

Chapter 7 - Purchases, Contracts and Sales

1. Purchasing Agent. The Manager shall act as Purchasing Agent of the City in accordance with Section 12.1 of the Charter. The Manager may designate another officer or employee of the City as Purchasing Agent to assist in the performance of such duties. Any such designation shall be in writing filed with the Clerk. In the event of such designation, every purchase order in excess of one thousand (\$1,000.00) dollars shall be approved by the Manager, or some other designee, before being issued. The Manager shall adopt any necessary rules respecting requisitions and purchase orders.

(Rev. 05-04-1992)

2. Purchases or Contracts of \$10,000.00 or less. The purchase of, or contracting for, supplies, materials, equipment and public improvements, the cost of which, in each instance, is \$10,000.00 or less, may be made by the Purchasing Agent in the open market.

Such purchases shall be based on comparative price quotations, except when the Manager shall determine that no advantage to the City would result from such a procedure, or when the purchase is for the employment of professional services. When comparative price quotations are submitted, such a purchase shall be made from the supplier whom the Purchasing Agent believes is competent, who quotes the lowest price. The Purchasing Agent may solicit price quotations from prospective suppliers in person, by telephone, or by written communication. Records shall be kept for six (6) months of all such open market purchases and the comparative price quotations submitted thereon. Records shall be kept for two (2) years of all purchases made that were not based on comparative price quotations, along with a statement by the Manager giving the reason why that procedure was not used. Such records and statements shall be available for public inspection.

(Rev. 05-04-1998)

3. Purchases or Contracts over \$10,000.00. Any expenditure or contract obligating the City for an amount in excess of \$10,000.00 shall be approved by the City Council and shall be governed by the provisions of this section.
 - 1) Any such expenditure shall be made the subject of a written contract when directed by the City Council. A purchase order shall be a sufficient written contract in cases where the expenditure is in the usual and ordinary course of the City's affairs.
 - 2) The Purchasing Agent shall solicit competitive bids from a reasonable number of known qualified prospective bidders by ensuring that notices are distributed and bid documents are accessible to bidders. A bid notice shall be posted in the City Hall. Bids shall also be solicited by newspaper advertisements when directed by the City Council.

(Rev. 07-12-2004)

- 3) Unless prescribed by the Council, the Manager shall prescribe the amount of any security to be deposited with any bid, which deposit shall be in the form of cash, certified or cashier's check or, if authorized by the City Manager, a bond written by a

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surety company authorized to do business in the State of Michigan. Unless fixed by the Council, the Manager shall fix the amount of the performance bond, and in the case of construction contracts, the amount of the labor and materials bond, to be required of the successful bidder.

- 4) Bids shall be opened in public at the time and place designated in the notice requesting bids, in the presence of the Purchasing Agent, the City Clerk and at least one other City official. The bids shall thereupon be carefully examined and tabulated and reported to the Council with the recommendation of the Purchasing Agent (as approved by the Manager if the Manager is not acting as Purchasing Agent) within sixty (60) days after bid opening. After award, all bids may be inspected by the competing bidders.
- 5) When such bids are submitted to the Council, if the Council shall find any of the bids to be satisfactory, it shall award the contract to the lowest competent bidder meeting specifications, unless the Council shall determine that the public interest will be better served by accepting a higher bid. Such award shall be by resolution. 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.
- 6) At the time a contractor executes a contract, the contractor shall file with the City a bond to the City executed by a surety company authorized to do business in the State of Michigan, conditioned to pay all laborers, mechanics, sub-contractors and material suppliers, as well as all just debts, dues and demands incurred in the performance of the work, and shall file a performance bond when one is required. Said contractor shall also file evidence of public liability insurance in an amount satisfactory to the City Manager, and agree to save the City harmless from loss or damage caused to any person or property by reason of the contractor's negligence.
- 7) All bids and security deposits may be retained until the contract is awarded and signed. If any successful bidder fails or refuses to enter into the proposed contract within five (5) days after it has been awarded, or to file any bond required within the same time, the deposit accompanying the bid shall be forfeited to the City, and the Council may, in its discretion, award the contract to the next lowest competent bidder meeting specifications, or to another competent bidder meeting specifications if the Council shall determine that the public interest will be better served by accepting such other bid, or said contract may be re-advertised.

(Rev. 05-04-1998)

4. Purchases or Contracts over \$1,000.00. Any contract or agreement obligating the City for an amount of One Thousand Dollars or more, made on a form or with terms other than the standard city purchase order form, shall, before execution, be submitted to the City Attorney, and his opinion obtained with respect to its form and legality. A copy of all contracts or agreements requiring such opinion shall be filed in the office of the City Clerk together with a copy of the opinion. Before any contract, agreement or purchase order obligating the City to pay an amount of One Thousand Dollars or more is executed, the accounting officer of the City shall first certify that an appropriation has been made for the

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payment thereof, or, if the obligation be for a purpose being financed by the issuance of bonds or by special assessments or for some other purpose not chargeable to a budget appropriation, that sufficient funds will be available for the payment thereof. In the case of a contract or agreement obligating the City for periodic payments in future fiscal years for the furnishing of a continuing service or the leasing of property, such certification need not cover those payments which will be due in future fiscal years, but this exception shall not apply to a contract for purchase or construction being financed by an installment contract under authority of Section 11.2 of the Charter. Certification by the accounting officer of the City shall be endorsed on each contract, agreement or purchase order requiring same or shall be filed as an attachment thereto.

5. Exceptions to Competitive Bidding. Competitive bidding shall not be required in the following cases:
 - 1) Pursuant to Section 2 of this Chapter.
 - 2) When the Council shall determine by unanimous resolution of those present that the public interest will be best served by purchase from or joint purchase with, another unit of government.
 - 3) When the City elects to undertake the work itself as provided by the Charter.
 - 4) When the Council determines that an emergency exists.
 - 5) When the Council determines that the public interest will be best served without obtaining bids.
 - 6) In the employment of professional services.

This section shall not be interpreted to exempt a contractor for the performance of work or services from compliance with Section 3(6) of this Chapter.

6. Recreation Service Agreements. Contracts for services or instruction of a recreational nature, to be provided to members of the public, the entire cost of which is to be reimbursed to the City by the members of the public who receive the services or instruction, shall be exempt from the requirements of Section 2 and Section 3 of this Chapter.

Such contracts shall be phrased so that no payment is made to the contractor by the City until after the City has received payment from the said members of the public.

7. Inspection of Materials. The responsibility for the inspection and acceptance of all materials, supplies and equipment shall rest with the ordering department.
8. Sale of Property. Whenever any City property, real or personal, is no longer needed for corporate or public purposes, the same may be offered for sale in accordance with this section, except as to property the sale of which is restricted by law or the provisions of the Charter. Personal property not exceeding \$1,000.00 in value, may be sold for cash by the Purchasing Agent upon approval of the City Manager after receiving quotations or

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competitive bids therefor for the best price obtainable. Property with a value in excess of \$1,000.00 may be sold after advertising and receiving competitive bids, as provided in Section 3 of this Chapter and after approval of the sale has been given by the Council.

9. Declared Emergency. Upon the activation of the City's officially approved Emergency Operations Plan, the City Manager or the Designated Resource Officer is permitted to make emergency purchases without sealed bids, prior to Council approval and in excess of \$10,000. For each purchase under the Emergency Operations Plan, the City Manager or Designated Resource Officer shall comply with any Federal or State emergency purchasing mandates and make every effort to secure commercially reasonable prices and retain receipts and any other required documentation to facilitate requests for reimbursement from State or Federal sources. In those instances, and for those purchases exceeding the limitations provided in the Charter, the City Manager or his/her designee shall present the facts and circumstances concerning the purchase, and request that City Council affirm the purchase at the next regularly scheduled meeting following the delivery of the emergency purchase or initial rendering of emergency service.

For all other sales or purchases exceeding \$10,000, advance City Council approval is required. However, City Council has the option of passing a blanket type resolution granting the required advance approval for emergency purchases that do not require the activation of the Emergency Operations Plan, but are necessary because of an urgent and unforeseen situation that threatens life, property, or the general public health, safety and welfare, and immediate delivery or rendering of services is required. If such a blanket resolution is adopted, the resolution shall require that in any such case, the City Manager or his/her designee shall present the facts and circumstances concerning the emergency purchase, and request that City Council affirm the purchase at the next regularly scheduled meeting following the delivery of the emergency purchase or initial rendering of emergency service. Any such resolution should be reviewed and revisited any time there is a new member to City Council.

(11-14-2016)

10. Change Orders to Construction Contracts. Construction shall be defined as the process of building, altering, repairing, improving or demolishing any public structure or building, or other public improvements of any kind to any public real property. Construction does not include the routine operation, routine repair, or routine maintenance of existing structures or real property.

A change Order to original construction contracts may be authorized solely by the City Manager if:

- 1) The change, as reviewed and approved by the City Manager, is within the current "scope of work" for the project.
- 2) The change is documented with itemized and verifiable cost, and/or pricing data. This provision may be waived, solely by the City Manager, if the cost and/or pricing data cannot be verified and the contractor certifies that to the best of his knowledge and belief, the cost or pricing data submitted is accurate, complete, and current as of a mutually specified date.

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- 3) The profit and overhead for the General Contractor and Subcontractor is limited to 10% combined; with the General Contractor limited to adding 5% profit and overhead for any subcontractors.
- 4) The change is within the contingency limits established by City of Troy Council Resolution at the time of original project award.

(11-01-1999)