

ARTICLE VI.

FINANCE*

* **Charter References:** General finance, ch. 8; taxation, ch. 9.

Cross References: Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city saved from repeal, § 1-6(1); any ordinance making any appropriation saved from repeal, § 1-6(4); any ordinance levying or imposing annual taxes saved from repeal, § 1-6(5); taxation, ch. 32.

State Law References: Municipal finance act, MCL 131.1 et seq.; uniform budgeting and accounting act, MCL 141.421 et seq.

DIVISION 1.

GENERALLY

Sec. 2-316. Investment of idle funds.

(a) The council hereby authorizes its finance director to invest idle funds of the city in accordance with Act No. 20 of the Public Acts of Michigan of 1943 (MCL 129.91 et seq.), as amended, as follows:

- (1) In bonds and other direct obligations of the United States or an agency or instrumentality of the United States;
- (2) In certificates of deposit, savings accounts, deposit accounts, or depository receipts of a bank which is a member of the federal deposit insurance corporation or a savings and loan association which is a member of the federal savings and loan insurance corporation or a credit union which is insured by the national credit union administration;
- (3) In commercial paper rated at the time of purchase within the two (2) highest classifications established by not less than two (2) standard rating services and which matures not more than two hundred seventy (270) days after the date of purchase;
- (4) In United States government or federal agency obligation repurchase agreements;
- (5) In bankers' acceptances of United States banks;
- (6) In mutual funds registered under the investment company act of 1940, title 1 of chapter 686, 54 Stat. 789, 15 USC 80a-1 to 80a-3 and 80a-4 to 80a-64, with the authority to purchase only investment vehicles that are legal for direct investment by a public corporation. However, a mutual fund is not disqualified as a permissible investment solely by reason of either of

the following:

- a. The purchase of securities on a when-issued or delayed delivery basis.
 - b. The ability to lend portfolio securities as long as the mutual fund receives collateral all times equal to at least one hundred (100) percent of the securities loaned.
 - c. The limited ability to borrow and pledge a like portion of the portfolio's assets for temporary or emergency purposes.
- (7) Obligations of the state or any of its political subdivisions that at the time of purchase are rated as investment grade by not less than one (1) standard rating service.
 - (8) Obligations described in 1-7 above if purchased through an interlocal agreement under the urban cooperation act of 1967, PA 7, MCL 124.501 to 124.512.
 - (9) Investment pools organized under the surplus funds investment pool act, 1982, PA 367, MCL 129.111 to 129.118.
 - (10) Investment pools organized under the local government investment pool act 1985, PA 121, MCL 129.141 to 129.150.

(b) Assets acceptable for pledging to secure deposits of public funds are limited to assets authorized for direct investment under 1-7 above.
(Ord. No. 574, § 1, 1-19-99)

Secs. 2-317--2-325. Reserved.

DIVISION 2.

RESERVED*

* **Editors Note:** Ord. No. 669, § 1, adopted June 20, 2005, amended the Code by repealing former div. 2, §§ 2-326--2-328, in its entirety. Former div. 2 pertained to the budget stabilization fund, and derived from Ord. No. 398, adopted October 4, 1982.

Secs. 2-326--2-340. Reserved.

DIVISION 3.

PURCHASES, CONTRACTS AND SALES*

* **Editors Note:** Ord. No. 491, § 1, adopted May 19, 1992, amended Div. 3 to read as herein set out in §§ 2-341--2-348. Prior to inclusion of said ordinance, Div. 3, §§ 2-341--2-347 pertained to similar subject matter and derived from the Code of 1977, §§ 1.261--1.266; Ord. No. 381, § 1, adopted Sept. 21, 1981; Ord. No. 479, § 1, adopted March 4, 1991.

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 one thousand dollars (\$1,000.00) shall be approved by the manager before being issued.

(Ord. No. 491, § 1, 5-19-92; Ord. No. 569, § 1, 6-1-98)

Sec. 2-342. Rules.

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

(Ord. No. 491, § 1, 5-19-92; Ord. No. 569, § 1, 6-1-98)

Sec. 2-343. Purchases or contracts \$1,000.00 to \$5,000.00.

Purchases of services supplies, materials or equipment, the cost of which is equal to or greater than one thousand dollars (\$1,000.00) but not more than five thousand dollars (\$5,000.00) 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. Where bids are solicited by written communication, a request for such bids shall also be posted in the city hall. 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. 491, § 1, 5-19-92; Ord. No. 569, § 1, 6-1-98)

Sec. 2-344. Purchases or contracts over \$5,000.00.

Any expenditure for services, supplies, materials or equipment obligating the city, where the amount of the city's obligation is in excess of five thousand dollars (\$5,000.00), 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 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 by sending each a copy of the notice requesting bids and notice thereof shall be posted in city hall.
- (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 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 such security shall be expressed in terms of percentage of the bid submitted. Unless fixed by the council, the purchasing agent 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.
- (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, preferably the head of the department most closely concerned with the subject of the contract. The bids shall thereupon be carefully examined and 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 and if the council shall find any of the bids to be satisfactory, it shall award the contract to the lowest qualified bidder and shall authorize the execution of the contract upon execution of the contract by the successful bidder and the filing of any bonds which may have been required, which bonds shall

first 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 and to waive irregularities in bidding and to accept bids which do not conform in every respect to the bidding requirements.

- (7) At the time the contract is executed, the contractor shall file a bond executed by a surety company authorized to do business in the state, to the city, 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 in an amount satisfactory to the city attorney, and agree to save 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 five (5) 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 lower qualified bidder or the contract may be re-advertised.

(Ord. No. 491, § 1, 5-19-92; Ord. No. 569, § 1, 6-1-98)

Sec. 2-345. 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 pre-qualified 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. At the first regular council meeting after any such purchase, the purchasing agent shall report to the council the nature of the emergency, the item and quantity purchased and the price paid.

(Ord. No. 491, § 1, 5-19-92; Ord. No. 569, § 1, 6-1-98)

Sec. 2-346. Inspection of materials.

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

(Ord. No. 491, § 1, 5-19-92; Ord. No. 569, § 1, 6-1-98)

Sec. 2-347. Sale of property.

Whenever any city personal property is no longer needed for corporate or public purposes, the same may be offered for sale. 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 manager, if the manager is not acting as purchasing agent, after receiving quotations or competitive bids therefor 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 provided in section 2-344 and after approval of the sale has been given by the council.

(Ord. No. 491, § 1, 5-19-92; Ord. No. 569, § 1, 6-1-98)

Sec. 2-348. "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 a city-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.

- (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 a city-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 a city-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 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 a city-based or county-based business.

(Ord. No. 491, § 1, 5-19-92; Ord. No. 532, § 1, 6-5-95; Ord. No. 569, § 1, 6-1-98; Ord. No. 616, § 1, 6-17-02; Ord. No. 617, § 1, 7-15-02; Ord. No. 675, § 1, 7-3-06; Ord. No. 715, § 1, 4-19-10)