

CITY OF NORTH MUSKEGON  
MUSKEGON COUNTY, MICHIGAN

**ORDINANCE NO. \_\_\_\_\_**

THE CITY OF NORTH MUSKEGON ORDAINS:

The City of North Muskegon Code of Ordinances, Chapter 2 is amended as follows:

Sec. 2-71 is amended to read the following:

Section 2-71. – Requisition and purchase orders.

- (a) All purchasers of supplies, materials, and personal property shall be made pursuant to the provisions of this division and procedures approved by the city council.
- (b) Any purchase of supplies, materials, or personal property exceeding \$10,000.00 shall require the prior approval of the city council.
- (c) Prior to any purchase of \$20,000.00 or more, opportunity for competition shall be given in accordance with procedures approved by the city council.
- (d) Any contract for periodic purchases over a term of more than one year, but less than five years, with any one person or business, wherein total purchases may exceed \$10,000.00, shall only be entered into upon approval of the city council; provided, however, purchase orders pursuant to any such contract may be issued in accordance with procedures approved by the city council.
- (e) Any contract for \$50,000.00 or more shall require sealed competitive written bids, with the exception of professional service contracts.
- (f) In, in the sole discretion of the city manager, immediate procurement action is required to prevent delays of city services that may adversely affect the life, health, or safety of the public or the security of city-owned assets, emergency purchase may be made by the city manager in accordance with procedures approved by the city council.

This ordinance adopted:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Adoption Date: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Publish: \_\_\_\_\_

CITY OF NORTH MUSKEGON

By \_\_\_\_\_

Maria Boersma, City Clerk

CERTIFICATE

The undersigned, being duly qualified clerk of the City of North Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Council of the City of North Muskegon at a regular meeting of the City Council on the \_\_\_\_ day of \_\_\_\_\_, 2022, at which meeting a quorum was present and remained throughout, and that the original said ordinance is on file in the records of the City of North Muskegon. I further certify that the meeting was conducted, and public notice was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

Dated: \_\_\_\_\_, 2022

CITY OF NORTH MUSKEGON

By \_\_\_\_\_

Maria Boersma, City Clerk

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.



City of North Muskegon  
 1502 Ruddiman Drive  
 North Muskegon MI 49445  
 231-744-1621  
 www.northmuskegon.org

TO: City Council  
 FROM: Sam Janson, City Manager  
 DATE: August 13, 2021  
 SUBJECT: Purchasing Policy Detail

This policy establishes transparent and standard guidelines of the procurement function for the City of North Muskegon in coordination with established governmental best practices and ensures the best overall value for the acquisition of goods and services. Adhering to the policy shall result in financial accountability and efficient use of funds. Policy utilization occurs for every expenditure by City regardless of the funding source.

Principal procurement for the City is decentralized and each department is responsible policy adherence and acquisition of goods and services. It is the expectation of the City Manager that all purchases are budgeted and properly documented. The procedure and documentation may vary depending upon the nature of the purchase as defined within this policy. All purchases are ultimately the responsibility of the City Manager and may be approved or disapproved by him/her or his/her designee, in accordance with the provision of this policy and limitation of the City budget. The interpretation of requirements contained herein and any revision to this policy shall be made by the City Council.

	Amount/Type	DOCUMENTATION		APPROVAL		
		Sealed Bid	Written Quote	City Council	City Manager	Department Head
Purchases	\$0 - \$4,999					X
	\$4,999 - \$10,000				X	X
	\$10,001 - \$20,000			X	X	X
Competitive Purchases	\$20,001 - \$49,999		(3)	X	X	X
	\$50,000+	X		X	X	X
Exceptions	Cooperative Procurement		X	≥\$10,000	X	X
	Sole Source Vendor		X	≥\$10,000	X	X
	Emergency Purchase	At the sole discretion of the City Manager, per City Ordinance, Sec. 2-71. He/she shall notify City Council of these expenditures.				
	Budgeted Capital		X	≥\$10,000	X	X

**PURCHASES**

Less than \$5,000

Department Heads may make and authorize purchases less than \$5,000 in consultation with the City Manager, but without prior approval of the City Council. Applicable invoices shall be reviewed by the appropriate Department Head and the City Manager.

Between \$5,001 - \$10,000

The City Manager may make and authorize Department Heads to complete purchases up to, but not exceeding \$10,000 without prior approval of the City Council. Applicable invoices shall be reviewed by the appropriate Department Head, the City Manager, and one member of the City Council – Finance Committee.

Between \$10,001 - \$20,000

The City Council may authorize the City Manager and/or Department Heads to make purchases between \$10,001 and \$20,000 without quotes or bids. Applicable invoices shall be reviewed by the appropriate Department Head, the City Manager, one member of the City Council – Finance Committee, and the Mayor.

**COMPETITIVE PURCHASES**

Between \$20,001 - \$49,999

Comparative, written quotes are required from vendors for products and services except when a Department Head or the City Manager determines that no advantage to the City would result from acquiring multiple quotes, or when the purchase is for the acquisition of professional services from pre-qualified providers. Quotes from prospective vendors may be made in person, by telephone, and/or by written communication. Quote evaluation will normally be executed by the City Manager with technical approval from the Department Head. A purchase shall be made from the vendor who quotes the best overall value while meeting specifications. Quotes shall be approved by simple majority of City Council prior to purchase/contract award. Applicable contracts shall be executed by the City Clerk and Mayor, unless otherwise approved by City Council. Applicable invoices shall be reviewed by the appropriate Department Head, the City Manager, one member of the City Council – Finance Committee, and the Mayor.

Over \$50,000

Sealed competitive, written bids are required for all purchases and/or contracts over \$50,000, with the exception of professional service contracts. Sealed bids/proposals shall be solicited from a reasonable number of known, qualified, prospective vendors by distributing electronic and/or written notices. The amount of each proposal, the vendor name, and relevant information shall be recorded and read aloud during bid opening. The City Manager and/or the appropriate Department Head may request clarification on bids if deemed non-comparable. Alternatively, the City Manager and/or the appropriate Department Head may reject all bids and seek new sealed, competitive bids. Applicable contracts shall be executed by the City Clerk and Mayor, unless otherwise approved by City Council. Applicable invoices shall be reviewed by the appropriate Department Head, the City Manager, one member of the City Council – Finance Committee, and the Mayor.

**EXCEPTIONS TO STANDARD PURCHASING PROCEDURE**

Cooperative Purchase

City Council determines, based on the recommendation of the City Manager, that the public interest and cost effectiveness will be best served by purchase from or joint purchase with another unit of government. Examples include: MiDeal, SourceWell, and other governmental entities contracts offered as cooperative and of value to the City. The City Council may award a contract to a public entity or approved vendor of the cooperative contract. When applicable, an award will be made by complying with the terms of the stated cooperative contract. Applicable invoices shall be reviewed based on the cost of the purchase.

#### Sole Source Purchase

For purchases or contracts that the City Manager and/or appropriate Department Head determines in writing, after a good faith review of potential vendors, that there is only one vendor for the required product or service, especially when the procurement is for a product that is a part of a system in which selection of an alternative brand would alter the ability of the using department to operate and/or maintain the system. Applicable invoices shall be reviewed based on the cost of purchase.

#### Emergency Purchase

In the sole discretion of the City Manager, immediate procurement action is required to prevent delays of City services that may adversely affect the life, health, or safety of the public or the security of City-owned assets. The City Manager shall notify City Council at times when immediate procurement action is required. Applicable invoices shall be reviewed based on the cost of service.

#### Budgeted Capital Purchase

For purchases of capital assets that are less than or equal to the amount presented in the City's Annual Budget, procurement may proceed with a request made to the City Manager. Applicable invoices shall be reviewed based on cost of the purchase.

### **Sec. 8.8. Purchase and sale of property.**

The Council shall designate one of the administrative officers of the City as Purchasing Agent. Such officer shall be responsible for the purchase and sale of all city property. Competitive prices for all purchases and public improvements shall be obtained, except when no advantage to the City would result from such procedure. All purchases and sales shall be evidenced by written contract, purchase order, or bill of sale. The Council shall establish detailed procedures for purchases and sales. It may authorize the purchasing agent to make purchases and sales within a prescribed dollar limit without prior approval of the Council. In all sales or purchases in excess of ten thousand dollars, the sale or purchase shall be submitted to, and approved by the Council. In all such cases, formal sealed bids shall be obtained and, in all sales or purchases in excess of ten thousand dollars, compliance shall be had with the requirements of Section 13.6 of this Charter. The Council may authorize the making of public improvements, or the performing of any other city work, by any city agency or department without competitive bidding. The City may not sell any park, or any part thereof, unless approved by three-fifths of the electors of the City voting thereon at any general or special election.

(Amendment of 8-7-2001(1); Amendment of 11-2-2010)

*DIVISION 3. PURCHASES, CONTRACTS AND SALES<sup>1</sup>*

**Sec. 2-341. Purchasing agent.**

The city manager shall act as purchasing agent of the city, unless he or she shall designate another officer or employee of the city to act as purchasing agent. Any such designation, shall be in writing filed with the clerk. In the event of such designation every purchase order in excess of two thousand dollars (\$2,000.00) shall be approved by the manager before being issued.

(Ord. No. 786, § 2, 7-17-17)

**Sec. 2-342. Rules.**

The city manager shall adopt any necessary rules respecting requisitions and purchase orders.

(Ord. No. 786, § 2, 7-17-17)

**Sec. 2-343. Purchases or contracts \$2,000.00 to \$10,000.00.**

Purchases of services, supplies, materials or equipment, the cost of which is equal to or greater than two thousand dollars (\$2,000.00) but not more than ten thousand dollars (\$10,000.00) may be made in the open market but such purchases shall, where practicable, be based on at least three (3) competitive bids and shall be awarded to the lowest qualified bidder. The purchasing agent may solicit bids verbally, in writing, or through other means. A record shall be kept of all open market orders and the bids submitted thereon, which records shall be available for public inspection. Any or all bids may be rejected. Purchases made pursuant to this section may be made without prior approval of the council.

(Ord. No. 786, § 2, 7-17-17)

**Sec. 2-344. Purchases or contracts over \$10,000.00.**

Any expenditure for services, supplies, materials or equipment obligating the city, where the amount of the city's obligation is in excess of ten thousand dollars (\$10,000.00), shall be governed by the provisions of this section, except as provided in section 2-345.

- (1) Such expenditure shall be made the subject of a written contract. A purchase order shall be a sufficient written contract only in cases where the expenditure is in the usual and ordinary course of the city's affairs and in no case shall it be sufficient for the construction of public works or the contracting for

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<sup>1</sup>Editor's note(s)—Ord. No. 786, §§ 1, 2, adopted July 17, 2017, repealed Div. 3 in its entirety and enacted a new Div. 3 to read as set out herein. Former Div. 3, §§ 2-341—2-348, pertained to similar subject matter and derived from Ord. No. 491, § 1, adopted May 19, 1992; Ord. No. 532, § 1, adopted June 5, 1995; Ord. No. 569, § 1, adopted June 1, 1998; Ord. No. 616, § 1, adopted June 17, 2002; Ord. No. 617, § 1, adopted July 15, 2002; Ord. No. 675, § 1, adopted July 3, 2006; Ord. No. 715, § 1, adopted April 19, 2010.

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- receipt of supplies or services over any period of time in excess of one (1) year or where the quality of the goods or materials or the scope of the services bargained for is not wholly standardized.
- (2) Notice inviting sealed competitive bids shall be published in a newspaper of general circulation in the city at least five (5) days before the final date for submitting bids thereon. Such notice shall give briefly the specifications of the services, supplies, materials or equipment or other matter to be contracted for and shall state the amount of security to be given with the bid and the amount of bond or other security to be given with the contract. The notice shall state the time limit, the place of filing and the time of opening bids and shall also state that the right is reserved to reject any or all bids. Any other conditions of award of the contract shall also be stated in general terms.
  - (3) The purchasing agent shall also solicit bids from a reasonable number of such qualified prospective bidders as are known to him/her by sending each a copy of the notice requesting bids and notice thereof shall be posted on the city's website.
  - (4) Unless prescribed by the council, the purchasing agent shall prescribe the amount of any security to be deposited with any bid, which deposit shall be in cash, certified or cashier's check or bond written by a surety company authorized to do business in the state. The amount of such security shall be expressed as a percentage of the bid submitted. Unless fixed by the council, the purchasing agent shall fix the amount of the performance bond and for construction contracts, the amount of the labor and material bond to be required of the successful bidders.
  - (5) Bids shall be opened in public at the time and place designated in the notice requesting bids in the presence of the city clerk and at least one (1) other city official or employee, preferably the head of the department most closely concerned with the subject of the contract. The bids shall thereupon be carefully examined, tabulated and reported to the council with the recommendation of the purchasing agent at the next council meeting. After tabulation, all bids may be inspected by the competing bidders. In lieu of the procedure for opening bids herein specified, the council may direct that bids be opened at a council meeting.
  - (6) When such bids are submitted to the council, the contract to be executed, in a form approved by the city attorney, shall also be submitted. If the council finds any of the bids satisfactory, it shall award the contract to the lowest qualified bidder and shall authorize the execution of the contract. Upon execution of the contract, the successful bidder shall file any required bonds, which shall be approved by the city attorney as to form. Such award may be by resolution or ordinance. The council shall have the right to reject any or all bids, to waive irregularities in bidding and to accept bids which do not conform in every respect to the bidding requirements.
  - (7) For projects exceeding fifty thousand dollars (\$50,000.00). At the time the contract is executed, the contractor shall file a bond to the city executed by a surety company authorized to do business in the state, conditioned upon the performance of said contract, and further conditioned to pay all laborers, mechanics, subcontractors and material suppliers as well as all just debts, dues and demands incurred in the performance of such work. The contractor shall also file evidence of public liability insurance and workers compensation in an amount satisfactory to the city attorney, and agree to hold the city harmless from loss or damage caused to any person or property by reason of the contractor's negligence.
  - (8) All bids and deposits of certified or cashier's checks may be retained until the contract is awarded and signed. If any successful bidder fails or refuses to enter into the contract awarded to him or her within ten (10) days after the same has been awarded, or file any bond required within the same time, the deposit accompanying his or her bid shall be forfeited to the city, and the council may, in its discretion, award the contract to the next lowest qualified bidder or the contract may be re-advertised.

(Ord. No. 786, § 2, 7-17-17)



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**Sec. 2-345. Cooperative purchasing authorized.**

The city may participate in, sponsor, conduct, or administer cooperative purchasing agreements for the procurement of any supplies, services or construction with one (1) or more other governmental bodies. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts of a governmental body or opened state and federal contracts which are made available to local governments. The city may also use the pre-existing bid of any other governmental body or public procurement unit for the procurement of any supplies, services, or construction, provided that such bid was derived through a competitive bidding process. In addition, the city may utilize bids or proposals obtained by a nonprofit entity that expressly solicits bids and proposals for governmental agencies, provided that such bids were derived through a competitive bidding process.

(Ord. No. 786, § 2, 7-17-17)

**Sec. 2-346. Exceptions to competitive bidding.**

Subject to the approval of the council, competitive bidding shall not be required in the following cases:

- (1) Where the service, product or material contracted for is not competitive in nature, and the purchasing agent so certifies to the council in writing;
- (2) In the employment of professional services;
- (3) Where the council shall determine that the public interest will best be served by joint purchase with, or purchase from, another unit of government;
- (4) Where the council shall determine that, due to market conditions, price instability or other reasons, the best interest of the public will be served by using another method of bidding for the acquisition of any item or service. In such circumstances:
  - a. After complying with the notice requirements of section 2-344, a list of potential bidders may be established and prequalified by the council;
  - b. In conjunction with establishing the list of prequalified bidders, or at any other time, the council may direct the method to be used in obtaining bids; and
  - c. At the first regular council meeting after any purchase, the purchasing agent shall report to the council the method of obtaining the bids, the amounts bid, the quantity purchased and the price paid.
- (5) When an emergency requires an immediate purchase, the purchasing agent, at the first regular council meeting after any such purchase, shall report to the council the nature of the emergency, the item, and quantity purchased and the price paid.

(Ord. No. 786, § 2, 7-17-17)

**Sec. 2-347. Inspection of materials.**

The responsibility for the inspection and acceptance of all materials, supplies and equipment shall rest with the ordering department.

(Ord. No. 786, § 2, 7-17-17)

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**Sec. 2-348. Sale of surplus material.**

- (a) A department head having charge of any surplus, obsolete or unused supplies, materials or equipment, which may include vehicles, may request that the property be disposed of according to the provision of this section. City council authorization shall be required for the disposal or sale of any work of art, piece of furniture, decorative object, vehicle or the like, which is seventy (70) years or older.
- (b) The designee appointed by the city manager is authorized to sell the property in any form in the most advantageous manner. The designee may set a minimum sale price and may reject any formal or informal bid that, in his/her judgement is not a fair sale price. Property may be disposed of in the following manner:
  - (1) Sale by auction;
  - (2) Sale by sealed bid;
  - (3) Solicitation of offers to purchase the asset. Such solicitations shall be on the condition that no offer less than the expected sale price carried on the item, as approved by the city manager;
  - (4) Sales based upon a negotiated agreement with a particular vendor, provided that such vendor must be selected according to an established written procedure which provides a mechanism for all interested parties to make proposals in a fair and even manner. Direct negotiations as provided in this subsection may only be used if deemed to be in the best interest of the City of Owosso and facts set forth as to why other means are less desirable;
  - (5) Sales by a third party selected according to the city's standard procedures for selecting providers of services;
  - (6) Transferred, with or without compensation, to any government entity, or other organization designated as a 501(c)(3) by the Internal Revenue Service; or
  - (7) If the property has been designated in a nonusable state by the designee appointed by the city manager, it may be disposed of, consistent with the public interest, in any manner as deemed appropriate by the city.
- (c) Any compensation resulting from the disposal of surplus property belonging to the City of Owosso shall be transferred to the fund from which the property was acquired or most likely acquired.
- (d) The designee appointed by the city manager is authorized to act as the agent for the city in the collection, disposal, and execution of agreements for the disposal of surplus property as authorized by the City of Owosso or the city manager.
- (e) The designee shall forward any funds collected along with written information to allow the correct allocation of the funds and the removal from fixed assets or inventory.

(Ord. No. 786, § 2, 7-17-17)

**Sec. 2-349. "Lowest qualified bidder" defined.**

The term "lowest qualified bidder," as used in this division, shall mean the lowest bidder having qualifications to perform the work which are satisfactory to the council. The lowest bidder shall be determined based on an adjusted bid tabulation which shall be prepared in the following manner:

- (1) To the bid of any bidder which is neither an Owosso-based business nor a county-based business shall be added an amount equal to six (6) percent of the bid or two thousand five hundred dollars (\$2,500.00), whichever is less.

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- (2) To the bid of any bidder which is a county-based business shall be added an amount equal to three (3) percent of the bid or two thousand five hundred dollars (\$2,500.00), whichever is less; provided, however, that if no bid is received from an Owosso-based business, no additional amount shall be added to the bid of a county-based business.
  - (3) "Owosso-based business" shall be interpreted to mean a business registered with the county clerk or a corporation registered with the state having a business address within the city limits which pays real and/or personal property taxes levied by the city.

The term "county-based business" shall be interpreted to mean a business other than a city-based business registered with the county clerk or a corporation registered with the state having a business address within the county which pays real and/or personal property taxes levied by the county.

- (4) If twenty-five (25) percent or more of a contract for construction or other services is to be subcontracted by an Owosso-based business bidder to a non-city-based business or businesses, or by a county-based business bidder to a non-county-based business or businesses, the adjusted bid shall be calculated by applying the provisions of subsections (1) and (2) within this section separately to each portion of the contract based on the status of the contractor or subcontractor performing that portion of the contract as an Owosso-based or county-based business.

(Ord. No. 786, § 2, 7-17-17)

**Secs. 2-350—2-400. Reserved.**

## ARTICLE III. - PURCHASES AND SALES

*Footnotes:*

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**State Law reference**— *Bidders on public work, MCL 123.501 et seq.; discrimination in contracts, MCL 37.2209, 37.2605.*

### DIVISION 1. - GENERALLY

#### Sec. 2-27. - City council to adopt rules.

The city council shall from time to time, adopt by resolution any necessary rules respecting requisitions or purchase orders.

(Code 1966, § 1.111)

#### Sec. 2-28. - City clerk to act as purchasing agent; exception.

The city clerk shall act as purchasing agent of the city except as the city council may from time to time otherwise provide by resolution.

(Code 1966, § 1.111)

#### Sec. 2-29. - Sale of personal property.

Whenever any personal property belonging to the city is no longer needed for corporate or public purposes, the property may be offered for sale on approval by the city council. Personal property not exceeding one thousand dollars (\$1,000.00) in value may be sold for cash by the purchasing agent upon approval of the city council, after receiving quotations or competitive bids for the best price obtainable. Personal property with a value in excess of one thousand dollars (\$1,000.00) may be sold after advertising and receiving competitive bids, in the same manner as prescribed in division 3 of this article for the purchase of property in excess of one thousand dollars (\$1,000.00) or by public bid and after approval of the sale has been given by the city council. In the purchase of automotive equipment, bidders may include in their bid a trade-in allowance for old equipment and such equipment may be disposed of in trade without further bidding requirements.

(Code 1966, § 1.115; Ord. No. 2002-15, 12-23-02)

#### Sec. 2-30. - Sale or purchase of real estate generally.

Real estate may be purchased or sold or leased when no required for corporate purposes, upon the affirmative vote of four (4) members of the city council. Sales of real estate shall be subject to the requirements of division 3 of this article and section 12.3 of the city Charter. The notice inviting bids shall contain a brief description of the property in addition to the information specified in section 2-45.

(Code 1966, § 1.116; Ord. No. 2015-7, 3-23-15)

Sec. 2-31. - Reserved.

**Editor's note**— Ord. No. 2015-7, adopted March 23, 2015, repealed former § 2-31 which pertained to purchase orders required.

Secs. 2-32—2-36. - Reserved.

## DIVISION 2. - RESERVED

*Footnotes:*

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**Editor's note**— Ord. No. 1978-3, enacted March 27, 1978, repealed Div. 2, §§ 2-37, 2-38, relative to purchases under \$1,000.00, derived from Code 1966, § 1.112.

Secs. 2-37—2-43. - Reserved.

## DIVISION 3. - PURCHASES OVER TWO THOUSAND FIVE HUNDRED DOLLARS

*Footnotes:*

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**Editor's note**— Ord. No. 2015-7, adopted March 23, 2017, changed the title of div. 3 from "Purchases Over One Thousand Dollars" to read as herein set out.

Sec. 2-44. - Written contract required; when purchase order is a written contract.

- (a) Any expenditure for supplies, materials, equipment, construction projects or contracts obligating the city, where the amount of the obligation is in excess of two thousand five hundred dollars (\$2,500.00) shall be made the subject of a written contract.
- (b) A purchase order shall be deemed a written contract only in cases where the expenditure is in the usual and ordinary course of the city's affairs and in no case shall it be sufficient for the construction of public works or the contracting for supplies or services over any period of time or

where the quality of the goods or materials or the scope of the services bargained for is not wholly standardized.

(Code 1966, § 1.113; Ord. No. 2015-7, 3-23-15)

Sec. 2-45. - Notice inviting sealed bids; contents.

At the discretion of the city council, a notice inviting sealed bids shall be either published in a newspaper of general circulation or posted in three (3) places in the city, at least five (5) days before the final date for submitting bids. The notice shall give briefly the specifications of the supplies, materials or equipment or construction project or other matter to be contracted for, and shall state the amount of bond or other security, if any is to be required, to be given with the bid, and the amount of bond or other security to be given with the contract. The notice shall state the time limit, the place of filing and the time of opening bids and shall also state that the right is reserved to reject any or all bids. Any other conditions of award of the contract shall also be stated in general terms.

(Code 1966, § 1.113)

Sec. 2-46. - Solicitation of bids.

The purchasing agent may solicit bids from a reasonable number of qualified prospective bidders, known to him, by sending each a copy of the notice inviting bids.

(Code 1966, § 1.113)

Sec. 2-47. - Security deposit.

The city council may prescribe the amount of the security to be deposited with the bid. The deposit shall be in the form of cash, certified or cashier's check or bond written by a surety company authorized to do business in the state. The amount of the security shall be expressed in terms of per centage of the bid submitted.

(Code 1966, § 1.113)

Sec. 2-48. - Performance bond required; contents; amount.

- (a) At the time a contract is executed pursuant to this division, the contractor shall be required to file a bond to the city executed by a surety company authorized to do business in the state, except when the purchase is made in the usual and ordinary course of the city's affairs and the quality of the goods and materials or the scope of the services bargained for are wholly standardized.
- (b) The bond shall be conditioned upon the performance of the contract and shall save the city harmless from all losses or damage caused to any person or property by reason of any

carelessness or negligence by the contractor and from all expense of inspection, engineering and otherwise, caused by the delay in the completion of any improvement and further conditioned to pay all laborers, mechanics, subcontractors and materialmen as well as all just debts, dues and demands incurred in the performance of the work.

- (c) The city council shall fix the amount of the performance bond and in the case of construction contracts, the amount of the labor and material bond to be required of the successful bidders.

(Code 1966, § 1.113)

#### Sec. 2-49. - Purchasing policy.

Contracts for the construction of public improvements or for the purchase or sale of personal property shall be processed and let in accordance with the purchasing policy adopted by the city council, as may be amended.

(Ord. No. 2019-6, § 1, 7-8-19)

**Editor's note—** Ord. No. 2019-6, § 1, adopted July 8, 2019, amended § 2-49 in its entirety to read as herein set out. Former § 2-49 pertained to bid opening and inspection, and derived from Code 1966, § 1.113; and Ord. No. 2015-7, adopted March 23, 2015.

#### Sec. 2-50. - Lowest responsible bidders; prerequisites to execution of contract; rejection.

When bids made pursuant to this division are submitted to the city council, the contract to be executed shall also be submitted and if the city council finds any of the bids to be satisfactory, it shall award the contract to the lowest responsible bidder, unless the city council determines that the public interest will be better served by accepting a higher bid. The city council shall authorize execution of the contract upon execution of the contract by the successful bidder and the filing of any bonds which may have been required. The city council shall have the right to reject any or all bids and to waive irregularities in bidding and to accept bids which do not conform in every respect to the bidding requirements.

(Code 1966, § 1.113)

#### Sec. 2-51. - When successful bidder fails to enter into contract or file bond.

All bids, deposits of cash or certified or cashier's checks issued to the city pursuant to this division may be retained until the contract is awarded and signed. If any successful bidder fails or refuses to enter into the contract awarded to him or fails to file any required bond within five (5) days, or within an extended period of time authorized by the city council, after the contract has been awarded, the deposit

accompanying his bid shall be forfeited to the city, and the city council may, in its discretion, award the contract to the next low responsible bidder unless the city council determines that the public interest will be better served by accepting a higher bid, or that the contract be readvertised.

(Code 1966, § 1.113)

Sec. 2-52. - Exceptions to competitive bidding.

Subject to prior approval of the city council, competitive bidding shall not be required in the following cases:

- (a) Where the product or material contracted for is not competitive in nature, and the purchasing agent so certifies to the city council in writing.
- (b) In the employment of professional services.
- (c) When the city council determines that the public interest will be best served by joint purchases with, or purchase from, another unit of government.

(Code 1966, § 1.114)

Secs. 2-53—2-67. - Reserved.



## CHAPTER 32: FINANCE

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### Section

#### ***Purchasing***

- 32.01 Definitions
- 32.02 Requisitions and estimates
- 32.03 Formal competitive bid process
- 32.04 Informal competitive quote process
- 32.05 Expenditure of city funds
- 32.06 Emergency purchases
- 32.07 Exceptions to formal competitive bidding and informal competitive quotes
- 32.08 Additional purchases after competitive bidding
- 32.09 Blank orders
- 32.10 Disqualification

#### **Charter reference:**

*General city finance, see Art. IX*

*Taxation, see Art. VIII*

#### **Statutory reference:**

*Revised Municipal Finance Act, Act 34 of 2001, M.C.L.A. §§ 141.2101*

*Similar provisions, see M.S.A. §§ 5.3188(1)et seq.*

### **PURCHASING**

#### **§ 32.01 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AGENCY.** Includes city boards, commissions, committees and authorities.

**CONTRACT.** Includes, but is not limited to a purchase order for the procurement of supplies and equipment.

**FORMAL BID LIMIT.** An amount equal to 0.67% of the total local tax revenue of the immediately preceding fiscal year.

#### **PURCHASING AGENT.**

(1) The City Manager shall act as purchasing agent of the city, unless he or she shall designate another officer or city employee to act as purchasing agent.

(2) Every purchase order shall be approved by the purchasing agent before being issued.

(3) The purchasing agent may adopt rules regulating requisitions and purchase orders.

(Prior Code, § 2-140) (Ord. 98-12, passed 12-21-1998)

### **§ 32.02 REQUISITIONS AND ESTIMATES.**

(A) All agencies and departments of the city shall file with the purchasing agent detailed estimates of their requirements in supplies, materials, equipment and contractual services in such manner, at such times and for such future periods as the City Manager shall prescribe.

(B) The requirement for preparing estimates shall not prohibit any agency or department from filing with the purchasing agent at any time a requisition for any supplies, materials, equipment or contractual services the need for which was not foreseen when the detailed estimates were filed.

(Prior Code, § 2-141) (Ord. 98-12, passed 12-21-1998)

### **§ 32.03 FORMAL COMPETITIVE BID PROCESS.**

Except as exempted in § 32.07:

(A) All supplies, equipment or contractual services amounting in value to more than the formal bid limit shall be secured by competitive bids and written contract. Notices inviting sealed competitive bids shall be published at least once in a newspaper or journal in the city and at least five days before the final date for submitting of bids. The notices shall state the general description of the article or service to be purchased, where specifications can be obtained and the time and place for the opening of bids. The purchasing agency or department may, in addition, solicit sealed bids from prospective suppliers by sending them copies of the bid forms and specifications to acquaint them with the proposed purchase.

(B) All bids shall be submitted to the Clerk-Treasurer. In cases of construction contracts or purchases involving large sums of money, the City Council may require that the successful bidder post a surety bond in the amount that it deems proper. The bids shall be opened publicly by the Clerk-Treasurer or designee at the time and place stated in the public notice. After examination and tabulation by the Clerk-Treasurer, all bids may be inspected by the competing bidders. The City Council may reject any or all bids or the bid for one or more commodities included in the proposed contract, when the public interest will be served thereby, the City Council may authorize the purchase of the commodities in the open market, provided the price paid in the open market shall not exceed any bid price submitted for the same commodity. Otherwise, the contract shall be awarded by the City Council on the basis of the bid most advantageous to the city. The City Council shall take into consideration quality offered with the bid, delivery terms and the service reputation of the vendor in making their award of the contract.

(Prior Code, § 2-142) (Ord. 98-12, passed 12-21-1998)

### **§ 32.04 INFORMAL COMPETITIVE QUOTE PROCESS.**

Except as exempted in § 32.07:

(A) All purchases of supplies, equipment or contractual services, the estimated cost of which is less than the formal bid limit, may be made in the open market; without newspaper advertisement and without the necessity of observing the procedure prescribed in § 32.03 for the award of the contracts.

(B) All open market purchases shall, whenever possible, be based on at least three competitive quotes and shall be awarded on the basis of the quote most advantageous to the city. The purchasing agent shall keep a record of all open market orders and the records shall also be open to public inspection.

(Prior Code, § 2-143) (Ord. 98-12, passed 12-21-1998)

## **§ 32.05 EXPENDITURE OF CITY FUNDS.**

Except as exempted in § 32.06, the purchasing agent shall not issue any order for delivery on a contract or any open market order unless and until the Clerk-Treasurer certifies that there is to the credit of each of the agencies or departments concerned a sufficient appropriation balance in excess of all unpaid obligations, to defray the cost of the supplies, equipment or contractual services.

(Prior Code, § 2-144) (Ord. 98-12, passed 12-21-1998)

## **§ 32.06 EMERGENCY PURCHASES.**

In an emergency or an apparent emergency endangering the public peace, health or safety of the city, the designated purchasing agent, the City Manager or any department head may purchase directly any supplies, materials, equipment or services which he or she deems immediately necessary. A full report shall be filed by the City Manager with the City Council within a 30-day period.

(Prior Code, § 2-145) (Ord. 98-12, passed 12-21-1998)

## **§ 32.07 EXCEPTIONS TO FORMAL COMPETITIVE BIDDING AND INFORMAL COMPETITIVE QUOTES.**

Formal competitive bidding and informal competitive quotes shall not be required in the following cases:

(A) 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 or informal competitive quotes and the City Council by resolution authorizes execution of the contract without competitive bidding or competitive quotes;

(B) In the employment of professional services including, but not limited to medical, accounting, auditing, data processing, legal, planning, engineering and architectural and the City Council by resolution authorizes execution of the contract without competitive bidding or competitive quotes;

(C) Where the scope of the work is not definitive and as a result a request for proposal is difficult to prepare and/or the cost of preparing the request for proposal is expected to exceed the cost of the contract and the City Council, by resolution, authorizes execution of the contract without competitive bidding or competitive quotes;

(D) For purchases from or joint purchases with another unit of government;

(E) When the city elects to perform the work using city employees; and

(F) For purchases of supplies, equipment or contractual services, the estimated cost of which is less than 10% of the formal bid limit.

(Prior Code, § 2-146) (Ord. 98-12, passed 12-21-1998)

## **§ 32.08 ADDITIONAL PURCHASES AFTER COMPETITIVE BIDDING.**

The purchasing agent may make additional purchases of supplies, materials, equipment or services from a successful bidder, provided that:

(A) Amounts of additional purchase are at the same cost or less per quantity as originally bid by the vendor;

(B) Amounts of additional purchase do not exceed the cost of the original purchase;

(C) The purchase occurs not more than 12 months after the date of the original purchase; and

(D) The purchasing agent is reasonably certain that the same supply, material, equipment or service is not available at a lesser cost from any source.

(Prior Code, § 2-147) (Ord. 98-12, passed 12-21-1998)

**§ 32.09 BLANKET ORDERS.**

Periodic purchases from a single vendor as set forth in a single purchase order for reasons of time savings, availability and competitive pricing may be made using a blanket order. The competitive pricing of the goods or services shall be reviewed no less frequently than every 24 months.

(Prior Code, § 2-148) (Ord. 98-12, passed 12-21-1998)

**§ 32.10 DISQUALIFICATION.**

No bid shall be accepted from or contract awarded to a bidder who is in arrears to the city, who is in default on any contract with or payment due to the city or who has previously demonstrated bad faith in dealings with the city.

(Prior Code, § 2-149) (Ord. 98-12, passed 12-21-1998)

## **DIVISION 2-V-2 PURCHASING, CONTRACTING AND SELLING PROCEDURES**

Sec 2-211 Definitions

Sec 2-212 General Authority

Sec 2-213 Purchasing Agent

Sec 2-214 General Purchasing Policy

Sec 2-215 Purchases Under \$300.00

Sec 2-216 Purchases More Than \$300.00 And Under \$5,000.00

Sec 2-217 Purchases Or Contracts Over \$5,000.00

Sec 2-218 Purchases Through Other Governmental Units

Sec 2-219 Prohibitions

Sec 2-220 Emergency Purchases

Sec 2-221 Inspection Of Materials

### **Sec 2-211 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* means the city manager or any officer or employee designated by the city manager to act as purchasing agent.

*Contract* includes a contract 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.

(Ord. No. 282, § 2.76, 12-27-94)

**Cross reference** - Definitions generally, § 1-2.

### **Sec 2-212 General Authority**

The general authority of the purchasing agent shall be pursuant to chapter VIII of the Charter and to this division.

(Ord. No. 282, § 2.75, 12-27-94)

### **Sec 2-213 Purchasing Agent**

The city manager shall act as purchasing agent of the city unless he shall designate another officer or city employee to act as 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, and to the members of the council. The rules, forms and manual shall be in effect, except as and when amended by the majority vote of the council.

(Ord. No. 282, § 2.77, 12-27-94)

### **Sec 2-214 General Purchasing Policy**

Competitive prices for all purchases and public improvements shall be obtained and the purchase made

from or the contract awarded to the lowest competent vendor. The city is not committed to accepting the lowest bid or price but shall consider which bid or price is most advantageous to the city.

Formal sealed bids shall be obtained in all transactions involving the expenditure of \$5,000.00 or more or such other amount that may be established by the council by resolution.

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

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 that shall appear to be to the advantage of the city.

Competitive bidding will not be required in the following cases:

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.

In the employment of professional services, including medical, accounting, auditing, data processing, legal, planning, engineering, and architectural.

Where the city elects to do, with city forces, work suitable for contracting, provided such work is authorized by the council.

In purchasing any type of insurance coverage.

Uniforms and protective clothing.

Noncontractible services, where the scope of the work is not definitive or the cost of preparing contract documents exceeds the cost of the service.

Specialty services.

Additional services may be included in the above listing as the council deems necessary to be in the best interest of the city. For other items for which it is not practical to obtain competitive quotes or bids, the council may waive the requirements of the purchasing ordinance and authorize the purchase as recommended by the purchasing agent.

(Ord. No. 282, § 2.78, 12-27-94)

### **Sec 2-215 Purchases Under \$300.00**

Purchases involving expenditures of \$300.00 or less may be made with the approval of the department head.

(Ord. No. 282, § 2.79, 12-27-94)

### **Sec 2-216 Purchases More Than \$300.00 And Under \$5,000.00**

Purchases of supplies, materials or equipment the cost of which is less than \$5,000.00 or such other amount that 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 vendor except as otherwise provided in this section.

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.

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 and filed with the purchase order; provided that when the amount of the transaction shall be \$5,000.00 or more or such other amount that may be established by the council by resolution, the agent shall report such purchase to the council with a copy of the required statement.

(Ord. No. 282, § 2.80, 12-27-94)

### **Sec 2-217 Purchases Or Contracts Over \$5,000.00**

Any expenditure for supplies, materials, equipment, construction projects or contracts obligating the city, where the amount of the city obligation is in excess of \$5,000.00 or such other amount that may be established by the council by resolution, must be approved by the council.

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.

Unless fixed by the council, the agent with the concurrence of the city 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.

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 one other city employee, preferably the department head requesting the purchase. Immediately following the opening, the bids shall be examined, tabulated and made available for inspection.

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.

After the opening of the submitted bids, such bids may not be withdrawn without forfeiture of the bid deposit. Deposits of security accompanying the three 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 ten 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.

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 city 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.

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.

(Ord. No. 282, § 2.81, 12-27-94)

### **Sec 2-218 Purchases Through Other Governmental Units**

Where another governmental entity uses a bid process similar to the process specified by this division to obtain services, materials, supplies and/or equipment, the purchasing agent may purchase these items under the auspices of the other governmental unit.

(Ord. No. 282, § 2.82, 12-27-94)

### **Sec 2-219 Prohibitions**

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

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.

(Ord. No. 282, § 2.83, 12-27-94)

### **Sec 2-220 Emergency Purchases**

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

(Ord. No. 282, § 2.84, 12-27-94)

### **Sec 2-221 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.

(Ord. No. 282, § 2.85, 12-27-94)