

**ORDINANCE NO. \_\_\_\_**

An Ordinance revising Title 5, Chapter 6, regarding municipal purchasing procedures.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CROSSVILLE, TENNESSEE AS FOLLOWS:

**SECTION I.** That Title 5, Chapter 6, of the Crossville Municipal Code be deleted in its entirety and substituted with the following:

**CHAPTER 6**

**MUNICIPAL PURCHASING PROCEDURES**

**SECTION**

- 5-601. Purchasing agent.
- 5-602. Purchasing procedures.
- 5-603. Relations of other departments with the finance department and city clerk's office.
- 5-604. Purchases exceeding one thousand dollars (\$2,500)
- 5-605. Purchases of one thousand dollars (\$2,500) or less
- 5-606. Receiving report.
- 5-607. Emergency purchases.
- 5-608. Public works contracts.
- 5-609. General procedures and rules.

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**5-601. City Manager.** The city manager shall act as purchasing agent for the city, with power, except as set out in these procedures, to purchase materials, supplies, equipment; secure leases and lease-purchases; and dispose of and transfer surplus property for the proper conduct of the city's business. All contracts, leases, and lease purchase agreements extending beyond the end of any fiscal year must have prior approval of the city council.

**5-602. Purchasing procedures.** The City Manager shall have the authority to make purchases, leases, and lease purchases up to the state maximum allowed without competitive bidding as referenced in Tennessee Code Annotated § 12-3-1212 (referred to as bid threshold). The City Manager shall be responsible for compliance with these procedures and the municipal purchasing law of 1983, as amended, including required records and reports, as if they were set out herein and made a part hereof and within definitions of words and phrases from the law as herein defined. In no event shall a purchase order, requisition, or contract be split or divided into two (2) or more with the intent of evading the necessity of having competitive bids and/or the necessity of obtaining the approval of city council. The purchase of several complete items from a single vendor to be used in different departments shall be considered as individual purchases.

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(1) All purchases over the bid threshold should be competitively bid. Three quotations for purchases more than two thousand five hundred dollars (\$2,500) are desirable, and required for the purchase of items over 40% and up to the bid threshold. Awards shall be made to the lowest responsible bidder meeting specifications.

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(2) Purchases amounting to over the bid threshold may be allowed without competitive bidding only under the following circumstances and, except as otherwise provided herein, when such purchases are approved by the City Council:

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- a) Sole source of supply or proprietary products as determined after complete search by using department and the City Manager, with city council approval.
- b) Emergency expenditures with subsequent approval of the city council.
- c) Investments in or purchases from the pooled investment fund established pursuant to Tennessee Code Annotated § 9-17-105 (state investment pool).
- d) Purchases for instrumentalities created by two (2) or more cooperating governments.
- e) Purchases from non-profit corporations whose purpose, or one of whose purposes, is to provide goods or services specifically to municipalities.
- f) Purchases, leases, or lease-purchases of real property.
- g) Purchases, lease, or lease-purchases, from any federal, state, or local governmental unit or agency, of second-hand articles or equipment or other

materials, supplies, commodities, and equipment.

- h) Purchases through other units of governments as authorized by the Municipal Purchasing Law of 1983. State bid numbers and supporting documentation should accompany purchase requisitions.
- i) Purchases directed through or in conjunction with the State Department of General Services.
- j) Purchases from Tennessee State Industries.
- k) Professional Service Contracts as provided in Tennessee Code Annotated § 12-4-107.
- l) Tort liability insurance as provided in Tennessee Code Annotated, § 29-20-407.

(3) Purchases over the bid threshold, which do not require public advertising and sealed bids or proposals, may be allowed only under the following circumstances and do not require City Council approval:

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- a) Purchases of fuels, fuel products, or perishable commodities. Quotes must be attached.
- b) Payment for licenses or permits required by law; and
- c) Payments on previously council approved contract items (i.e., maintenance agreements, partial payment requests, etc.)
- d) Group health insurances and other components of the employee group benefit package shall require public advertising and sealed bids or proposals every three years or at the discretion of City Council. Premium increases shall require City Council approval.

**5-603. Relations of other departments with the finance department and city clerk's office.** The Finance Department and City Clerk's office are service agencies for all other departments of the city with respect to purchasing. The purchasing function is a service; and the mutual benefits derived, for the good of the city, depend upon cooperation of each department with the others. This manual is a guide to help the departments do their part and point out their responsibility in purchasing.

- (1) Finance Department's responsibility.
  - a) Aid and cooperate with all departments in meeting their needs for operating supplies, equipment, and services.
  - b) Process all requisitions with the least possible delay.
  - c) Procure a product that will meet the department's requirements at the least cost to the city.
  - d) Know the source and availability of needed products and services and maintain current vendor files.
  - e) Prepare purchase orders, and process and maintain order and requisition files.
  - f) Search for new and improved sources of supplies and services.
  - g) Keep items in storage in sufficient quantities to meet normal requirements of the city for a reasonable length of time within space availability.
  - h) Investigate and document complaints about merchandise and services for future reference.
  - i) Ensure that the budget has not been exceeded for any purchase.
- (2) City Clerk's office responsibility.
  - a) Assist in preparation of specifications and to maintain specification and historical bid files.
  - b) Prepare and advertise requests for bids and maintain bid files.
  - c) Tabulate bids and provide to using department for evaluation and recommendation.
- (3) Using department's responsibility.
  - a) Obtain prices on comparable materials
  - b) Allow ample lead time for the Finance Department to process the requisition and issue the purchase order, while permitting the supplier time to deliver the needed items.
  - c) Prepare a complete and accurate description of materials to be purchased.
  - d) Assist the Finance Department and City Clerk's office by selecting sources of supply.
  - e) Plan purchases in order to eliminate avoidable emergencies.
  - f) Prepare specifications on items to be bid.

- g) Inspect merchandise upon receipt, and complete a receiving report noting any discrepancies in types, numbers, condition, or quality of goods.
- h) Advise Finance Department of defective merchandise or dissatisfaction with vendor performance.
- i) Initiate requests for authorization for the disposal of surplus property.
- j) Transfer or dispose of surplus property as authorized.

**5-604. Purchases Exceeding Two Thousand Five Hundred Dollars (\$2,500)**

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(1) Purchase requisitions. All purchases exceeding two thousand five hundred dollars (\$2,500) must be initiated through the preparation and submittal of a purchase requisition to the finance department. The purchase requisition serves to inform the finance department of the needs of the using department and to correctly define the material or service requested.

- a) When prepared. Requisitions shall be prepared after department obtains competitive prices and before vendor delivery.
- b) Who prepares the requisition. Requisitions shall originate in the using department and be signed by the requisitioner and the department head. The department head shall file with the Finance Department a certified memorandum listing those who are authorized to sign a requisition.
- c) How to prepare. A properly processed purchase requisition must contain the following information:
  1. Date issued - date the requisition is prepared
  2. Date needed - State a definite delivery date. Prepare far enough in advance to avoid emergencies.
  3. Department - complete name of using department
  4. Account distribution - complete budgetary code
  5. Vendor name and address. When applicable, attach three phone quotes with vendor name, price, contact, and supporting documentation.
  6. Item no. - numerical order of items listed
  7. Quantity - number required
  8. Unit - dozen, lineal feet, gallons, and the like
  9. Description - Give a clear description of the items desired as to size, color, type, and the like. If the purchase is of technical nature, specifications should be attached to the requisition. If the item cannot be described without a great amount of detail, a brief description should be given followed by a trade name and model number of an acceptable item "or approved equal." **NOTE:** Incomplete information in this area will result in the requisition being returned to the using department for clarification.
  10. Unit price - price for each individual item
  11. Amount - total of quantity times unit price
  12. Delivery instructions - Be specific. If vague or indefinite, confusion may result in costly delays.
  13. Requisitioner - signature of the person initiating the purchase request
  14. Department head - signature of the department head
- d) Routing of requisitions. Prepare three copies of the purchase requisition. Send the original and one copy to the finance department and retain the third copy in department files. The Finance Officer shall certify by signature that the proper account has been charged and the availability of budgetary and cash funds. The original requisition shall then be returned to the finance department and the copy filed in the office of the finance director.
- e) General information. A requisition must be completed before a purchase is made, except as otherwise provided herein. Approximate cost of items will enable finance to determine if bids are required.
 

If a requisition is incomplete or improperly prepared, the finance department shall return it to the using department for completion. An incomplete requisition could cause unnecessary delays.

THE REQUISITIONER SHALL NOT SPLIT ORDERS TO CIRCUMVENT ANY PROVISION OF THE CITY CODE OR CHARTER, THIS MANUAL, OR ANY POLICY ESTABLISHED BY THE CITY, NOR SHALL REQUISITIONS BE SUBMITTED FOR THE SOLE PURPOSE OF USING UP BUDGETARY BALANCES.
- f) Expediting orders. If a company is awaiting a purchase order to process a rush

order, the words EXPEDITE IMMEDIATELY must be placed in the body of the requisition. The Finance Department will then contact the vendor and supply a purchase order number. This process will be the exception rather than the rule.

- g) Insufficient funds. If it is determined by the finance director that the account lacks a sufficient budget, it will be referred to the City Manager, who will notify the department head.

(2) Purchase Orders. Following the approval of a purchase requisition, A purchase order is prepared by the finance department to authorize the seller to ship and invoice the materials and services as specified. Purchase orders shall be written so that they are clear, concise, and complete. This prevents misunderstandings and unnecessary correspondence with suppliers.

- a) When prepared. Purchase orders are issued only after an acceptable requisition has been submitted and after approval of the City Manager and the finance officer. No purchase order will be issued until the finance officer has certified adequate budgetary and cash balances to make the purchase, except as otherwise provided herein.
- (b) Who issues the purchase order. Only the Finance Department shall issue purchase orders.
- (c) Cancellations. The finance department must initiate all cancellations and will issue a purchase order to the next best vendor or renew the purchasing process.

**5-605. Purchases of Two Thousand Five Hundred Dollars (\$2,500) or less.**

Purchases of two thousand five hundred dollars (\$2,500) or less can be made without the use of a purchase requisition; however, a purchase order issued through the Finance Department is required.

The department head, or authorized purchaser, may obtain a purchase order from the Finance Department. It is the responsibility of the department head, considering price and quality, to determine the best source of supply. All local sources should be considered before a purchase is made. UNDER NO CIRCUMSTANCES MAY MULTIPLE FORMS BE USED, IF THE PURCHASE IS OVER THE DOLLAR LIMIT, IN AN EFFORT TO AVOID FILLING OUT A PURCHASE REQUISITION.

The following information must be provided by the ordering department prior to the issuance of a purchase order:

- 1) Vendor - firm or person from whom purchase is being made.
- 2) Vendor's address - address of vendor.
- 3) Quantity - the amount ordered of each item described.
- 4) Description - brief description of item(s) to be purchased.
- 5) Account to be charged - complete budgetary code of using department.
- 6) Price - amount equal to quantity times unit cost.

Following issuance, a numbered purchase order is delivered to department heads. Department heads will review and sign the purchase order. Purchase orders will be returned to finance department.

**5-606. Receiving report.** Receiving reports are designed to notify the City Manager and the finance director that items of a particular order have been received. At the direction of the City Manager and the finance director, receiving reports are required using one of two methods:

- (1) The person receiving the merchandise or service can sign the invoice signifying that goods have been received and are in good condition; or

(2) Material receiving report.

(a) When prepared. This form is completed immediately upon receipt of materials, supplies, or services.

(b) Who prepares. The person receiving the merchandise.

(c) How to prepare. A properly prepared material report must contain the following information:

- Purchase order number
- Name of vendor
- Name of person receiving the item.
- Date received
- Number of items received.
- Brief statement describing item(s).
- Unit price from the purchase order.

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- Unit measure (foot, lb., etc.)
- Amount equal to quantity times unit cost.
- Amount (if any) charged for delivery.

When any item(s) is not in satisfactory condition, a statement on the condition of the item(s) shall be made in the description column or on the invoice. No statement as to condition in this column shall certify that the item(s) is in satisfactory condition.

**5-607. Emergency purchases.**

(1) Purchase. Emergency purchases are to be made by departments only when normal functions and operations of the department would be hampered by submitting a requisition in the regular manner, or where property, equipment, or life are endangered through unexpected circumstances and materials, services, etc., are needed immediately.

(2) By whom made. Emergency purchases, either verbal or written, may be made directly by the using department without competitive bids, provided sufficient appropriation has been made to cover such occasions and necessary approvals have been secured.

(3) Who authorizes. The city manager or department supervisors designated in writing and approved by the city manager may authorize an emergency purchase.

(4) How to make. After determining that a true emergency exists, the following procedure should be used:

(a) Notify the Finance Department of the need and nature of the emergency. The Finance Department will give verbal approval and issue a purchase order number. This number will be referenced on the requisition.

(b) Using department shall at all times use sound judgment in making emergency purchases of materials and supplies and for labor or equipment at the best possible price. Orders should be placed with vendors with whom the using department has had previous satisfactory experience.

(c) Suppliers shall furnish sales tickets, delivery slips, invoices, etc., for the supplies or services rendered. Terms of the transactions, indicating price and other data, shall be shown.

(d) Upon completion of the purchase, on the same or following business day, the using department shall perform the following:

- 1) Present to the finance department a completed requisition stating a description of the emergency and approval by the department head. The words "confirming emergency purchase" shall be marked plainly on the requisition, along with the purchase order number used.
- 2) The sales ticket, delivery slips, invoices, and material receiving report confirming the purchase must be attached to the emergency requisition form.
- 3) The finance department will issue a purchase order marked "Confirmation."

(e) If an emergency should occur during a time when the finance department normally is closed, the using department will follow the above procedure with the exception of step (a). The evidence of purchase, such as sales slip, counter receipt, delivery slip, invoice, etc., which the supplier normally furnishes, shall be attached to the completed and approved requisition form and be forwarded to the finance department, along with a material receiving report.

(f) The person authorizing the emergency purchase shall prepare a report to the city manager and the city council, as soon as possible, specifying the amount paid, the item(s) purchased, from whom the purchase(s) was made, and the nature of the emergency.

NOTE: EMERGENCY PURCHASES ARE COSTLY AND SHOULD BE KEPT TO A MINIMUM. Avoiding emergency orders will ultimately save the city money.

**5-608. Public works contracts.**

(1) Any public work or improvement, costing more than one thousand dollars (\$1,000) shall be executed by contract, except when a specific work or improvement is authorized by the City Council and approved by the City Manager.

(2) All contracts for more than the bid threshold shall be awarded to the lowest responsible bidder, after publication, advertisement, and competition; but no contract for any public work or improvement shall be awarded except on condition that the contractor gives bond

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with some bonding company authorized to transact business in the state of Tennessee as surety, in a sum equal to at least fifty percent of the contract price of the particular work or improvement for the faithful performance of such contract.

(3) The City Manager shall have the power to reject all of the bids and to perform the work with city resources and all advertisements shall contain a reservation of this right.

(4) Sealed bids or proposals. Sealed bids are required on purchases over the bid threshold or more. Advertisement of bids in a local newspaper of general circulation must be not less than five (5) days before bid opening date.

(a) City Clerk's office responsibility.

1. Prepare bid requests.
2. Establish date and time for bid opening.
3. Mail bid requests and advertise as appropriate. If hand delivered, an appropriate receipt of the bid request should be signed by the vendor.
4. Receive and open bids.
5. Tabulate bids and distribute to using department for their evaluation and recommendation
6. Maintain all specification and bid data files.

(b) Using department's responsibility.

1. Prepare specifications to initiate bid process. This should contain specific information about items needed, i.e., quantity, size, brand preferred, performance requirements, suggested vendors, etc.
2. Submit requisition to initiate bid process to the city clerk's office at least three (3) weeks prior to the date the bids are to be opened.
3. After bids are opened and tabulated, evaluate bid results and make recommendation on award to City Council for approval.
4. Contact finance department to initiate preparation of purchase order after City Council approval.

(c) The following policies shall apply to sealed bids:

1. Bid or proposal opening. Bids will be opened at the time and date specified on the bid request. All bids are opened publicly and read aloud, with a tabulation provided to all vendors participating. Faxed or electronically submitted bids will not be accepted when a sealed bid is required.
2. Late bids. No bids received after closing time will be accepted. All late bids will be so noted and filed unopened in the bid file unless requested by the vendor to be returned. Bids postmarked on the bid opening date but received after the specified time will be considered late and will be remain unopened.
3. Bid opening schedule. The City Clerk's office is responsible for setting bid opening dates and times.
4. Telephone bids. The city will not accept any bid by telephone.
5. Bid form. The City Clerk's office will send one copy of the bid request form to each bidder. Bids will not be accepted on any vendor letterhead, vendor bid form, or other substitutions unless special permission is granted by the City Clerk's office.
6. Unsigned bids. Failure of a vendor representative to sign a bid proposal removes that bid from consideration. A typed official's name will not be acceptable without that person's written signature.
7. Acceptance of bids. The city reserves the right to reject any or all bids, to waive any irregularities in a bid, to make awards to more than one bidder, to accept any part or all of a bid, or to accept that bid (or bids) which in the judgment of the city council is in the best interest of the city.
8. Shipping charges. Bids are to include all shipping charges to the point of delivery. Bids will only be considered on the basis of delivered price, except as otherwise authorized by the city council.
9. Sample product policy. The city may request a sample product as part of a bid. If this is stated on the bid proposal form, the vendor is required to comply with this request or have the bid removed from consideration.

10. Approved equal policy. Specifications furnished in the request for bid are intended to establish a desired quality or performance level or other minimum requirements which will provide the city with the best product available at the lowest possible price. When a brand name and/or model is designated, it signifies the minimum quality acceptable. If an alternate is offered, the bidder must include the brand name or model to be furnished, along with complete specifications and descriptive literature, and, if requested, a sample for testing. Other than designated and/or models approved as "equal to" designated products shall receive equal consideration.
11. Alternate bids. Should it be found, after bids have been opened, that a product has been offered with an alternate specification and that this product would prove to be satisfactory and more economical for the city to use, all bids for that item may be rejected and specifications re-drawn to allow all bidders' an equal opportunity to submit bids on the alternate item.
12. Vendor identification. Potential suppliers are selected from existing vendor files, using department's suggestions, and any and all sources available to locate vendors related to a specific product or service. New suppliers are added to the bid list as they are identified.
13. Tie bids. A tie bid is one in which two or more vendors bid identical items at the same unit cost. Tie bids may be determined by one of the following factors:
  - a. Discount allowed.
  - b. Delivery schedule.
  - c. Previous vendor performance.
  - d. Vendor location.
  - e. Trade-in value offered.
14. Cancellation of invitation for bid or request for proposal. An invitation for bid, a request for proposal, or other solicitations may be cancelled, or any or all bids or proposals may be rejected in part as may be specified in the solicitation when it is in the best interest of the city. The reasons therefore shall be a made of a part of the bid or proposal file.
15. Public advertisement. In addition to publication in a newspaper of general circulation as required by law, the City Manager may make any other efforts deemed appropriate to notify all prospective bidders of the invitation to bid. This may be accomplished by delivery, verbally, by mail, or by posting the Invitation to Bid in a public place. It is not required that specifications be included in the Invitation to Bid; however, this notice should state clearly the purchase that is to be made.
16. Sealed bids and sealed proposals. "Although the formal sealed bid process should remain a standard in public purchasing, there is a place for competitive negotiation." (State and Local Government Purchasing, The Council of State Governments (1975) at 2.2). Competitive sealed bidding, as defined in this code, is the preferred method of procurement. The competitive sealed proposal method (similar to competitive negotiation) is available for use when competitive sealed bidding is not practicable.

Both methods utilize price and product competition, but to different degrees and in different manners. The use of functional or performance specification is allowed under both methods to facilitate consideration of alternative means of meeting (state) needs, with evaluation, where appropriate, on the basis of total or life cycle costs. The methodology and the ranking or relative importance of the criteria to be used in the evaluation process under either method must be fully disclosed in the solicitation. Only criteria disclosed in the solicitation may be used to evaluate

the items bid or proposed.

The two methods of source selection differ in the following ways:

a. Under competitive sealed bidding, subjective factors may be used only to determine if the supply, service, or construction item bid meets the purchase description. Under competitive sealed proposals, subjective factors may be used to determine not only if the items being offered meet the purchase description but may also be used to evaluate competing proposals. The effect of this different use of subjective evaluation is that under competitive sealed bidding, once the subjective evaluation is completed, award is made on a purely objective basis to the lowest responsive and responsible bidder. Under competitive sealed proposals, the quality of competing products may be compared and trade-offs made between price and quality of the items offered (all as set forth in the solicitation). Award under competitive sealed proposals is then made to the responsible offer or whose proposal is most advantageous to the city.

b. Competitive sealed bidding and competitive sealed proposals also differ in that, under competitive sealed bidding, no change in bids is allowed once they have been opened, except for correction of errors in limited circumstances. The competitive sealed proposal method, on the other hand, permits discussions after proposals have been opened to allow clarification and changes in proposals provided that adequate precautions are taken to treat each offer fairly and to ensure that information gleaned from competing proposals is not disclosed to other offerors." (Source: A Model Procurement Code for State and Local Governments -- Coordinating Committee's Tentative Draft. American Bar Association, July, 1978. Pages 54 & 55.)

(d) Other aspects to be considered in bid awards. In addition to price, the following aspects also will be considered in the award of a bid:

1. The ability of the bidder to perform the contract or provide the material or service required.
2. Whether the bidder can perform the contract or provide the material or service promptly or within the time specified, without delay or interference.
3. The character, integrity, reputation, experience, and efficiency of the bidder.
4. The previous and existing compliance, by the bidder, with laws and ordinances relating to the contract or service.
5. The ability of the bidder to provide future maintenance and service for the use of the subject contract.
6. Terms and conditions stated in bid.
7. Compliance with specifications or request for proposal.

(e) Non-performance policy. Failure of a bidder to complete a contract, bid, or purchase order in the specified time agreed upon, or failure to provide the service, materials, or supplies required by such contract, bid, or purchase order, or failure to honor a quoted price on services, materials, or supplies on a contract, bid, or purchase order may result in one or more of the following actions:

1. Removal of a vendor from bid list for a period to be determined by the City Council.
2. Allowing the vendor to find the needed item for the city from another supplier at no additional cost to the city.
3. Allowing the city to purchase the needed service, materials, or supplies from another source and charge the vendor for any difference in cost resulting from this purchase.
4. Allowing monetary settlement.



(f) Request for bid. The Request for Bid form shall be used when deemed necessary by the City Manager.

(g) Summary of bids. The summary of bids form shall be issued by the city clerk's office to record quotations.

**5-609. General procedures and rules.**

(1) All competitive bids or quotations received shall be recorded and maintained in the office of the City Manager for a minimum of two (2) years after audit. When requisitions are required, the competitive bids or quotations received shall be listed upon that document prior to the issuance of the purchase order.

(2) Preference to local dealers. In the purchasing of supplies, materials, equipment, and services for the city's requirements, preference shall be given those dealers having stores or warehouses within the city; price, quality, delivery, and service being equal.

(3) Federal excise tax. The city is exempt from the payment of excise taxes imposed by the federal government, and suppliers should be requested to deduct the amount of such taxes from their bids, quotations, and invoices.

(4) Standardization requirements. Important economies can be affected through standardizing supplies and materials that can be purchased in large amounts. Thus, department heads should adopt as standards the minimum number of quantities, sizes, and varieties of commodities consistent with successful operation. Where practical, materials and supplies should be purchased on the basis of requirements for a six-month period.

(5) Inspection of deliveries. No invoices for supplies, materials, or equipment shall be accepted for payment until such supplies, materials, etc., have been received and inspected by the department head.

(6) Correspondence with suppliers. Copies of any correspondence with suppliers concerning prices, adjustments, and defective merchandise shall be forwarded to the Finance Department. All invoices, bills of lading, delivery tickets, and other papers pertaining to purchases shall be sent to the finance department.

(7) Claims. The City Manager shall prosecute all claims for shortages, breakages, or other complaints against either shipper or carrier in connection with shipments.

(8) Public inspection of records. The City Clerk's office and Finance Department shall keep a complete record of all quotations, bids, and purchase orders. Such records shall be open to public inspection.

(9) Prohibition of contracts with municipal officers. State laws governing doing business with officers of the city are:

(a) Tennessee Code Annotated, § 6-54-107. Interest of officer in municipal contracts prohibited. (i) No person holding office under any municipal corporation shall, during the time for which he was elected or appointed, be capable of contracting with such corporation for the performance of any work which is to be paid for out of the treasury. Nor shall such person be capable of holding or having any other direct interest in such a contract. "Direct interest" means any contract with any business in which the official is the sole proprietor, a partner, or the person having the controlling interest. "Controlling interest" shall include the individual with the ownership or control of the largest number of outstanding shares owned by any single individual or corporation.

(ii) No officer in a municipality shall be indirectly interested in any contract to which the municipality is a party unless the officer publicly acknowledges his interest and excuses himself from any of his duties which include the consideration of, voting on, or overseeing the particular contract. "Indirectly interested" means any contract in which the officer is interested but not directly so, but includes contracts where the officer is directly interested but is the sole supplier of goods or services in a municipality.

(b) Tennessee Code Annotated, §12-4-101. Personal interest of officers prohibited. (i) It shall not be lawful for any officer, committee member, director, or other person whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract in which any municipal corporation, county, state, development districts, utility districts, human resource agencies, and other political subdivisions created by statute shall or may be interested, to be directly interested in any such contract. "Directly interested" means any contract with the official himself or with any business in which the official is the sole proprietor, a partner, or the person having the controlling interest. "Controlling interest" shall

include the individual with the ownership or control of the largest number of outstanding shares owned by any single individual or corporation.

(ii) It shall not be lawful for any officer, committee member, director, or other person whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract in which any municipal corporation, county, state, development districts, utility districts, human resource agencies, and other political subdivisions created by statute shall or may be interested, to be indirectly interested in any such contract unless the officer publicly acknowledges his interest. "Indirectly interested" means any contract in which the officer is interested but not directly so, but includes contracts where the officer is directly interested but is the sole supplier of goods or services in a municipality or county.

(10) Designee. When a position such as City Manager, Finance Director, City Clerk, or Department Head is mentioned herein, their assistants or designees are included as if they also were written thereafter; provided that persons holding these positions have designated others to carry out such duties.

(11) Definitions. (Municipal Purchasing Law of 1983 as amended).

(a) Customarily purchased. That which is regularly purchased under specific circumstances which would be considered reasonable and appropriate. (Example: After two (2) consecutive years; then, not required after two (2) consecutive years of not attaining the total amount of \$2,500).

(b) Like items. Those items that are similar and may be purchased at the lowest common denominator, such as size, color, etc.

(c) Lot. A single grouping of like items to be purchased at one time.

(d) Single source of supply. The availability of only one vendor for a product or service within a reasonable marketable distance of the city.

(e) Proprietary product. A brand-name product made and marketed by one having the exclusive right to manufacture and sell.

(f) Within the limits of the approved budget. Purchases must be held within appropriation limits in those funds requiring budgets either by law, regulation, or policy.

(g) Performance and bid bonds. Performance, payment, and bid bonds may be required as deemed appropriate by the city charter, City Manager or the city council.

(h) Architect or engineer required. Plans, specifications and estimates for any public works project or improvement must be prepared by a registered architect or engineer as required by Tennessee Code Annotated, § 62-2-107.

(i) Delinquent delivery. Once the finance department has issued a purchase order, no follow-up work is done unless the using department advises the item has not been received. Upon this notification, the finance department will initiate action, either written or verbal as time allows, to investigate the delay. The using department will be advised of any further problems or a revised delivery date.

(j) Contractual purchases. Such materials, supplies, or services which are constantly needed for city operations will be taken on a formal bid and will be awarded by the city council for a contract period determined to be in the best interest of the city. These purchases supercede bidding requirements, but not budgetary restraints, even if the purchases total **over the bid threshold** at one or several times throughout the year.

(k) Items covered by warranty or guarantee. The city acquires many items which have a warranty or guarantee for a certain length of time, such as tires, batteries, water heaters, roofs, and equipment. Before these items are repaired or replaced, the City Manager should be consulted to see if the item is covered by such warranty or guarantee. The City Manager shall maintain an active current file with complete information on such warranties or guarantees. All warranties must be remitted to the City Manager with the invoice indicating date of receipt.

(l) Signatures. Contracts, applications for title, tax exemption certificates, agreements, and contracts for utilities shall not be signed by any city employee unless authorized in writing by the City Manager or by action of the city council.

(m) Trade-Ins. List of equipment to be used as trade-in shall accompany the request and specifications. The list includes the model, year, serial and city tag numbers, and other pertinent data.

(n) Inspection and testing. When deemed necessary, the City Manager may cause to be inspected all deliveries of supplies, materials, equipment, or contractual services to determine their performance with the specification set forth in an order or contract.

The City Manager may require chemical and physical tests of materials submitted with

Commented [VAH11]: Removed dollar amount so that threshold changes as state law changes

Commented [VAH12]: Previously \$5,000

bids and delivery samples, or after products have been delivered, to determine their quality in conformance with specifications. In the performance of such tests, the City Manager may make use of laboratory facilities of any outside laboratory.

(o) Sale of surplus property. When a department head determines that there is surplus equipment or material within the department, he or she shall notify the City Manager in writing of any such equipment or materials. The City Manager will determine the best method of disposal of those items with an estimated value of less than five thousand dollars (\$5,000.00) and instruct the department head as to the disposal method. Following approval by the City Council, items with an estimated value of five thousand dollars (\$5,000.00) or more shall be disposed of by one of the following methods:

Commented [VAH13]: Previously \$2,500

Commented [VAH14]: Previously \$2,500

- (1) As a trade-in on the purchase of new equipment,
- (2) Advertised and bids received by the City Manager,
- (3) Transferred from one department to another, or
- (4) Sold at public auction.

If sold by sealed bid or at auction, such equipment or material shall be sold to the highest bidder. The finance officer shall be notified of any such transfer or sales.

**SECTION II.** That this ordinance shall take effect from and after its final passage, the public welfare requiring it.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Councilman

\_\_\_\_\_  
Councilman

\_\_\_\_\_  
Councilman

\_\_\_\_\_  
Councilman

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney

Passed 1<sup>st</sup> Reading: \_\_\_\_\_  
Passed 2<sup>nd</sup> Reading: \_\_\_\_\_  
Passed 3<sup>rd</sup> Reading: \_\_\_\_\_