

A GENERAL ORDINANCE OF THE CITY OF NEVADA, MISSOURI, AMENDING PORTIONS OF CHAPTER 26 OF THE CODE OF THE CITY OF NEVADA, MISSOURI

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEVADA, MISSOURI, THAT CHAPTER 26 OF THE CODE OF THE CITY OF NEVADA, MISSOURI, IS AMENDED AS FOLLOWS:

Section 1. The Index to Chapter 26 is amended to read as follows:

**Chapter 26
PURCHASING**

- Sec. 26-1. Definitions and purpose.
- Sec. 26-2. City Purchasing agent—Office to be held by City Manager; deputy purchasing agents.
- Sec. 26-3. Same – Authority to contract for purchases and to issue rules and regulations.
- Sec. 26-4. Same – Powers and duties.
- Sec. 26-5. Unauthorized purchases; ultimate council authority.
- Sec. 26-6. Interest in contract by city officer or employee prohibited; anti kickback provision; bribes
- Sec. 26-7. Expenditures not exceeding \$500.00
- Sec. 26-8. Contracts for supplies and services costing more than \$500.00 and less than \$15,000.00
- Sec. 26-9. Contracts for supplies and services exceeding \$15,000.00.
- Sec. 26-10. Lowest responsible bidder.
- Sec. 26.11. Equal bids.
- Sec. 26-12. Performance and material payment bonds; bonds by purchasing agent and deputy.
- Sec. 26-13. Contract requirements.
- Sec. 26-14. Sales of surplus, unusable or obsolete personal property; sales of real property; alternate disposition.
- Sec. 26-15. Contracts for engineering and architectural services.
- Sec. 26-16. Architectural, engineering, and land surveying services selection.
- Sec. 26-17. Alternative construction delivery methods- “Design-Build”.
- Sec. 26-18. Procurement in exceptional emergency or extraordinary circumstances.
- Sec. 26-19. Limited procurement procedure-Water and Sewer.

Section 2. Sections 26-1 through 26-9 are amended to read as follows:

**** Editor’s note- See footnote providing guidance, education, and general understanding at the end of this chapter.**

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Sec. 26-1. Definitions and purpose

(a) *Definition.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. *Contractual services.* Contractual services means all telephone, gas, water, electric, and power service, cleaning, parking meter service, insurance, leases of all grounds, buildings, office or other space required by the using agencies, the rental, repair of maintenance or equipment and other city-owned personal property. The term "contractual services" shall not include professional and other contractual services, which are in their nature unique and are not subject to competition.
2. *Request for proposal (RFP), request for quotation (RFQ).* The terms, when used in this chapter, shall be used interchangeably and have the same meaning, i.e., requests for bids.
3. *Supplies.* Supplies means all supplies, goods, parts, materials and equipment.

(b) *Purpose.* The purpose of all federal, state and local procurement requirements is to secure unrestricted competition among bidders, eliminate fraud and favoritism, and avoid undue and excessive costs, which would otherwise be imposed on tax payers. The city is obligated to act honestly and in good faith and when so acting is vested with wide discretion.

(Code 1998, §26-1; Ord. No. 2580, §2)

Sec. 26-2. City purchasing agent – Office to be held by city manager; deputy purchasing agents.

The city manager shall be the city purchasing agent. The city manager may appoint one or more deputy purchasing agents who shall assist him in the performance of the duties prescribed by this chapter or perform the duties of purchasing agent for such period of time as designated by the city manager or the city council. The city shall either purchase honesty or position bonds, as provided for in section 26-12(2), or equivalent employee dishonesty coverage for the purchasing agent and his deputies.

(Code 1998, §26-2; Ord. No. 2580, §3)

Sec. 26-3. Same- Authority to contract for purchases and to issue rules and regulations. [2]

Authority for procurement and purchases is established as follows:

1. *Authority in all departments except library, housing authority, hospital and nursing home.*
The city purchasing agent shall have the power and it shall be his duty to contract for the purchase of all supplies and contractual services needed by any

[2] See RSMo §§96.190 and 182.200 for State law authorizing hospital boards and library boards, respectively to control expenditures.

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using agency which derives its support wholly or in part from the city, in accordance with laws of the state and with purchasing procedures as prescribed by this chapter.

2. *Authority in library, housing authority, hospital and nursing home.* The city library, housing authority and hospital boards shall have the control of the expenditures of the library, housing authority or hospital facilities respectively, as provided by law. The provisions of this chapter shall not apply to expenditure for such facilities except as may be agreed upon between the city purchasing agent and the library, housing authority or hospital board.
3. *Rules and regulations.* Rules and regulations providing additional guidance and policy may be issued amended from time to time by the city purchasing agent. The city council may amend, rescind, revise or enlarge said rules and regulations as it deems appropriate. Copies of the rules and regulations shall be available to the public through the city clerk at all reasonable times.

(Code 1998, §26-3; Ord. No. 2580, §4)

Sec. 26-4. Same- Powers and duties

In addition to the purchasing authority conferred in section 26-3, and in addition to any other powers and duties conferred by this chapter, the city purchasing agent shall:

- (a) Act or procure for the city the highest quality of supplies and contractual services, at least expense to the city.
- (b) Discourage uniform bidding and endeavor to obtain full and open competition on all purchases and sales.
- (c) Establish and amend, when necessary, all rules and regulations authorized by this chapter and any others necessary to its operation.
- (d) Prescribe and maintain such forms as he shall find reasonably necessary to the operation of this Chapter.
- (e) Exploit the possibilities of buying in bulk so as to take full advantage of discounts.
- (f) Act so as to procure for the city all federal and state tax exemptions to which it is entitled.
- (g) Have authority to declare sellers who default on quotations, time of delivery and agreements, as irresponsible bidders, and to disqualify them from receiving city business for such period of time as he shall deem proper.
- (h) Have authority join with other units of government in cooperative purchasing plans when the best interest of the city shall be served thereby.

(Code 1998, §26-4; Ord. No. 2580, §4)

Sec. 26-5. Unauthorized purchases; ultimate council authority.

Except as provided in this chapter, it shall be unlawful for any city officer or employee to order the purchase, or purchase any supplies, or make any contract or sales within the purview of this chapter, other than through or by the authority of the purchasing agent, duly

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appointed deputy purchasing agent or the city council. Any purchase order or contract made contrary to law and the provisions hereof shall not be binding on the city unless specifically authorized or ratified by the city council, it being recognized that strict compliance with this chapter may not always be practical and that the council retains, to the extent legally permissible, authority to validate a good faith acquisition of goods or services for past or new consideration in appropriate cases, other provisions of this Code notwithstanding.

(Code 1998, §26-5; Ord. 2580, §4)

Sec. 26-6. Interest in contract by city office or employee prohibited; anti kickback provision; bribes.

1. It shall be unlawful for any officer or employee of the city to be directly or indirectly interested in any contract or purchase of the city, and such contract or purchase order issued, initiated by or contributed to by such an officer or employee, shall be void.

2. Every officer and employee of the city is expressly prohibited from accepting, directly or indirectly, from any person from which any purchase has been or may be made, any rebate, gift, money, kickback or anything of value whatsoever, except where given for the use and benefit of the city.

3. It shall be unlawful for any person in any manner to bribe or attempt to bribe a city officer or employee for the purpose of securing any advantage in connection with any city purchases, sales or contracts.

(Code 1998, §26-6; Ord. No. 2580, §5)

Sec. 26-7. Expenditures not exceeding \$500.00.

(a) The city purchasing agent, or any deputy purchasing agent, shall have the right to make purchases, when the purchase or contract price does not exceed \$500.00 by telephone, e-mail, Internet, letter or directly. Guidelines regarding comparisons of pricing prior to acquisition of such items shall be issued from time to time by the city manager in his capacity of purchasing agent.

(b) Prior to purchase, price and any special terms and conditions, must be obtained by one or more of the following methods:

1. Posted or listed prices shall be confirmed by a sales receipt signed, whenever practical, by the representative of the seller and the designated agent of the city accepting delivery of the item purchased. When not practical for the representative of the seller to sign the receipt, the sales receipt may serve as a proxy for the signature of the seller's representative if it contains:

- a. The name of the seller;
- b. A traceable identifier to tie the purchase to a register or seller's representative name;
- c. The date of the transaction;

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- d. A description (bar code of product ID number) of the product purchased with the actual purchase price of the item; and
 - e. The designated agent of the city accepting delivery of the item purchased shall initial the receipt to acknowledge that the posted or listed prices and receipt prices are equivalent.
2. In procurement is transacted through electronic facsimile quotations, the confirmation received for the purchase, containing a unique confirmation number, shall be used as a proxy for the signature of the seller's representative. The quotation of order confirmation must bear:
- a. The name of the seller;
 - b. A unique confirmation number for the order;
 - c. The date of the transaction; and
 - d. A description (bar code or product ID number) of the product purchased with the actual purchases price of the item.

When using a confirmation as a proxy for the signature, the designated agent of the city accepting delivery of the item purchased and shall initial the confirmation to acknowledge that the quotation price and the confirmation price are equivalent.

(Code 1998, §26-7; Ord, No. 2580, §6; Ord. No. 3657, § 1, 5-7-1991)

Sec. 26-8. Contracts for supplies and services costing more than \$500.00 and less than \$15,000.00.

Contracts for supplies and services costing more than \$500.00 and less than \$15,000 will be concluded and documented as follows:

- 1. *Supplies:*
 - a. *Authority to make contracts.* Contracts for supplies, the consideration for which is less than \$15,000 and more than \$500.00, may be made by the city purchasing agent or his deputies.
 - b. *Methods.* Contracts for supplies, whenever practical, shall be based on at least three competitive written bids or responses to requests for proposals and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in section 26-10.
- 2. *Services.*
 - a. *Authority to make contracts.* Contracts for services other than those exempted (see section 26-1 and other special provisions), the consideration for which is less than \$15,000.00 and more than \$500.00, may be made by the city purchasing agent or his deputies.
 - b. *Methods.* Contracts for services, other than those exempted in subsection 2.d of this section, whenever practical, shall be based on at least two responses to RFPs or RFQs or competitive bids.

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- c. Prevailing wage law.* All Municipal public works contracts are subject to the state's Prevailing Wage Law, RSMo §290.210 et seq. Before advertising for bids, the prevailing wage rate determination must be obtained and referred to in the advertisement for bids and contract.
 - d. Exemptions.*

 - i.* Services which by their nature are unique and not readily competitively available are not within the definition of contractual services under section 26-1.
 - ii.* Special provisions for acquisition of engineering and architectural services are contained in section 26-15.
 - iii.* Special provisions for acquisition of specialty legal services are contained in section 2-86(2).
 - e. Bases of award.* The basis for an award of a contract for services, depending on the complicity of the service, becomes dependent (increasingly with complexity) on the ability, capacity, reliability and availability of the contractor and the nature of the city's demand for said services, and does not necessarily depend on the charge, price or hourly rate, since all vendors will not provide identical services.
3. *On demand agreements not to exceed two years for reoccurring orders for goods and services which individually do not exceed \$15,000.00 but may or may not exceed \$500.00* - approval of city manager and council. The city requires for administrative efficiency and cost conservation ongoing relationships with vendors (e.g., office supplies or water department treatment supplies or repair parts) and tradesmen (e.g., to provide services on call such as plumbing, electrical and carpentry repairs as well as emergency construction services involving use of equipment not readily available to the city). Because it is clear such need will reoccur and the city's administrative cost and acquisition cost can be contained and made competitive with continuing agreements, contracts for such services may be contacted on an on demand, as needed, standby or on call basis, for periods not to exceed two years. Said contracts will be at all time open to public view, and the purchasing agent or the council may cancel said agreements or purchase from other vendors if and when it appears advantageous to the city to seek other or additional resources for goods and services. If individual prices in said continuing agreements appear less favorable than new opportunities, nothing in this chapter is intended to prohibit the city from renegotiating the on demand agreement or purchasing from the more competitive vendor or service provider. Said agreements will require the approval of the city manager and will be placed before the city council for review and approval.
- a. Prevailing wage law.* All municipal public works contracts are subject to the state's Prevailing Wage Law, RSMo §290.210 et seq. Before advertising for bids, the prevailing wage rate determination must be obtained and referred to in the advertisement for bids and contract.

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4. *Manner of solicitation of bids, RFPs or RFQs.* The city purchasing agent or deputy purchasing agent, and the city council may solicit bids, RFPs or RFQs for both supplies and for services, as required herein in any reasonable manner structured to avoid favoritism including but not limited to the following:

- (a) By direct mail to prospective bidders;
- (b) By posting notice;
- (c) By telephone;
- (d) By advertisement
- (e) By electronic invitation;
- (f) By personal contact; or
- (g) By any other reasonable means.

(Code 1998, § 26-8; Ord. No. 2580, §7; Ord. No. 3657, §2, 5-7-1997; Ord. No. 4174, § 1)

Sec. 26-9. Contracts for supplies and services exceeding \$15,000.00

Contracts for goods and services costing \$15,000.00 or more will be documented as follows:

1. *Supplies*

- a. *Authority to make contracts.* Contracts for supplies, the consideration for which exceeds \$15,000.00, may be solicited by the city purchasing agent or his deputies, with or without the direction of the council; however, said contracts require council approval except in an emergency.
- b. *Methods.* Contracts for supplies, whenever practical, shall be based on at least three competitive written bids or responses to requests for proposals and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in section 26-10.

2. *Services.*

- a. *Authority to make contracts.* Contract for services other than those exempted (see section 26-1 and other special provisions), the consideration for which is more than \$15,000.00 may be solicited by the city purchasing agent or his deputies, with or without the direction of the city council; however, said contracts require council approval except in an emergency.
- b. *Methods.* Contracts for services, the cost of which exceeds \$15,000.00, other than those exempted in subsection 2.d of this section, whenever practical, shall be based on at least two responses to RFPs or RFQs or competitive bids.
- c. *Prevailing wage law.* All municipal public works contracts are subject to the state's Prevailing Wage Law, RSMo §290.210 et seq. Before advertising for bids, the prevailing wage rate determination must be obtained and referred to in the advertisement for bids and contract.

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- d. *Exemptions.*
 - i. Services which by their nature are unique and not readily competitively available are not within the definition of contractual services under section 26-1.
 - ii. Special provisions for acquisition of engineering and architectural services are contained in section 26-15.
 - iii. Special provisions for acquisition of specialty legal services are contained in section 2-86(2).
 - e. *Basis of award.* The basis for an award of contract for services, depending on the complexity of the service, becomes dependent (increasingly with complexity) on the ability, capacity, reliability and availability of the contractor and the nature of the city's demand for said services, and does not necessarily depend on the charge, price or hourly rate, since all vendors will not provide identical quality and expertise. Such contracts may be negotiated by the city purchasing agent or his deputies; however, said contracts require council approval except in an emergency.
3. *On demand agreements not to exceed two years for reoccurring orders for goods and services which individually do exceed \$15,000.00; approval of city manager and council.* The city requires for administrative efficiency and cost conservation, outgoing relationships with vendors (e.g., office supplies or water departments treatment supplies or repair parts) and tradesman (e.g., to provide services on call such as plumbing, electrical and carpentry repairs as well as emergency construction services involving use of equipment not readily available to the city). Because it is clear such need will reoccur and the city's administrative cost and acquisition cost can be contained and made competitive with continuing agreements, contracts for such services may be contacted on an on demand, as needed, standby or on call basis, for periods not to exceed two years. Such on demand contracts will provide lists and prices of goods to ensure competitive pricing and will provide limitations on hourly charges and specifications of equipment or supplies to be provided with unit prices including and not exceed annual total cost. Said contracts will be at all time open to public view, and the purchasing agent or the council may cancel said agreements or purchase from other vendors, if and when it appears advantageous to the city to seek other or additional resources for goods and services. If individual prices in said continuing agreements appear less favorable than new opportunities, nothing in this chapter is intended to prohibit the city from renegotiating the on demand agreement or purchasing from the more competitive vendor or service provider. Said agreements will require the approval of the city manager and the city council.
- 3.1. *Prevailing wage law.* All municipal public works contracts are subject to the state's Prevailing Wage Law, RSMo §290.210 et seq. Before advertising for bids, the prevailing wage rate determination must be obtained from the project director and referred to in the ordinance or advertisement for bids and contracts.

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4. *Manner of solicitation of bids, RFPs or RFQs.* The city purchasing agent or deputy purchasing agents, or the city council, may solicit bids, RFPs or RFQs for both supplies and for services, as required herein in any reasonable manner structured to avoid favoritism including but not limited to the following:
 - (a) By direct mail to prospective bidders;
 - (b) By posting notice;
 - (c) By telephone;
 - (d) By advertisement;
 - (e) By electronic invitation;
 - (f) By personal contact; or
 - (g) By any other reasonable means.
5. *Bid deposits.* When deemed necessary by the city purchasing agent, his deputy or the city council, bid deposits may be required. Unsuccessful bidders shall be entitled to return of deposits. A successful bidder shall forfeit any deposit required by the agent upon failure on his part to enter a contract within ten days , or such other time as is specified in the invitation, after the award. The deposit, when required, shall be in the form specified by the invitation RFP or RFQ.
6. *Specifications.* Bids shall be on specifications prepared by the city purchasing agent, his deputy or the council. All specifications shall be definite and certain, shall be structured to permit competition as is reasonably practical, and, where applicable, shall include both unit and total prices.
7. *Bid, RFP and RFQ opening.* The bid opening procedure shall be as follows:
 - (a) *Sealed.* Bids, RFPs and RFQs shall be submitted sealed to the agent and shall be identified as bids on the envelope if hard copy is delivered in written form. Bids may also be accepted in electronic format. If electronic delivery is acceptable, specific guidelines provided in the solicitation for bids must be followed. Any envelopes delivered not clearly marked as a bid or electronic submittals not identified as required in the bid solicitation may be disqualified.
 - (b) *Opening.* Bids shall be opened in public at the time and place stated in the specifications.
 - (c) *Tabulation.* The agent shall make a written tabulation of all bids received and present the same to the council with any comments, explanations or recommendations he may deem proper. Inspection of such tabulation shall be open to the public.
8. *Rejection.* The council may reject any and all bids, parts of any or all bids, for any one or more supplies or contractual services, when the public interest will be served thereby.
9. *Number of bids.* The city does not require that a minimum number of bidders respond to an invitation to bidders. On occasion, irregular bids must be rejected, for instance where a bidder changes specification, warranties or makes the bid or product subject to conditions not anticipated in the invitation. In any case, the city's

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requirement in formal bidding on published invitations for bids is that the issue is exposed to public bidding, not that a minimum number of qualified bids are received. This provision does not demand a contract award in the case only one qualified bidder appears, if the city concludes the bid is reasonable and should be accepted.

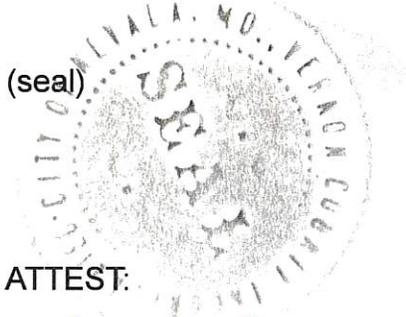
(Code 1998, § 26-9 Ord. No. 2580, § 8; Ord. No. 6119, §2, 9-2-2003)

CD26:11

Section 3. Sections 26-10 through Section 26-19 are ratified, affirmed and reenacted verbatim as originally adopted without change.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Nevada, Missouri, this 18th day of March 2025.

(seal)





GEORGE C. KNOX, MAYOR

ATTEST:



CYNTHIA DYE, CITY CLERK

BILL NO. 2025-010

ORDINANCE NO. 8695