

ARTICLE IX
Purchasing Department

Sec. 2-41. Created. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998; 3-3-2021 by Ord. No. 1790]

- (a) Pursuant to powers granted by Section 4.16 of the Charter of the City, there is hereby created a department of purchases of the general City administration, for the control of purchasing activities and making contracts.
- (b) Purchases and contracts in furtherance of administering terms of service activities by the Board of Public Works shall be made as prescribed by its governing board within Charter limitations. The Board shall establish and periodically review guidelines and policies to govern such purchases and contracts.

Sec. 2-42. Organization; Purchasing Coordinator generally. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998; 4-17-2019 by Ord. No. 1766]

- (a) The Finance Director shall be the Purchasing Coordinator. The Purchasing Coordinator shall receive such salary for his or her duties as shall be determined by the annual City budget. The activities of the Purchasing Coordinator shall be under the supervision of the City Manager, subject to the provisions of this article.
- (b) Nothing herein shall preclude the City Manager from assigning the purchasing function to an existing department of the general City administration or designating someone other than the Finance Director as the Purchasing Coordinator. When such assignment is made, the reference herein to a department shall be deemed to refer to the assignment of that function to an existing department. The Purchasing Coordinator shall have such experience and capabilities as shall be required by the City Manager. The Purchasing Coordinator may appoint a Deputy Purchasing Coordinator subject to approval by the City Manager. The Deputy Purchasing Coordinator shall possess all the powers and authorities of the Purchasing Coordinator, except as such may be from time to time limited by his or her superior or by the City Manager.

Sec. 2-43. Authority of Purchasing Coordinator; definitions. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998; 4-17-2019 by Ord. No. 1766]

- (a) For purposes of this Article IX of Chapter 2, the following terms shall be construed to have the following meanings:

CONTRACTUAL SERVICES — Construed to mean, but not limited to, standard software licenses (other than software that is custom designed for the City), utility services, and the rental, repair or maintenance of equipment, machinery, automotive equipment and other City-owned personal or real property.

FUNDING AGREEMENT — Contracts with local nonprofit organizations that provide services to or for the City.

SUPPLIES, MATERIALS and EQUIPMENT — Any and all goods which shall be

furnished to or used by any department.

- (b) Subject to Subsections (d), (e) and (f) of this Section 2-43, the Purchasing Coordinator shall have the power to purchase all supplies, materials, equipment and contractual services needed by the general departments of the City, exclusive of the Board of Public Works. Purchases under this Section 2-43 do not require specific City Council approval.
- (c) Purchases under this Section 2-43 shall be by purchase order or contract (See Section 2-49.), made in consultation with the appropriate department head and shall be subject to the quotation or competitive bidding requirements set forth in Sections 2-46 through 2-48.1, if applicable. All contracts authorized by this Section 2-43 shall be signed by the City Manager, subject to approval as to form by the City Attorney.
- (d) The Purchasing Coordinator may purchase expendable supplies, materials and equipment, and contractual services that are not commonly defined as capital outlay items or fixed assets, if such purchases do not exceed \$20,000 and are a part of the operating budget approved by the City Council.
- (e) The Purchasing Coordinator may purchase supplies, materials, equipment or contractual services that are commonly defined as capital outlay items or fixed assets if such purchases do not exceed \$20,000 and were approved as part of the budget approved by the City Council.
- (f) The Purchasing Coordinator may purchase professional services or minor construction services without prior City Council approval if such services do not exceed \$50,000 and were approved as part of the budget approved by City Council.
- (g) The City Manager may execute funding agreements for recipients who provide services to or for the City if such agreements do not exceed \$20,000 and are a part of the operating budget approved by the City Council.

Sec. 2-44. Duties of the Purchasing Coordinator. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

Except as otherwise provided in this article, the Purchasing Coordinator shall have the following general duties and responsibilities, in addition to those specifically promulgated in the rules and regulations by the City Manager:

- (a) Procure or supervise procurement of all supplies, materials, equipment and contractual services needed by the general City departments.
- (b) Exercise general supervision and control over all inventories of supplies belonging to the general City departments, including but not limited to the authority to establish and supervise storerooms and warehouses for materials which can be purchased and stored for future use by one or more units of the City government.
- (c) Supervise the trade, sale at public auction or otherwise disposition of surplus materials, supplies and equipment belonging to the general City departments in

accordance with the provisions of this article, the Charter and statutes applicable to the disposal of surplus or abandoned materials, supplies and equipment.

Sec. 2-45. Purchases by department heads. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998; 4-17-2019 by Ord. No. 1766]

A department head, consistent with the terms of this article, may purchase materials, supplies, equipment or contractual services for his or her department without prior approval of the Purchasing Coordinator or the City Council through a confirming purchase order if the purchases do not exceed \$5,000 and were approved as part of the budget approved by the City Council. Subject to the provisions of this article, the City Manager may prescribe rules and regulations authorizing a department head to make purchases of supplies, materials, equipment or services upon prior verbal authorization by the City Manager or the Purchasing Coordinator with the confirming purchase order to be issued subsequent thereto.

Sec. 2-46. Quotations and bids—when required. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998; 4-17-2019 by Ord. No. 1766]

- (a) The Purchasing Coordinator shall obtain a minimum of two quotations prior to purchasing supplies, materials, equipment or contractual services if the estimated cost exceeds \$1,500 but is under \$5,000. Purchases up to \$1,500 may be made without quotations.
- (b) The Purchasing Coordinator shall solicit written competitive bids for purchases of supplies, materials, equipment or contractual services where the estimated cost exceeds \$5,000 but is under \$20,000.
- (c) The Purchasing Coordinator shall solicit sealed bids for purchases of supplies, materials, equipment or contractual services where the estimated cost exceeds \$20,000.
- (d) The Purchasing Coordinator shall solicit written competitive bids for minor construction services where the estimated cost exceeds \$5,000 but is under \$50,000.

Sec. 2-47. Procedures for quotations and bids. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998; Ord. No. 1488, 1-9-2008]

- (a) When the Purchasing Coordinator deems it advisable or this article requires quotations or sealed bids, he or she shall confer with the department head as to the specifications required for the purchase, and again after the quotations have been received, before issuing a purchase order or submitting them to the City Manager for approval by the City Council, if required.
- (b) When required, the Purchasing Coordinator shall solicit bids or quotations from responsible prospective suppliers by sending them a copy of the request to bid. In addition, requests for bids or quotations shall be sent to such prospective bidders as shall represent a sufficient number of qualified bidders. The Purchasing Coordinator or the City Manager shall determine the extent of advertising or

solicitation of sealed bids which may include advertisements in an appropriate newspaper or trade publication prior to the deadline for receiving bids.

- (c) Competitive bidding shall not be required with respect to contracts for professional services, insurance, banking, and financial services. For purposes of this section, professional services shall mean that the contract for services requires a high degree of individual skill, training, and expertise where the specialized ability or fitness of the individual or company performing such service is required by the City.
 - (1) Professional services, including those services specified in Subsection (c), shall be obtained by competitive negotiation to determine that a reasonable price for such services has been obtained. No contract for the services of legal counsel may be awarded without prior approval of the City Attorney and City Council.
 - (2) In any other case where competitive bidding or competitive negotiation is not required by law and either clearly is not practical or no advantage would result to the City by competitive bidding or competitive negotiation, the City Council, upon written recommendation of the City Manager, may authorize the execution of a contract without competitive bidding or competitive negotiation. When a contract is let without competitive bidding or competitive negotiation, the proposed contract shall be approved by the City Attorney as to form and content, unless prepared by him or her by direction of the City Council, and submitted to the City Council for approval.
- (d) All sealed bids shall be submitted to the Purchasing Coordinator and, when deemed necessary by the Purchasing Coordinator or upon direction of the City Manager, shall be accompanied by surety in the form of check, cash or bond in such amount as shall have been prescribed in the notice and/or invitation to bid. The bids shall be opened in public at the time and place stated in the notice and/or invitation to bid by the Purchasing Coordinator and, if applicable, in the presence of the City Manager or the department head of the department for which the purchase is to be made. Sealed bids received by the purchase coordinator after the established deadline shall be returned unopened to the bidder submitting the same.
- (e) Purchases of items that are unique, noncompetitive, or available only from a sole source may be exempt only from the requirements of Section 2-46 with regard to quotations and bids; however, every effort should be made to obtain alternate sources of supply for such items. Items that are unique, noncompetitive or available only from a sole source shall be designated as such only by the City Manager. Such purchases shall still require the appropriate purchase order and/or contract, and necessary approvals.
- (f) Pursuant to the provisions of Section 4.16 of the City Charter, the City shall have the right to accept or reject any or all bids. The City shall also have the right to waive any informalities/irregularities in the bids, as well as the right to split the award or a bid between two or more bidders. Purchases shall be made from the source from which the lowest responsible bid is received, as defined in Section 2-48.

Sec. 2-48. Award of contracts and purchases. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

Contracts and purchases shall be awarded to the lowest responsible bidder. In determining the lowest responsible bidder, in addition to the price, the department head, Purchasing Coordinator or the City Council shall consider:

- (a) The bidder's ability, capacity and skill to perform the contract or provide the supplies, material, equipment or services required promptly, or within the specified time, without delay or interference.
- (b) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- (c) The bidder's previous and existing compliance with contracts, purchase orders or services.
- (d) The bidder's previous and existing compliance with laws and ordinances relating to contracts, purchase orders or services.
- (e) The sufficiency of the financial resources of the bidder to perform the contract or provide the supplies, materials, equipment or services.
- (f) The availability and adaptability of the supplies, materials, equipment or contractual services to the particular use required.
- (g) The bidder's ability to provide future maintenance and service subject to the contract or purchase order.
- (h) The number of scope of the conditions attached to the bid by the bidder.
- (i) The brand, make or type of product being proposed by the bidder, and its compatibility with other similar materials or equipment currently owned and operated by the City.

If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the local bidder, in any. In all other cases of tied bids, the contract shall be awarded to one of the tied bidders by drawing lots in public.

Sec. 2-48.1. Preference for local bidders/Holland-based businesses. [Ord. No. 1565, 6-1-2011]

- (a) Purpose. The City finds that its purchasing practices should encourage local vendors to provide goods and/or services to the City, resulting in increased economic activity through more local jobs, tax revenues, and expenditures, and to entice businesses to relocate to the City.
- (b) Definition. "Holland-based business" means a physical and economic relationship to Holland determined by a verifiable business address (not a P.O. box) within the corporate boundaries of the City, activities carried out in Holland substantial

enough to consider it a Holland-based business, and the payment of City property taxes for not less than one year immediately prior to the date of the bid submittal. A Holland-based business shall also include a local vendor which is located outside the geographic boundaries of the City of Holland but within the geographic boundaries of the Macatawa Area Coordinating Council and the governmental unit in which such local vendor is located has an ordinance or a purchasing policy which grants a similar local vendor preference to Holland-based businesses as defined in the first sentence of this subsection.

(c) Exceptions.

- (1) Purchases resulting from exigent emergency conditions where any delay in completion or preference would jeopardize public health, safety or welfare of the citizens of the City, or where, in the judgment of the manager or his or her designee, the operational effectiveness of a City department or division or a significant City function would be seriously threatened if a purchase was not made expeditiously.
- (2) Purchases from any sole source supplier for supplies, materials, or other equipment.
- (3) Purchases made through the state's extended purchasing program, or other cooperative purchasing contractual agreements utilized or initiated by the purchasing division.
- (4) The procurement of goods and services utilizing the request for proposal (RFP) or best value quote processes where the award is based on criteria other than lowest cost, unless the original solicitation contains the criteria used to affect Holland-based preference.
- (5) Bid solicitations that utilize federal funding that prohibit awards based on local preference criteria.
- (6) Bid solicitations that utilize "life cycle cost" as the basis of award in place of submitted bid price.

(d) Preference. When sealed bids are received under Section 2-46, the following shall apply:

- (1) The person or business submitting the lowest responsive, responsible bid, according to the requirements of the bidding documents, shall be deemed the lowest bidder. If the lowest bidder is not a Holland-based business, any Holland-based business with a bid within 2% of the lowest bid shall be deemed the lowest bidder if it agrees to reduce its bid to match the bid of the lowest bidder. A lowered bid by a Holland-based business which is premised upon, in whole or in part, changes to or variances to the bid specifications, contract requirements, or scope of work shall be considered nonresponsible and will not be considered.
- (2) If such a Holland-based business refuses to reduce its bid to match the lowest

bid, then the next lowest responsive and responsible Holland-based business with a bid within 2% of the lowest bid shall be deemed the lowest bidder, if it agrees to reduce its bid to match the bid of the lowest bidder.

- (3) If no responsive and responsible Holland-based business within 2% of the lowest bid agrees to reduce its bid, then the contract shall be awarded to the person or business with the lowest, most responsive and responsible bid.
- (4) No contract awarded pursuant to this section shall be sublet in any matter that permits 50% or more of the dollar value of the contract to be performed by a subcontractor or subcontractors who do not meet the definition of "Holland-based."
- (e) Additional requirements. In no event shall a Holland-based business be awarded a contract if the business is not current on real and personal property taxes owed to the City.
- (f) Rights of City. This section shall not waive or constrain, in any manner, the right and prerogative of the City to reject any and all bids or proposals, to reject a bid not accompanied by required bid security or other documentation or data required by the bidding documents, or to reject a bid which is in any way incomplete, irregular, not responsive or not a lowest responsible bidder as defined by Section 2-48 of the ordinance code.
- (g) Rules and regulations. The City Manager, in conjunction with the Purchasing Coordinator, may prescribe rules and regulations to implement and carry out the intent and purpose of this section. Such rules and regulations shall be consistent with the City charter and all applicable City ordinances.

Sec. 2-49. Contracts generally. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998; 4-17-2019 by Ord. No. 1766; 3-3-2021 by Ord. No. 1790]

- (a) The City Manager and/or City Attorney shall determine which purchases of materials, supplies, equipment and contractual services shall be by contract. All other purchases of materials, supplies, equipment and contractual services shall be by purchase order. Contracts or purchase orders shall not be required for purchases of less than \$1,000.
- (b) Except as provided in Section 2-41(b) and Section 2-43(d), (e) and (f), all contracts shall be submitted to the City Council and, upon approval by the City Council, shall be signed by the Mayor and City Clerk, subject to approval as to form by the City Attorney.

Sec. 2-50. Involvement of the City Finance Director. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

The City Finance Director shall be notified of all contracts and the amounts thereof, so that the proper accounts may be encumbered.

The City Finance Director shall be notified of each purchase order, giving either the

definite amount thereof or an amount estimated as closely as possible by the Purchasing Coordinator, specifying the account to be charged, so that the proper account may be encumbered.

Except in cases of emergency or in accordance with the rules and regulations adopted pursuant to Section 2-45, the Purchasing Coordinator shall not release any order for delivery on a contract or purchase order until the City Finance Director shall have certified that there are sufficient unencumbered funds to the credit of the account indicated on the order to defray the amount of such purchase.

Sec. 2-51. Emergency purchases. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

Notwithstanding any other provision of this article, the Purchasing Coordinator or the City Manager may make or authorize a department head to make emergency purchases when there exists a threat to public health, safety or welfare under emergency conditions as defined in regulations promulgated by the City Manager, provided, that such purchases shall be made as competitively as is practical under the circumstances. A written determination of the basis for the emergency purchase and for the selection of the particular vendor or contractor shall be filed with the Purchasing Coordinator and the City Manager within three days after the purchase is made.

Sec. 2-52. Inspection of delivered goods. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

The department head shall be responsible for the inspection of all deliveries of supplies, materials, equipment and services to determine their conformance with the specifications set forth in the contract or purchase order. The Purchasing Coordinator shall have the authority to require testing of deliveries when necessary to determine their quality and conformance with the specifications. In the performance of such tests, the Purchasing Coordinator may make use of laboratory facilities of any agency of the City government or any outside laboratory with the approval and consent of the City Manager.

Sec. 2-53. Split orders or other deviations. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

The Purchasing Coordinator or any department head shall not split any order for any supplies, materials, equipment or contractual services to avoid the limitations placed upon such purchases by this article, and no department head shall declare a purchase to be an emergency one unless an unforeseeable circumstance or combination of circumstances makes immediate action necessary. Infractions of these regulations shall be deemed to be a violation of this article of the Code of the City.

Sec. 2-54. Combined purchases. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

Nothing herein shall preclude the purchasing department from combining purchases with the Boards of the City or with other units of government, including the state, in order to

obtain advantages which might accrue by doing so.

Sec. 2-55. Reports. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

The City Council, through the City Manager, or the City Manager may request reports on purchases from the Purchasing Coordinator and such reports shall be submitted forthwith.

Sec. 2-56. City Manager to prescribe rules and regulations. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

The City Manager, in conjunction with the Purchasing Coordinator, may prescribe rules and regulations to implement and carry out the intent and purpose of this article. All rules and regulations shall be consistent with the City Charter, all City ordinances and any purchasing resolutions adopted by the City Council.

Sec. 2-57. through Sec. 2-59. (Reserved)