

PURCHASING, CONTRACTING, AND SELLING PROCEDURE

§ 14.30 DEFINITIONS.

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

CONFLICT OF INTEREST. A situation that arises when an employee or officer, or any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any such individuals, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

EMERGENCY PURCHASE or EMERGENCY CONTRACT. An immediate public improvement and purchase or contract of goods, professional or non-professional services, supplies, materials, equipment, or construction projects, whose immediate procurement is essential to the continuation of the work of the department concerned.

PROFESSIONAL SERVICES. A vocation or occupation usually requiring advanced education, special knowledge and skill, such as, but not limited to, law or medical professions. The labor and skill involved in such a profession is predominantly mental or intellectual, rather than physical or manual. **PROFESSIONAL SERVICES** include consultants hired for employee training.

PROJECT. An endeavor undertaken with any and all goods, professional or non-professional services, materials, and/or equipment necessary to obtain full operation of any repair, replacement, or construction to the extent that it is considered complete.

PURCHASE OF \$2,000 OR MORE. Any public improvement and purchase or contract of goods, professional or non-professional services, supplies, materials, equipment and constructions projects, whose procurement and/or complete installation for intended use will exceed a cost of \$2,000. Whenever possible, purchases of items whose individual cost is less than \$2,000, but the extended cost of which is \$2,000 or more, when purchased in quantity, is considered a **PURCHASE OF \$2,000 OR MORE**. Whenever possible, purchases of items whose individual cost is less than \$2,000, but when combined with other items as part of the same project exceed \$2,000, is considered a **PURCHASE OF \$2,000 OR MORE**.

PURCHASE ORDER. A document authorizing a seller to deliver goods with payment to be made later or a written authorization calling on the vendor or supplier to furnish goods to the person ordering such. It constitutes an offer, which is accepted when the vendor supplies the quantity and quality ordered.

PURCHASE ORDER CONTRACT. A standardized form contract on a form acceptable to the Purchasing Officer, or his or her designee, and City Attorney, or his or her designee, for the acquisition of goods, non-professional services, supplies, materials, equipment and the like, whereby no bid specifications are required, or where the bid specifications are so precisely detailed and defined that it is the purchaser's belief that such goods, non-professional services, supplies, materials, and equipment will be provided without the necessity of a formal written contract.

SAGINAW-BASED BUSINESS.

(1) The physical and economic relationship to Saginaw determined by evidence of a building or office physically located in the city and the payment of:

- (a) City income taxes on the contractors' net profits; and
- (b) City property taxes on a plant or office and equipment such as is ordinarily required for the performance of the contract bid.

(2) Any business physically located in the city which operates under a city-authorized tax abatement or forgiveness program, or any other city-authorized tax credit program, is still considered a **SAGINAW-BASED BUSINESS** for purposes of this section.

TRANSACTION. The act of conducting or carrying out a request for public improvements, purchases, or contracts for goods, professional and non-professional services, supplies, materials, equipment, and construction projects.

WRITTEN CONTRACT. An agreement in writing between two or more parties for legal consideration, which creates an obligation to do or not to do a particular thing and is enforceable by law. It is within the discretion of the department head as to whether a formal written contract or a standardized written purchase order contract is necessary for the purchase of supplies, materials, and equipment or for professional or non-professional services to be provided by the contractor. When considering the necessity of a formal **WRITTEN CONTRACT**, the following may be considered:

- (1) The contract is for a large sum of money;
- (2) The city will incur obligations beyond the payment of the purchase price;
- (3) There is a need for a more detailed accountability or description of scope of services by the contractor;
- (4) The city may incur certain liability which needs specific insurance requirements; and
- (5) More detailed remedies are necessary in the event the contractor breaches any of the terms and conditions of the contract.

(Prior Code, § 14.20) (Ord. O-82, passed 6-1-2009, effective 6-11-2009; Ord. O-193, passed 7-24-2017, effective 8-3-2017)

§ 14.31 GENERAL POLICY.

(A) (1) Procurement transactions shall be conducted in a manner providing full and open competition. Competitive bids and/or quotes for all purchases and public improvements shall be obtained where practicable and purchase orders and/or written contracts awarded to the lowest responsive and responsible best bidders. Sealed bids shall be asked for in all transactions involving the expenditure of \$2,000 or more and the transaction submitted to and approved by Council; provided that in cases where it is clearly to the city's advantage to contract without competitive bidding, the Council, upon recommendation of the City Manager, may so authorize.

(2) Acquisition of unnecessary or duplicative items must be avoided. Consideration should be given to consolidating or breaking out procurements to obtain more economical purchases.

(B) Professional services as defined in § 14.30 are not subject to competitive bidding. Administrative Regulation No. 4-7 shall govern the securing of professional services.

(Prior Code, § 14.21) (Ord. O-82, passed 6-1-2009, effective 6-11-2009; Ord. O-193, passed 7-24-2017, effective 8-3-2017)

§ 14.32 WRITTEN CONTRACT POLICY.

(A) All contracts \$2,000 or more must be in writing as required by the Saginaw City Charter, Chapter 5, § 33.

(B) All contracts less than \$2,000 concerning the purchase of goods and services which cannot be fulfilled within one year of the contract, because of the Statute of Frauds, must be in writing and signed by an authorized signature by the party to be charged in order to be legally enforceable.

(C) All written contracts must be approved by the City Attorney, or his or her designee, as to form and the City Manager as to substance.

(D) All contracts \$2,000 or more must be approved by City Council. City Council may approve the contract in the annual budget as long as there is a specific category line item and dollar amount listed in the annual budget.

(E) All contracts less than \$2,000 for professional services shall be approved by the City Manager.

(F) All contracts less than \$2,000 for goods, non-professional services, supplies, materials, equipment, and construction projects shall be purchased pursuant to § 14.34.

(G) Contracts involving the expenditure of federal funds shall, where applicable, include those provisions set forth in 2 C.F.R. Part 200, Appendix II, and pertaining to the following:

(1) Administrative, contractual, or legal remedies, including possible sanctions and penalties, in instances where vendors violate or breach contract terms;

(2) Termination for cause and convenience by the city, including the manner by which it will be effected and the basis for any settlement;

(3) Compliance with federal equal employment opportunity laws and regulations;

(4) Compliance with the Davis-Bacon Act, being 40 U.S.C. §§ 276a et seq., as supplemented by U.S. Department of Labor regulations, and the Copeland "Anti-Kickback" Act, being 18 U.S.C. § 874;

(5) Compliance with the Contract Work Hours and Safety Standards Act, being 40 U.S.C. Ch. 37;

(6) Compliance with federal rights to inventions laws and regulations;

(7) Compliance with the Clean Air Act, being 42 U.S.C. §§74.01, and the Federal Water Pollution Control Act, being 33 U.S.C. §§ 1251 et seq.;

(8) Compliance with federal debarment and suspension laws and regulations;

(9) Compliance with federal anti-lobbying laws and regulations; and

(10) Compliance with § 6002 of the Solid Waste Disposal Act, being 42 U.S.C. § 6962 with regard to the procurement of recovered materials.

(Prior Code, § 14.22) (Ord. O-82, passed 6-1-2009, effective 6-11-2009; Ord. O-193, passed 7-24-2017, effective 8-3-2017)

§ 14.33 VENDORS.

(A) Applications to be placed on city vendor database will be submitted on a standardized form acceptable to the Purchasing Officer, or his or her designee.

(B) Vendor application forms shall contain a statement requiring that the applying vendor affirms that they do not discriminate against any subcontractor, employee, or applicant on the basis of religion, race, creed, color, age, national origin, sex, height, weight, disability, familial status, or marital status.

(C) The Purchasing Office will be responsible for maintaining vendor applications and for affirming that such completed

applications are subsequently added to the city's vendor database. The city will approve applications to be placed on the city's vendor database without prejudice, provided the aforementioned application form is complete.

(D) Vendors must be in the vendor database prior to issuance of a purchase order, purchase order contract, written contract, and/or professional or non-professional service.

(E) Any vendor entering into a purchase order, purchase order contract, or written contract with the city who will be performing a professional or non-professional service must also have provided to the Purchasing Office, in advance of such services, certificates of insurance in the types and amounts specified in the bid proposal. When such proof of insurance is required, it is to be carried out within the following parameters:

(1) Limits of liability and types of coverage required will vary depending on the specifications involved in the project and the indemnification needs of the city as set forth in such individual project specifications;

(2) All certificates of insurance submitted to the Purchasing Officer, or his or her designee, must list the city as the certificate holder, and be delivered, either by facsimile transmission or mail, directly from the issuing agent;

(3) It is the responsibility of the insured contractor to confirm that such proofs of insurance are on file with, and their form acceptable to, the City Purchasing Officer, or his or her designee, respective of the individual project specifications, prior to the issuance of any purchase order, purchase order contract, written contract, or professional service;

(4) Contracts will be awarded only to responsible vendors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. Consideration will be given to such matters as vendor integrity, compliance with public policy, record of past performance, and financial and technical resources;

(5) Upon award of a contract to a vendor, the department head and/or his or her designee shall be responsible for maintaining an updated certificate of insurance from the vendor for the length and/or term of the contract or until completion of the project;

(6) The Purchasing Officer, or his or her designee, shall ensure that all prequalified lists of vendors are current and include enough qualified sources to ensure maximum open and free competition; and

(7) The Purchasing Officer, or his or her designee, shall take affirmative steps to assure that small and minority businesses and women's business enterprises are in the vendor database and solicited whenever they are potential sources.

(Prior Code, § 14.23) (Ord. O-82, passed 6-1-2009, effective 6-11-2009; Ord. O-193, passed 7-24-2017, effective 8-3-2017)

§ 14.34 BIDS AND BONDS.

(A) *Notices inviting sealed bids.*

(1) Notices inviting sealed competitive bids in all cases where required by this section, state or federal law or regulation, shall be posted and publicly advertised at least five calendar days prior to the final date for submitting bids in the City Clerk's office, on the city's cable channel and website and/or through other alternative electronic bidding resources as deemed by the Purchasing Officer to provide sufficient notification to prospective bidders.

(2) Such notice shall indicate the goods, non-professional services, supplies, materials, or equipment desired, or the construction project to be undertaken, the place where bid specifications are available to be obtained, and the date, time, and place the bids are due. Bid specifications shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured, as well as identify all requirements which the bidders must fulfill and all other factors to be used in evaluating bids or proposals.

(3) In all cases where sealed bids are invited, the Purchasing Office shall mail, and/or make available copies of bid forms, sealed bid instructions, and specifications to at least three qualified vendors or contractors where possible in order to obtain competitive bidding. Bid lists shall be maintained by the Purchasing Officer, or his or her designee, and shall be available for public inspection.

(B) *Items not subject to competitive bidding.*

(1) The City Council has determined that the following list of goods, services, materials and supplies need not be subject to the competitive bidding process, as it may not be to the city's advantage to contract these services through competitive bidding:

- (a) Advertisements in periodicals;
- (b) Payments to arbitrators;
- (c) Firms providing deposition and court transcript services;
- (d) Dues and subscriptions;
- (e) Medical services;
- (f) Publications and copyrighted materials;
- (g) Conferences, seminars, and classes;

- (h) Travel expenses;
- (i) Purchases covered by use of petty cash checks;
- (j) Utility bills, including gas, electric, water, sewage, and local telephone service;
- (k) Television and radio advertisements;
- (l) Fuel purchases;
- (m) Employee benefits payments, including, but not limited to, health, dental, vision, and life insurance, pension, and the like; and
- (n) U.S. Postal, United Parcel Service, Federal Express, Airborne, or other delivery services; and
- (o) Software license renewals.

(2) For the purpose of this division (B), the City Manager may recommend and approve payment and purchase of the above items without submitting proposed invoices for such services to City Council as long as the amounts are a specific category line item in the annual budget approved by City Council, and the City Attorney, or his or her designee, and City Manager have approved the contract as to form and substance.

(C) Bid, performance and labor and material bonds.

(1) Except as otherwise required by any applicable law or regulation, any bid in excess of \$100,000 shall be accompanied by a bid bond, bank money order, certified check, or cashier's check in the amount of 5% of the total amount bid.

(2) Except as otherwise required by any applicable law or regulation, a performance bond and a labor and material bond shall be furnished with the contract documents executed by the bidder prior to the award of each contract exceeding \$50,000 for the construction, alteration, or repair of any public building or public work or improvement as provided by the Contractor's Bond for Public Buildings or Works Act, Public Act 213 of 1963, being M.C.L. §§ 129.201 et seq., and each such bond shall be in an amount equal to the total amount of the contract and executed by the contractor and a corporate surety company authorized to do business in the state.

(D) Disqualification of bidders.

(1) In addition to any other remedies authorized by law, a bidder may be disqualified from bidding on any city contracts for up to three years by the City Manager if it has been determined that the bidder, after an award of a contract:

- (a) Failed to provide the service or supplies required;
- (b) Provided the service or supplies in an untimely manner causing delays and interference;
- (c) Lacked financial resources and the ability to satisfactorily perform the contract or provide the services or supplies;
- (d) Exhibited poor quality of performance in delivering the service;
- (e) Delivered poor quality of goods;
- (f) Failed to comply with laws and ordinances relating to contract performance;
- (g) Defaulted on its quotations; and/or

(h) Such other action that leads the city to believe that the contractor's duties will not comport or comply with the bid requirements.

(2) The City Manager may determine that the bidder has good cause not to abide by the bid for reasons such as, but not limited to, honest and reasonable mistake, contractual impossibility, or fraud or misrepresentation by another.

(3) When the City Manager believes grounds for disqualification exist, a notice shall be sent to the vendor of the proposed disqualification indicating the grounds for disqualification and procedure for requesting a hearing. If the vendor does not respond with a written request for a hearing within 20 calendar days, the City Manager will issue a final disqualification order without a hearing. If a hearing is requested, the City Manager will select a designee for the purpose of taking testimony from the contractor, or any other witnesses, concerning the decision to disqualify said contractor. The recommendation of the designee shall be sent to the City Manager for approval or denial. The decision of the City Manager is final.

(4) Any contractor disqualified a second time for any of the reasons set forth in division (D)(1) above may be permanently disqualified.

(5) Any contractor disqualified for fraudulent actions, theft, or other similar criminal behavior may not be reinstated and may be permanently disqualified.

(6) Such disqualification of a bidding contractor, company, corporation, partnership, or firm, shall also apply to its successors, assigns, officers, and/or principals.

(7) In addition to the foregoing, a bidder's bid on any city contract will be disqualified if at the time the bid is received by

the city, such bidder is in default to the city. A **DEFAULT** is defined as when the city has placed the bidder on notice that monies are due and owing and the bidder has failed to pay said debt or enter into a payment plan with the city. Failure to file yearly income tax returns for taxable income under \$1,000 or file an income tax affidavit or failure to file corporate income tax for city-based businesses, is considered to be a default. A debt that is a subject of an administrative appeal or contested court case is not considered to be in default.

(E) *Form of bids.*

(1) Bids submitted in response to any such notice shall be submitted according to the following instructions or the bid may be disqualified.

(a) Bids must be submitted on printed forms furnished by the City Purchasing Officer, or his or her designee. Voluntary alternates may be attached to the bid form, if necessary.

(b) Bids must be in ink or typewritten.

(c) Bids must contain bidder's complete name, address, and telephone number.

(d) Bids must be signed in ink by an authorized agent of the bidder and dated.

(e) Bids must include delivery or completion time.

(f) If an addendum is issued, it must be signed, dated, and returned with the bid.

(g) A bid bond, bank money order, certified check or cashier's check in the amount of 5% of the total amount bid must be submitted with any bid in excess of \$100,000, unless any applicable law or regulation requires a different percentage.

(h) All erasures or corrections to pricing information must be initialed and dated in ink by the same individual signing the bid.

(i) In case of a discrepancy between a unit price and its extension, the unit price will be considered correct and the bid will be recalculated to determine the amount bid. All addition errors will be corrected and the total bid will be adjusted to reflect the corrections. All unit prices must be stated where requested.

(j) All bids must be in the city purchasing office by the date and time specified on the bid form.

(k) Each bid must be enclosed in a separate sealed envelope with the bid number marked on the front.

(2) The city reserves the right to accept or reject any and all bids, or parts thereof, and to waive any irregularities which do not materially affect the bid document or otherwise conflict with statute or ordinance. Any rejections of bids shall be made only if there is a sound documented reason for same.

(3) By signature, the bidder acknowledges that the signer has complete authority to execute the bid on behalf of the bidder and that the bid is genuine and not collusive in any manner; and that no other bidders were improperly induced to refrain from bidding or induced to submit a sham bid; and that the bidder agrees to have withheld from any payment due them, any amounts owed for taxes or other charges due the city; and that successful bidders are subject to mandatory city income tax withholdings.

(4) All bids for supplies, materials, or other commodities necessary for the regular operation of city functions must contain the following language: "The vendor hereby agrees to maintain the bid price for one year from the date of this bid, and the city reserves the right, in its sole discretion, to purchase such additional supplies as it deems necessary at said rate in an amount not to exceed the total contract price of the original bid."

(F) *Opening of bids.* Sealed bids shall be opened in public at the time and place indicated on the bid form in the presence of an administrative committee known as the Purchasing Committee, consisting of the Purchasing Officer or his or her designee, City Manager or his or her designee, and the City Clerk or his or her designee. The head of the department, or a designated representative, shall also attend the bid opening when a bid is opened which affects his or her department or division. At least three of these persons shall be present at every bid opening.

(G) *Review of bids.*

(1) After opening the sealed bids, the Purchasing Officer, or his or her designee, shall refer the bids to the affected department head and/or his or her designee for tabulation and review. The Purchasing Officer, or his or her designee, may require a reference check for suitability prior to referring the bids to the affected department head.

(2) Upon review, the department head, or his or her designee, shall complete a bid evaluation form and electronically submit the tabulation to the Purchasing Committee for review and approval.

(a) The form must contain the following:

1. The bid number and date of opening;
2. The department name;
3. A brief description of each of the item(s) as it appeared on the actual bid document;
4. The quantity requested, unit cost of each item (where applicable), and extended cost;

5. The total amount submitted;
6. The name of the company submitting the bid; and
7. The company the department head, or his or her designee, recommends with an explanation for the recommendation.

(b) The city, where applicable, shall perform a cost or price analysis in connection with every procurement involving the expenditure of federal funds, as well as negotiate profit as a separate element of the price for each such contract. Estimated costs for contracts are allowable only to the extent such estimations are allowed under federal regulation. In no case, may the cost plus a percentage of cost and percentage of construction cost methods of contracting be used.

(3) The members of the Purchasing Committee will review the recommended bid(s), and electronically give its approval/disapproval response to the Purchasing Officer, or his or her designee, or request further clarification. In the event such explanation cannot be satisfied by electronic means, the Purchasing Committee will formally meet to further discuss the recommendation. A majority vote of the Purchasing Committee is needed for approval.

(4) Upon approval of the recommended bid(s), the Purchasing Officer, or his or her designee, shall instruct the department head, or his or her designee, to prepare the appropriate Council Communication, which shall be transmitted to the City Manager with his or her recommendation for Council approval.

(5) The bids and the tabulation shall be available for public inspection in the city purchasing office.

(H) *Council action on sealed bids.*

(1) Upon receipt of the tabulation of bids and the recommendation from the City Manager, the Council may reject the bids or determine the lowest and best bidder or bidders and award the transaction or transactions accordingly.

(2) In case the Council determines that it is not possible to choose between two or more suppliers of a commodity purchased regularly because the bids are equal, the transaction may be awarded to the bidder who was awarded the last transaction for the same commodity.

(I) *Execution of transaction.*

(1) Upon the approval of a transaction as hereinbefore provided, the Purchasing Officer, or his or her designee, shall execute the transactions in the manner set forth in §§ 14.42 and 14.32 (where applicable).

(2) (a) All forms of acceptable cash, including bank money orders, certified checks, or cashier's checks accepted in accordance with division (C)(1) above will be processed as follows.

1. Funds received from the top three companies/bidders shall be deposited by the Finance Director's office.

2. Funds received from all other bidders shall be promptly returned to the respective companies following the opening of the bid(s).

3. Upon approval by City Council of the transaction/bid award, the Finance Director's office will refund all funds held and deposited by way of city check.

(b) If any successful bidder fails or refuses to enter into the transaction as herein provided, the deposit accompanying the bid shall be forfeited and the Council may award the transaction to the next lowest and best bidder, or reject all bids and re-advertise.

(3) All transactions shall be executed by the vendor and Purchasing Officer, or his or her designee. For all transactions \$2,000 or more, the Purchasing Officer or his or her designee, must first have Council's approval before execution of the transaction.

(4) An executed copy of all written contracts shall be filed with the City Clerk, or his or her designee. An executed copy of all purchase order contracts shall be filed with the Purchasing Officer, or his or her designee.

(5) The department head or his or her designee, with the approval of the Finance Director and/or Budget Director, may allow for an increase or decrease in cost not to exceed 10% of the total purchase order contract for goods, non-professional services, supplies, materials, equipment, and the like, due to unforeseen circumstances, necessity or redundancy not contemplated in the bid. Such increase or decrease shall be mutually agreed upon in writing between the department head or his or her designee (with the approval of the Finance Director and/or Budget Director) and the contractor. Upon such authorization, a change order shall be processed by the purchasing office to effectuate the increase or decrease. Any and all bids/purchase order contracts for goods, non-professional services, supplies, materials, equipment, and the like, shall contain the following language:

"The Department Head or his or her designee, with the approval of the Finance Director and/or Budget Director, may allow for an increase or decrease of this purchase order contract/written contract by 10% of the total purchase order due to unforeseen circumstances, necessity or redundancy not contemplated in the bid. Such increase or decrease shall be mutually agreed upon in writing with the contractor. In no event, however, will this purchase order contract/written contract be increased over 10% of the total purchase order without the prior approval of City Council."

(6) The City Engineer or his or her designee, with the approval of the Finance Director and/or Budget Director, may allow for an increase or decrease in cost not to exceed 20% of the total contract for construction projects for building,

altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public property due to unforeseen circumstances, necessity or redundancy not contemplated in the bid, or an expansion or reduction of the scope of services due to unforeseen conditions. Such increase or decrease shall be mutually agreed upon in writing between the City Engineer or his or her designee (with the approval of the Finance Director and/or Budget Director) and the contractor. Upon such authorization, a change order shall be processed by the purchasing office to effectuate the increase or decrease. Any and all bids shall contain the following language:

"The City Engineer or his or her designee, with the approval of the Finance Director and/or Budget Director, may allow for an increase or decrease of this purchase order contract/written contract by 20% of the total purchase order due to unforeseen circumstances, necessity, or redundancy not contemplated in the bid. Such increase or decrease shall be mutually agreed upon in writing with the contractor. In no event, however, will this purchase order contract/written contract be increased over 20% of the total purchase order without the prior approval of City Council."

(J) *Records.* The Purchasing Officer, or his or her designee, shall maintain records sufficient to detail the history of the procurement.

(K) *Conflict of interest.* No employee or officer of the city may participate in the selection, award, or administration of a contract if he or she has a real or apparent conflict of interest.

(Prior Code, § 14.24) (Ord. O-82, passed 6-1-2009, effective 6-11-2009; Ord. O-132, passed 10-24-2011, effective 11-3-2011; Ord. O-193, passed 7-24-2017, effective 8-3-2017)

§ 14.35 PURCHASES UNDER \$2,000.

(A) All public improvements and purchases for goods, non-professional services, professional services, supplies, materials, equipment and construction projects, the cost of which is less than \$2,000, may be made in the open market, without official notice and irrespective of the procedure prescribed for purchases over \$2,000.

(B) All open market purchases shall, whenever possible, be based on at least three competitive bids solicited by telephone, fax, electronic mail, or by direct mail request from prospective vendors. The Purchasing Officer, or his or her designee, shall award open market purchases to the lowest and/or best bidder and shall keep a record of all such purchases and the bids submitted in competition thereon. These records shall be available for public inspection in the city purchasing office.

(C) To the extent practicable, such purchases shall be distributed equitably among qualified vendors.

(Prior Code, § 14.25) (Ord. O-82, passed 6-1-2009, effective 6-11-2009; Ord. O-193, passed 7-24-2017, effective 8-3-2017)

§ 14.36 PREFERENCE FOR LOCAL BIDDERS.

(A) (1) If the lowest bidder is not a Saginaw-based bidder, as defined above, any Saginaw-based bidder with a bid within 5% 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. Such a bidder will remain bound to all other terms of their original bid.

(2) A lowered bid by a Saginaw-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 non-responsive and will not be considered.

(B) If such a Saginaw-based business refuses to reduce its bid to match the lowest bid, then the next lowest responsive and responsible Saginaw-based business with a bid within 5% 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. Such a bidder will remain bound to all other terms of their original bid.

(C) If no responsive and responsible Saginaw-based businesses within 5% of the lowest bid agree to reduce their bids then the contract shall be awarded to the person or business with the lowest, most responsive, and responsible bid.

(D) In the event of a tie between two or more Saginaw-based businesses, where all other factors are equal, the award of the bid shall be by coin toss conducted by the Purchasing Officer or his or her designee.

(E) No contract awarded pursuant to this section shall be sublet in any manner 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 "Saginaw-based business".

(F) The section shall not waive or constrain, in any manner, the right and prerogative of the city to reject any and all bids or proposals from any Saginaw-based business which fails to meet the requirements of any other division of this section, or to reject a bid which is in any way incomplete, irregular, not responsive or not responsible.

(G) Local preferences shall not be applied in cases of procurements funded, even in part, with federal dollars, unless such procurement is for architectural and engineering services. When contracting for architectural and engineering services, local preference may be a selection criterion provided its application leaves an appropriate number of qualified vendors, given the nature and size of the project, to complete the contract.

(Prior Code, § 14.26) (Ord. O-82, passed 6-1-2009, effective 6-11-2009; Ord. O-132, passed 10-24-2011, effective 11-3-2011; Ord. O-193, passed 7-24-2017, effective 8-3-2017; Ord. O-208, passed 3-18-2019, effective 3-28-2019)

§ 14.37 SOLE SOURCE.

In the event there is only one vendor capable of providing a particular product or service, then the competitive bidding procedures outlined in this subchapter may be waived by the Purchasing Committee. Whenever a department head or his or her designee determines that he or she must purchase goods or services from a "sole source" vendor, he or she must document why only one company or individual is capable of providing the goods or services required. This documentation will then be forwarded to the Purchasing Committee for approval. Purchasing Committee approval is not required for purchases under \$2,000; purchases over \$2,000 must have Purchasing Committee approval.

(Prior Code, § 14.27) (Ord. O-82, passed 6-1-2009, effective 6-11-2009; Ord. O-193, passed 7-24-2017, effective 8-3-2017)

§ 14.38 "BRAND NAME OR EQUAL".

(A) The use of "brand name or equal" specifications may be used when the department head or his or her designee determines that use of a "brand name or equal" specification is in the city's best interest.

(B) (1) The department head or his or her designee shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable.

(2) If only one source can supply the requirement, the procurement shall be made under §14.37.

(Prior Code, § 14.28) (Ord. O-82, passed 6-1-2009, effective 6-11-2009; Ord. O-193, passed 7-24-2017, effective 8-3-2017)

§ 14.39 RECYCLING.

In recognition of the continuing need to be environmentally responsible, recycled goods should be considered when deemed appropriate and fiscally responsible.

(Prior Code, § 14.29) (Ord. O-82, passed 6-1-2009, effective 6-11-2009; Ord. O-193, passed 7-24-2017, effective 8-3-2017)

§ 14.40 COOPERATIVE PURCHASING.

The City Manager or his or her designee, upon City Council approval, is authorized to join with other units of government in cooperative purchasing plans when the best interests of the city would be served thereby.

(Prior Code, § 14.30) (Ord. O-82, passed 6-1-2009, effective 6-11-2009; Ord. O-193, passed 7-24-2017, effective 8-3-2017)

§ 14.41 EMERGENCY PURCHASES.

In the case of an emergency, any department head or his or her designee may purchase or contract directly for any public improvements, goods, non-professional services, supplies, materials, equipment, and construction projects, whose immediate procurement is essential to the continuance of the work of the department concerned. Wherever possible, the department head or his or her designee shall contact the purchasing office for authorization prior to making any emergency purchases. A record of emergency purchase order authorizations shall be available for public inspection in the purchasing office. All purchases or contracts shall be submitted to City Council after the fact for subsequent ratification and/or approval for all purchases \$2,000 or more.

(Prior Code, § 14.31) (Ord. O-82, passed 6-1-2009, effective 6-11-2009; Ord. O-193, passed 7-24-2017, effective 8-3-2017)

§ 14.42 APPROVAL OF PURCHASE ORDERS.

The Purchasing Officer, or his or her designee, shall approve and execute all purchase orders, purchase order contracts, and emergency purchases.

(Prior Code, § 14.32) (Ord. O-82, passed 6-1-2009, effective 6-11-2009; Ord. O-193, passed 7-24-2017, effective 8-3-2017)

§ 14.43 INSPECTION OF MATERIALS.

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

(Prior Code, § 14.33) (Ord. O-82, passed 6-1-2009, effective 6-11-2009; Ord. O-193, passed 7-24-2017, effective 8-3-2017)

§ 14.44 SALE OF PROPERTY.

(A) Whenever any city property, real or personal, is not needed for corporate or public purposes, the same may be sold.

(B) Real and personal property not exceeding \$1,500 in value may, upon approval of the City Manager, either be sold for cash by the Purchasing Officer or his or her designee, after receiving quotations or competitive bids therefore for the best price obtainable, or traded to the vendor of new equipment replacing it.

(C) Personal property with a value in excess of \$1,500, may be sold after advertising and receiving competitive bids, as provided in § 14.34, inclusive, of this subchapter, and after approval of the sale has been given by the City Council; or such personal property may be traded to the vendor of the new equipment replacing it, upon approval of the City Manager.

(D) In addition to the provisions above made for the sale of personal property, in general, the City Manager may:

(1) Authorize the sale of goods or supplies which have become obsolete, worn out or scrapped, unsuitable for use by the city, or otherwise lawfully acquired by the city and having no value or use to the city at private or public auction, including on-line auction services. In this regard, the department head, and/or his or her designee, with the assistance of the Purchasing Officer, or his or her designee, shall explore the various services available and select a public auction service which shall dispose of such personal property in the most efficient and cost effective means for the city. All such sales under this section shall be made to the highest bidder, subject, however, to the published terms of such sale;

(2) Authorize the donation of goods or supplies which have become obsolete, worn out, or scrapped, unsuitable for use by the city, or otherwise having no value or use, to one or more charitable organizations having need and/or use of the defunct item(s), giving first preference to those Saginaw-based organizations; and

(3) Authorize the transfer of surplus supplies or equipment within any department in order to maximize the use and benefit thereof.

(E) (1) Real property exceeding \$1,500, shall be sold in the same manner as personal property over \$1,500 in value, unless the Council shall determine that it is clearly to the city's advantage either to sell such property without competitive bidding or to exchange the same for other land required by the city.

(2) The sale of land which shall have been approved by three-fifths of the city electors voting thereon at any general or special election, and property sold pursuant to federal and state statute and regulations, shall not be subject to the provisions of this subchapter.

(F) Any and all tax reverted properties may be acquired and disposed of pursuant to state law and administrative regulation established by the City Manager.

(Prior Code, § 14.34) (Ord. O-82, passed 6-1-2009, effective 6-11-2009; Ord. O-193, passed 7-24-2017, effective 8-3-2017)

§ 14.45 VALIDITY OF CONTRACTS.

The foregoing provisions of this subchapter shall be deemed to establish, in general, the procedure to be followed in purchases and contracts by the city, but shall not be held to be mandatory, except those provisions which may be contained in state or federal law or in the Charter. Any contract approved by the Council and not prohibited by state or federal law or the provisions of the Charter, shall be valid even though one or more of the provisions of this subchapter may not have been observed. Only a majority of City Council can authorize and bind the city for any contract \$2,000 or more.

(Prior Code, § 14.35) (Ord. O-82, passed 6-1-2009, effective 6-11-2009; Ord. O-193, passed 7-24-2017, effective 8-3-2017)