and has remained on file with the Clerk for public inspection for twenty-five days before the final adoption or passage thereof, and unless,

(2) Such action is approved by the affirmative roll call vote of five or more members of the Council, and unless,

(3) When the proposition is to sell any park, cemetery or any part thereof, except when such park is not required under an official master plan of the city, the proposition to sell, lease, or dispose of the same shall also be approved by a three-fifths vote of the electors of the city voting thereon at any general or special election.

(C) Except as provided by ordinance authorized by Section 15.2 of this chapter, each contract for the construction of public improvements or for the purchase or sale of personal property shall be let after opportunity for competitive bidding. All bids shall be opened in public in the Council room by the Clerk, or by the City Manager, at the time designated in the notice of letting and shall be reported to the Council at its next meeting. The Council may reject any or all bids, if deemed advisable. If, after two or more opportunities for competitive bidding, no bids are received or such bids as were received were not satisfactory to the Council, the Council may either endeavor to obtain new competitive bids or may authorize the City Manager or other proper official of the city to negotiate for a contract in the open market. The second bid herein required may be waived by a vote of five or more members of the Council.

(D) No contract shall be made with any person who is in default to the city.

(E) No extra compensation shall be paid to any agent, employee, or contractor after the service has been rendered or the contract entered into.

SECTION 15.4. BUSINESS DEALINGS WITH CITY.

An officer or employee of the city who intends to have business dealings with the city, whereby he may derive any income or benefits, other than such as are provided as remuneration for his official duties or employment shall file with the Clerk a statement, under oath, setting forth the nature of such business dealings, and his interest therein. The statement shall be filed with the Clerk not less than ten days before the date when action may be taken by the Council or any other agency of the city upon the matter involved. The statement shall be spread upon the proceedings of the Council for the meeting at which it is received and published in full therewith. In each case where the type of dealings with the city is on a continuing basis, involving more than one, or a sequence of transactions, described in the statement, each such statement shall stand for and apply to such transactions for a period of one year and may be renewed at the end of each one year's period for so long as such transactions continue. Each such renewal shall be spread upon the proceedings of the Council and published as in the case of the original statement.

In the event that the interest of any officer or employee of the city in any business dealings with the city changes at any time, he shall file a statement thereof, which shall be spread upon the proceedings of the Council and published as herein required. Approval of any such business dealings shall require a concurring vote of at least five members of the Council, not including any member who is disqualified under Section 4.6(K) of this Charter. Any business dealings made in violation of this section shall be void.

SECTION 8.24. DISPOSITION OF REAL PROPERTY HELD BY CITY FOR TAXES.

When the city has acquired any interest in property to protect the city's tax lien thereon, the owner of any interest therein, by fee title, as mortgagee, or as vendor or vendee under a land contract shall have the right to purchase the city's interest therein, upon payment to the city of the amount of money which the city has invested therein in the form of taxes, special assessments, charges, fees, penalties, interest, and costs and expenses paid by the city to acquire and protect its interest in such property. After the lapse of 90 days after the date the city acquired title to any such property, the Council may remove the same from the market by determining that such property is needed for and should be devoted to public purposes, naming such purposes, or may sell the same at a price which shall be not less than its market value, as determined and certified to the Council by the Assessor or by 2 competent real estate appraisers selected by the Council.

SECTION 14.12. DISPOSAL OF PLANTS.

Except for purposes permitted by law, the city shall not sell, exchange, lease, or in any other way alien or dispose of the property, easements, income, or other equipment, privileges, or assets belonging to and appertaining to any utility which it may own or acquire, unless and except such proposition shall first have been submitted at an election held for that purpose in the manner provided in this Charter, to the electors of the city and approved by them at a regular city election by a three-fifths majority vote of the electors voting thereon. All contracts, negotiations, leases, grants, or other forms of transfer in violation of this provision, shall be void and of no effect as against the city. The provisions of this section shall not, however, apply to the sale or exchange of any article of equipment that is obsolete, worn out, or useless, or which could, with advantage to the service, be replaced by new and improved machinery or equipment.

SECTION 15.3. LIMITATIONS ON CONTRACTUAL POWER.

(A) The Council shall only have power to enter into contracts which, by the terms thereof, will be fully executed within a period of ten years, unless such contracts shall first receive the approval of a majority of the qualified electors of the city voting thereon at a regular or special election. This limitation shall not apply to any contract for services with a public utility or one or more other governmental units, nor to contracts for debt secured by bonds or notes which are permitted to be issued by the city by law.

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(2) Such action is approved by the affirmative roll call vote of five or more members of the Council, and unless,

(3) When the proposition is to sell any park, cemetery or any part thereof, except when such park is not required under an official master plan of the city, the proposition to sell, lease, or dispose of the same shall also be approved by a three-fifths vote of the electors of the city voting thereon at any general or special election.

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