

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 53-26

AN ORDINANCE

amending Chapter 2 of the City Code to revise Article X relating to purchasing; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. Chapter 2 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Material to be deleted in ~~strikeout~~; material to be added underlined.

Sec. 2-458. Scope of article; rules and procedures.

(a) This article delegates authority to the city manager and the purchasing agent to contract for the purchase of supplies, materials, equipment and services. It does not impose procedural limitations on the city council or otherwise limit the power of the city council to contract for the purchase of supplies, materials, equipment and services.

(b) It is the intent of this article that due diligence is utilized to ensure the procurement of supplies, materials, equipment and services is performed in a manner that ensures the conscientious expenditure of all public funds and to set forth minimum standards. Nothing contained herein shall be construed to restrict the ability to utilize greater processes or procedures than required herein.

(c) The director of finance is authorized to establish rules and procedures for the purchasing division.

Sec. 2-459. Authority of purchasing agent to contract.

(a) Subject to the provisions of this article and confirmation of department compliance with the public improvement process set forth in Chapter 22, the purchasing agent is authorized to contract for the purchase of supplies, materials, equipment and services for which appropriated funds are available.

(b) Any project which ~~Subject to the competitive bidding provisions of this article, when appropriated funds are available,~~ the purchasing agent is authorized to contract for

any project that fits into any of the following categories shall not require compliance with the public improvement process set forth in Chapter 22:

- (1) Ordinary maintenance of public improvements, including ongoing, routine, and or necessary repairs, rehabilitation, and minor energy conservation improvements (less than \$50,000.00 per project) on existing buildings and structures, and the replacement of existing equipment in parks which does not enlarge the size or scope of any existing public improvement,
- (2) Construction, upgrade or relocation of electric distribution lines less than sixty-nine (69) KV that is estimated to cost less than seven hundred fifty thousand dollars (\$750,000.00) ~~five hundred thousand dollars (\$500,000.00)~~ and that does not require the exercise of the power of eminent domain, and
- (3) ~~Construction, upgrade or relocation of water distribution mains sixteen (16) inches or less in diameter that is~~ of any utility project which is estimated to cost less than one hundred fifty thousand dollars (\$150,000.00) ~~one hundred thousand dollars (\$100,000.00)~~ and that does not require the exercise of the power of eminent domain.

~~Public improvement projects falling within any of these categories may be contracted for under this subsection without following the public improvement process of Chapter 22. Provided, however~~ However, special assessment tax bills shall not be issued for any public improvement unless the public improvement process of Chapter 22 has been followed.

~~If a project with a cost limitation is bid under this subsection and the bid of the lowest and best, responsive and responsible bidder is for more than the authorized amount, the contract may be entered into only with the specific authorization of the city council.~~

The total amount of all change orders executed in connection with any contract for capital or public improvements, or any other procurement of services, ~~authorized by this article~~ shall not exceed fifteen (15) percent of the contract price without the written approval of the city manager.

(c) ~~When appropriated funds are available, the~~ The purchasing agent may contract for emergency work on public improvements and for repairs of public improvements or equipment requiring prompt attention to avoid the high likelihood of depletion or further damage without following the competitive bidding provisions of this article.

(d) The purchasing agent may acquire the right to utilize and/or contract to lease space for special events to be held by the city provided the lease term does not exceed thirty (30) calendar days.

(e) The purchasing agent may negotiate and contract to lease vehicles or equipment, provided the total lease term does not exceed five (5) years and that the total annual lease is less than twenty-five thousand dollars (\$25,000) per year.

Sec. 2-460. Bids and requests for proposals required; exceptions.

(a) Except as otherwise provided in this article, all contracts for purchases of supplies, materials, equipment and services which have not been specifically authorized by the city council shall be entered into only after a competitive bidding process (RFB) or a request for proposals (RFP) process.

(b) The purchasing agent may enter into contracts for emergency purchases without following ~~a an RFB or RFP process competitive bidding process or a request for proposals process.~~ Emergency purchasing authority does not relieve the city of the obligation to execute contracts, purchase orders, or other required instruments, nor to comply with applicable approval and documentation requirements. "Emergency purchases" are purchases necessitated by nonrecurring emergency situations posing a substantial danger to the health, safety and welfare of the citizens or of a risk of substantial financial loss to the city unless the required supplies, materials, equipment or services are obtained as expeditiously as possible. The department head requesting an emergency purchase shall certify, in writing, that the purchase is an emergency within the meaning of this section ~~by a memorandum and~~ which sets forth the nature of the emergency. If the purchasing agent and the department head do not agree that the proposed purchase is an emergency purchase, the matter shall be referred to the city manager for final decision.

(c) The purchasing agent may enter into contracts with sole source suppliers and governmental entities without following ~~a an RFB or RFP process competitive bidding process or a request for proposals process.~~ "Sole source suppliers" are suppliers of supplies, materials, equipment or services which are unique or which are not available from more than one (1) competitive source in the normal course of business. The purchasing agent shall certify in writing that each purchase from a sole source supplier under this subsection meets the requirements of this subsection.

(d) The city manager may enter into contracts for professional and other services without following ~~a an RFB or RFP process competitive bidding process or a request for proposals process~~ when factors such as prior experience, skills, education, local knowledge or unique knowledge are considerations in selecting the contractor. The city manager may waive attorney conflicts of interest if the city manager determines that the waiver is in the city's interest. This subsection shall not apply to contracts for auditing services for the annual fiscal audit or to contracts for architectural, engineering and land surveying services.

(e) The purchasing agent may enter into contracts for specialized services relating to art conservation, restoration, archiving and installation without following ~~a an RFB or RFP process competitive bidding process or a request for proposals process~~ when

the required services are not widely available and when factors such as experience and local knowledge play an important role. The department head requesting these services shall ~~document and certify~~ in writing that the proposed contract meets the requirements of this subsection.

(f) The city manager and purchasing agent are encouraged to pursue informal bidding and ~~RFPs requests for proposals~~ in the above categories of exceptions whenever time and business conditions permit.

Sec. 2-461. No contract to exceed five years.

The purchasing agent has no authority to contract for the purchase of any supplies, materials, equipment or services for a term exceeding five (5) years. The purchasing agent has no authority to extend the term of any contract for the purchase of any supplies, materials, equipment or services so that the length of the original term plus all extended terms exceeds five (5) years and six (6) ~~three (3)~~ months.

Sec. 2-462. Procurement of architectural, engineering and land surveying services.

The city council may, by ordinance, establish special procedures and guidelines for procurement of architectural, engineering and land surveying services.

Sec. 2-463. Trade-in or sale ~~Sale~~ of surplus material.

(a) A department head having charge of any surplus, obsolete or unused supplies, materials or equipment may request the purchasing agent to dispose of the property. The purchasing agent is authorized to sell the property in any form of open market competition to the highest bidder. The purchasing agent may set a minimum sale price and may reject any bid that, in the purchasing agent's judgment, is not a fair sale price.

(b) The purchasing agent, with the approval of the city manager, is authorized to sell any surplus, obsolete or unused supplies, materials or equipment to any governmental entity without open market competition.

(c) A department head having charge of any used material, good or software license may request the purchasing agent to trade in the material, good or software license as part of the purchase of a new or upgraded replacement purchase. The purchasing agent, with the approval of the city manager, is authorized to trade in the material, good or software license. The purchasing agent shall follow the applicable bidding process required by this article, and shall factor in the trade in value when selecting the vendor.

(d) Surplus cell phones, tablets, and computer equipment may be offered for sale to city employees for the personal use of such employee provide such employee agrees to pay the market rate for such equipment and follow the terms and conditions set forth herein. The city employee who had been utilizing the equipment shall be given the

right of first refusal to purchase the equipment at the market rate established by the purchasing agent in consultation with the director of information technology or designee. If such employee elects not to purchase the equipment, the equipment may be offered for sale to any and all other employees using an open process that allows every employee an opportunity to purchase such equipment at the market rate. If more than one (1) employee desires to purchase an item, the employee allowed to make such purchase shall be determined by random drawing. Such items are intended for the use of employees and immediate members of the employee's household. An employee shall not give, sell or offer to sell any surplus technology equipment acquired pursuant to the benefit afforded by this subsection for a period of at least twenty-four (24) months following purchase. The director of finance may establish additional rules or regulations to ensure fair and open access to the purchase of such surplus equipment and compliance with this subsection.

Secs. 2-464, 2-465. Reserved.

Sec. 2-466. Bidding process; contracts for twenty-five ~~fifteen~~ thousand dollars or more.

(a) Except as otherwise provided in this article, the purchasing agent shall not contract for the purchase of any supplies, materials, equipment or services costing twenty-five thousand (\$25,000.00) ~~fifteen thousand dollars (\$15,000.00)~~ or more unless the sealed/formal, competitive bidding process of this section has been followed.

(b) The purchasing agent shall issue an RFB by soliciting ~~advertise~~ for sealed/formal bids by using an advertising method that is determined by the purchasing agent to be the most advantageous based on the item being purchased. An invitation to bid may be issued by newspaper advertisement, magazine publication, vendor list solicitation, or through an official government procurement portal. A summary of all active invitations to bid shall be posted on the city website in a newspaper of general circulation in the city at least five (5) days before the time set for opening bids. All bids must be sealed and addressed to the purchasing division and must be received by the purchasing division the time and date set out in the RFB by 2:00 p.m. on the day specified in the advertisement for bids. The bids shall be opened by the purchasing agent at the time, date and location set out in the RFB ~~purchasing agent's office between 2:00 p.m. and 5:00 p.m. on the day the bids are due~~, if practicable. If not practicable, then the bids shall be opened on the earliest day thereafter that the purchasing agent is able to open the bids. The purchasing agent may require bidders to deposit a cashier's check or a certified check drawn on a solvent financial institution or a surety bond in an amount not less than five (5) percent of the bid. The bid deposit shall be forfeited to the city if the successful bidder fails or refuses to execute the contract.

(c) The purchasing agent may use an electronic bidding system which meets the minimum bidding requirements of this article ~~if the system is secure and allows the bids to be opened only at the time designated for bid opening.~~

(d) The purchasing agent, after consulting with all affected departments and subject to the provisions of subsection (e), may reject any or all bids, may award the

contract to the bidder that is, in the judgment of the purchasing agent, the lowest and best, responsive and responsible bidder, or may split the award between two (2) or more bidders if, in the judgment of the purchasing agent, it is in the best interest of the city to split the award.

(e) Before taking any action on bids, the purchasing agent shall inform all affected departments of the purchasing agent's proposed action. The head of any affected department who disagrees with the purchasing agent's proposed action may inform the purchasing agent and the head of any other affected department of the disagreement. If, after conferring on the matter, the purchasing agent and the heads of all affected departments are unable to agree on an appropriate action on the bids, the matter shall be referred to the city manager for final decision.

Sec. 2-467. Bidding process; contracts for five thousand dollars or more but less than twenty-five ~~fifteen~~ thousand dollars.

(a) Except as otherwise provided in this article, the purchasing agent shall not contract for the purchase of any supplies, materials, equipment or services costing five thousand dollars (\$5,000.00) or more but less than twenty-five thousand dollars (\$25,000.00) ~~fifteen thousand dollars (\$15,000.00)~~ unless the minimum bidding process of this section ~~or the bidding process of section 2-466~~ has been followed.

(b) The purchasing agent shall solicit by electronic or other written communication ~~telephone, written notice or otherwise~~ at least three (3) bids, if three (3) independent vendors are available. The purchasing agent may authorize a department to conduct the solicitation required by this section and provide documentation of such solicitation to the purchasing agent.

(c) Bids shall be awarded or rejected as provided in section 2-466.

(d) The purchasing agent shall keep a record of all solicitations made under this section.

Sec. 2-468. Contracts for less than five thousand dollars.

The purchasing agent may contract for the purchase of any supplies, materials, equipment or services costing less than five thousand dollars (\$5,000.00) ~~by following the provisions of section 2-467 or by making open market purchases from vendors with proven ability to furnish supplies, materials, equipment and services at the lowest and best price.~~ For all open market purchases the applicable department may be delegated the responsibility for exercising due diligence and may be required to seek pricing/quotes from more than one (1) vendor whenever time and business conditions permit.

Sec. 2-469. Procurement cards.

The purchasing agent may establish a procurement card policy that allows card holders to charge up to five thousand dollars (\$5,000.00) per transaction.

Sec. 2-470. Plans, specifications and descriptions to be kept by purchasing agent.

When calling for bids, the purchasing agent, or applicable department, shall keep on file the plans, specifications or descriptions of the article or service to be purchased. These plans, specifications or descriptions shall be available for public inspection. The purchasing agent may require a deposit for the return of plans or specifications taken from the office. The deposit shall not exceed the reasonable cost of preparing the plans or specifications. The purchasing agent may also utilize a third-party vendor for the delivery of plans and specifications in an electronic format for a fee, which must not exceed the reasonable cost of preparing and sending the plans and specifications.

Sec. 2-471. Requests for proposals, request for qualifications, or request for expressions of interest.

The purchasing agent may authorize a request for proposals (RFP), request for qualifications (RFQUAL), or request for expressions of interest (RFEI) process instead of issuing an RFB—a bidding process whenever the purchase or sale of supplies, materials, equipment, property, or services may be facilitated by such a process.

Sec. 2-472. Cooperative purchasing.

The purchasing agent is authorized to participate in cooperative purchasing programs with the United States or any agency of the United States; with the State of Missouri or any agency, municipality or political subdivision of the State of Missouri; with other states or any agency, municipality or political subdivision of any other state; or with any association of municipalities or political subdivisions; provided, that the cooperative purchasing program follows a competitive procurement bidding process which meets, or exceeds, the minimum requirements of this code.

Sec. 2-473. Recycled and environmentally preferable products.

(a) For purposes of this section:

(1) *Environmentally preferable product* means a product which by its chemical or physical nature has a less adverse impact on the environment when compared to a similar product with a different chemical or physical nature or a product whose manufacturing process is less harmful to the environment than the manufacturing process of an equivalent product.

- (2) *Post-consumer waste* means material generated by a consumer which has served its intended end use and has been separated or diverted from the solid waste stream for the purpose of collection, recycling and disposition.
- (3) *Recycled product* means a product that utilizes recycled materials or materials diverted from the waste stream, including an appropriate amount of post-consumer waste, in its manufacture and construction.

(b) In evaluating bids and awarding contracts, the purchasing agent is authorized to give preference to recycled and environmentally preferable products as follows:

- (1) The cost of recycled product may exceed by up to ten (10) percent the lowest priced bid on a comparable product which does not utilize recycled materials.
- (2) The cost of an environmentally preferable product may exceed by up to five (5) percent the lowest priced bid on a comparable product which is not environmentally preferable.

(c) In order to qualify for recycled consideration on paper and paper products, proposed stock must meet U.S. Environmental Protection Agency recommended minimum content standards of selected papers and paper products. Standards identifying the minimum content of recovered materials and products other than paper products shall be done on a case by case basis. The purchasing division shall utilize standards established by industry organizations, federal agencies such as the Environmental Protection Agency, nationally recognized standards organizations such as the American Society for Testing and Materials and state agencies.

(d) All bidders who wish to receive a preference on products made with recycled materials must properly complete, sign and return with their bid a certification of product content.

(e) The city manager is authorized to designate certain post-consumer recycled materials for use in city projects to demonstrate and encourage the use of these products. Wherever possible, markers shall be erected listing the recycled content of the products. These products shall not exceed one hundred thousand dollars (\$100,000.00) annually.

Sec. 2-474. Debarment.

(a) The purchasing agent is authorized to debar a person/vendor from consideration for award of contracts for any of the following reasons:

- (1) Conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.

- (2) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of integrity or honesty which currently, seriously and directly affects responsibility as a city contractor or vendor.
- (3) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals.
- (4) Deliberate failure without good cause to perform in accordance with contract specifications or within the time limit provided in the contract.
- (5) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one (1) or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor or vendor shall not be considered a basis for debarment.
- (6) The person/vendor is in arrears on any debt owed the city or has a history of being chronically in arrears on debts owed the city.
- (7) Any other cause so serious and compelling as to affect responsibility as a city contractor or vendor, including debarment by another governmental entity for any cause listed in this article.

(b) The length of debarment shall not exceed three (3) years.

(c) The purchasing agent shall initiate a debarment by serving written notice of the debarment to the person/vendor the purchasing agent intends to debar. The notice shall set forth the specific grounds for the debarment and advise the person/vendor of the right to appeal. The notice shall be served by registered or certified mail or by delivering a copy of the notice to the person/vendor subject to debarment or the person's/vendor's agent or employee. The debarment shall take effect ten (10) calendar days after service of the notice unless an appeal is taken to the director of finance. If an appeal is taken, the debarment shall not take effect until a final order upholding the debarment is entered by the director or until the appeal is dismissed by the appellant.

(d) Within ten (10) calendar days after service of a written notice of debarment, the person/vendor affected by the notice may file a written request for a hearing before the director of finance contesting the debarment.

(e) The director of finance shall set the matter for hearing on the record within thirty (30) calendar days of the receipt of a request for a hearing. At least ten (10) calendar days' notice of the hearing shall be given to the affected person/vendor and to the purchasing agent.

(f) At the hearing, each party shall have the right to call and examine witnesses, introduce exhibits, cross-examine opposing witnesses and impeach any witness. Oral evidence shall be taken on oath or affirmation. All evidence shall be suitably recorded and preserved. The technical rules of evidence shall not apply, but the director may exclude evidence which is irrelevant or repetitious. Each party shall be entitled to present oral arguments or written briefs at or after the hearing.

(g) Within ten (10) ~~calendar working~~ days of receipt of the transcript of the hearing, the director of finance shall make written findings of fact and conclusions of law and issue a final order. Findings of fact shall be based upon competent and substantial evidence found in the record as a whole. A copy of the director's order, findings of fact and conclusions of law, shall be delivered or mailed to the purchasing agent and to the affected person.

(h) An appeal from the director's order shall be to the circuit court pursuant to chapter 536, RSMo.

(i) Nothing in this section shall limit the authority of the purchasing agent to accept the bid which in the judgment of the purchasing agent is the lowest and best bid, or to reject any or all bids or to reject a bid on grounds which could have been used to debar the bidder.

Sec. 2-475. Contracts involving hazardous materials.

(a) In evaluating bids or proposals for contracts involving the transportation, handling or disposal of hazardous materials, the purchasing agent and the head of the department requesting the contract shall consider the following factors:

- (1) The experience of the bidder in successfully completing similar projects;
- (2) The financial strength and stability of the bidder;
- (3) The ability of the bidder to provide adequate insurance to protect the city from the bidder's negligence; and
- (4) The history of the bidder in complying with federal and state environmental laws.

(b) In awarding a contract involving the transportation, handling or disposal of hazardous materials, the purchasing agent shall award the contract to the bidder which the purchasing agent and the head of the department requesting the contract have determined to be the best bidder, regardless of whether that bidder has submitted the lowest bid. If the purchasing agent and the department head cannot agree, the matter shall be referred to the city manager for final decision.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2026.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor