

**HASTINGS CITY COUNCIL
WORKSESSION AGENDA**

**Hastings Public Library
314 North Denver Avenue
June 21, 2021
5:30 PM**

ROLL CALL:

PLEDGE OF ALLEGIANCE:

MOTION TO ADOPT CURRENT AGENDA for June 21, 2021 Worksession.

PUBLIC NOTICE - Official Notice of the Worksession was published in the Hastings Tribune on Friday, June 18, 2021. Pursuant to Nebraska Revised Statute Section 84-1412, the public is advised that a copy of today's agenda and all reproducible written material which will be discussed at today's meeting is available. Also, a current copy of the Nebraska Open Meetings Act is posted and accessible to members of the public.

DISCUSSION ITEMS

1. Discussion of American Rescue Plan Act (ARPA) funding - Michele Bever, Executive Director of South Heartland District Health Department.
2. Discussion of expenditure not to exceed \$200,000 for temporary move of City Hall employees to the North Denver Station of the Hastings Utility Department.
3. Discussion of purchasing ordinance.
4. Discussion of restricting trucks on portions of city streets. (Requested by Councilmember Skutnik)

ADJOURN:

The Mayor and City Council reserve the right to enter into an executive session at any time during the meeting, in accordance with the Nebraska Open Meetings Act, even though the closed session may not be indicated on the agenda.

It is the intention of the Mayor and City Council to take up the items on the agenda in sequential order. However, the Mayor and City Council reserve the right to take up matters in a different order to accommodate the schedules of the city council members, person having items on the agenda, and the public.

CHAPTER 7 PURCHASING

Article I. Purchasing

- 7-101. Title.
- 7-102. Definitions.
- 7-103. Formal contract procedure.
- 7-104. Informal bidding.
- 7-105. Emergency purchases.
- 7-106. Inspection and testing.
- 7-107. Surplus stock.
- 7-108. Prescribed authority structures.
- 7-109. Exceptions.
- 7-110. Contract and agreement approval.

Sec. 7-101. Title.

This article shall be known and may be cited as the "Purchasing Ordinance of the City of Hastings."

Sec. 7-102. Definitions.

For the purposes of this article, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Bid shall mean and include all bids and proposals.

City is the City of Hastings, Nebraska.

Contractual services shall mean and include all telephone, gas, water, electric light and power service, towel and cleaning service, insurance, lessee for all grounds, building, office or other space required by the using agencies; and the rental, repair or maintenance of equipment, machinery, and other City-owned property. The term shall not include professional and other contractual services which are in their nature unique and not subject to competition.

Supplies shall mean and include all supplies, materials, and equipment.

Using agency is any department, agency, commission, bureau, or other unit in the City government using supplies or procuring contractual services as provided for in this article.

Sec. 7-103. Formal contract procedure.

- (a) When the estimated cost of supplies, equipment or contractual services

exceeds forty thousand dollars (\$40,000.00), no formal contract for purchase or sale shall be authorized until the contract, if any, has been reviewed by the City attorney, and without prior approval of the City Council. All supplies, equipment, and contractual services in this category shall be purchased or sold by formal written contract, from the lowest responsible and responsive bidder, after due notice inviting bids.

(b) The municipal electric utility may enter into a contract for the enlargement or improvement of its electric system or for the purchase of equipment used for such enlargement or improvement if the price of the same is under one hundred twenty thousand dollars (\$120,000.00).

(c) Notice inviting bids shall be published once in at least one official newspaper in the City and at least seven (7) days preceding the last day set for the receipt of bids. The notice shall include a general description of the articles to be purchased or sold, and shall state where bid blanks and specifications may be secured, and the date, time and place for opening bids.

(d) When deemed necessary bid deposits shall be prescribed in the public notice inviting bids. Unsuccessful bidders shall be entitled to a return of surety required by the bid specifications. Successful bidder shall forfeit his or her bid deposit upon failure on his or her part to enter a contract within ten (10) days after being notified of the award.

(e) Bids shall be sealed and submitted to the City Clerk as directed in the request for bid and shall be identified as bids on the envelope. Bids shall be opened in public on the date and at the time and place stated in the public notices. A tabulation of all bids received shall be available for public inspection.

(1) The City Council shall have the authority to reject all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby.

(2) The City shall not accept the bid of a contractor who is in default on the payment of taxes, licenses, or other monies due the City.

(f) Contracts shall be awarded to the lowest responsible and responsive bidder. In determining "lowest responsible bidder," in addition to price, the following shall be considered:

(1) The ability, and skill of the bidder to perform the contract required;

(2) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

(3) Whether the bidder can perform the contract within the time specified;

(4) The quality of performance of previous contracts;

(5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract;

- (6) The life-cost of the personal property in relation to the purchase price and specific use of the item;
- (7) The performance of the personal property, taking into consideration any commonly accepted tests and standards of product usability and user requirements;
- (8) Energy efficiency ratio as stated by the bidder for alternative choices of appliances or equipment;
- (9) The information furnished by each bidder when deemed applicable concerning life-cycle costs between alternatives for all classes of equipment, evidence of expected life, repair and maintenance costs, and energy consumption on a per-year basis;
- (10) Such other information as may be secured having a bearing on the decision to award the contract.

A "responsive bidder" shall be defined as a person or company who has submitted a bid which conforms in all material respects to the "Invitation for Bids".

(g) When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared and filed with other papers relating to the transaction.

(h) No contract in excess of thirty thousand dollars (\$30,000.00) for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, works on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property shall be awarded by the City Council until an estimate of the cost shall be made by the City engineer and submitted to the Council.

(i) The electric utility shall not enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for such enlargement or improvement without advertising for bids if the price is over one hundred twenty thousand dollars (\$120,000.00).

(j) Except in the case of tie bids, there shall be neither formal, or tacit local vendor's preference policies. The City shall neither impose nor condone any bidding or procurement policies that result in exclusionary or anti-competitive bidding or violate state or federal antitrust laws. If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a local bidder. Where there is no local bidder or when two (2) or more local bidders are equal, the award of the contract shall be by drawing lots in public to one of the tie bidders.

(k) The City, whenever applicable, may purchase supplies, equipment, or services without the necessity of using the formal bid requirements as set forth in this section by either:

- (1) Purchasing under a State of Nebraska contract; or

- (2) Purchasing the same supplies, equipment, or services from another vendor at or below the purchase price of a State of Nebraska contract; or
- (3) Purchasing under a contract or agreement compliant with the Interlocal Cooperation Act where the acquisition cost of the item being purchased has been established through a public procurement process; or
- (4) Purchasing under a contract or agreement with a Joint Public Agency where the cost of the item being purchased has been established through a public procurement process; or
- (5) Purchasing where the entire cost of the supplies, or services is one hundred percent (100%) funded by a donation to the City for said supplies, equipment, or services, and the following criteria are met:
 - a) the project utilizing said supplies, equipment, or services has been approved by the City in advance of the donation to the City, and
 - b) the donor has requested that particular supplies, equipment, or services be acquired by the City with the donated funds, and
 - c) the City, before accepting the donation, has considered the criteria set forth in subsection (f) of this section and has declared that, having considered the criteria set forth in subsection (f), it is in the best interest of the City; or
- (6) Purchasing used equipment with prior authorization of the Council; or
- (7) Purchasing items that are available only from a single source; or
- (8) Purchasing parts and labor needed for maintenance and repairs, or
- (9) Purchasing consumables and fuels.

Sec. 7-104. Informal bidding.

(a) When the estimated cost of supplies, equipment or contractual services is less than forty thousand dollars (\$40,000.00), or less than one hundred twenty thousand dollars (\$120,000.00) in the event of a purchase by the municipal utility for its electric system, the purchase shall be made in the open market, without newspaper advertisement and without observing the procedure prescribed for the award of formal contracts and shall be referred to as open market purchases.

(b) All open market purchases in an amount greater than ten thousand dollars (\$10,000.00) but less than forty thousand dollars (\$40,000.00) or in the event of a purchase by the municipal utility for its electric system is greater than ten thousand dollars (\$10,000.00), but less than one hundred twenty thousand dollars (\$120,000.00), shall, whenever possible or practicable, be based on at least three (3) competitive bids, and shall be awarded to the "lowest responsible and responsive bidder," in accordance with the same criteria established in this article for the formal contract procedure.

(c) All open market purchases of ten thousand dollars (\$10,000.00) or less may be made by utilizing open monthly purchase orders or by purchasing from available sources without the necessity of a bid.

(d) Open market bids may be solicited by direct mail request to prospective vendors, by public notice on bulletin board, by telephone, by facsimile transmission, by electronic mail or other electronic means.

(e) The respective department head or his/her designee shall keep a record of all open market orders, and the bids submitted in competition thereon, and such records shall also be open to public inspection.

(f) The City, whenever applicable, may purchase supplies, equipment, or services without the necessity of using the informal bid requirements as set forth in this section by either:

- (1) Purchasing under a State of Nebraska contract; or
- (2) Purchasing the same supplies, equipment, or services from another vendor at or below the purchase price of a State of Nebraska contract; or
- (3) Purchasing under a contract or agreement compliant with the Interlocal Cooperation Act where the acquisition cost of the item being purchased has been established through a public procurement process; or
- (4) Purchasing under a contract or agreement with a Joint Public Agency where the cost of the item being purchased has been established through a public procurement process; or
- (5) Purchasing where the entire cost of the supplies, or services is one hundred percent (100%) funded by a donation to the City for said supplies, equipment, or services, and the following criteria are met:
 - a) the project utilizing said supplies, equipment, or services has been approved by the City in advance of the donation to the City, and
 - b) the donor has requested that particular supplies, equipment, or services be acquired by the City with the donated funds, and
 - c) the City, before accepting the donation, has considered the criteria set forth in subsection 7-103 (f) of this section and has declared that, having considered the criteria set forth in subsection 7-103 (f), it is in the best interest of the City; or
- (6) Purchasing used equipment with prior authorization of the Council. or
- (7) Purchasing items that are available only from a single source, or
- (8) Purchasing parts and labor needed for maintenance and repairs, or

- (9) Purchasing consumables and fuels.

Sec. 7-105. Emergency purchases.

(a) In the event of an emergency which requires immediate purchase of supplies or contractual services, the City administrator shall be empowered to authorize the purchase by open market procedure as herein set forth, at the lowest obtainable price, any supplies or contractual services.

(b) An "emergency" shall be defined as any event which interrupts the normal administration of municipal services, thereby jeopardizing the life, health or convenience of citizens.

(c) Should an emergency situation arise on a weekend or holiday, any purchase necessary shall be made by the department.

(d) A report of the circumstances of an emergency purchase shall be filed by the department head with the City administrator.

Sec. 7-106. Inspection and testing.

(a) The respective department head or his/her designee shall inspect, or supervise the inspection of, all deliveries of supplies or contractual services to determine their conformance with the specifications set forth in the order or contract.

(b) The respective department head or his/her designee may require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, the respective department head or his/her designee shall have the authority, to make use of laboratory facilities of any agency of the City government or any outside laboratory.

Sec. 7-107. Surplus stock, and real property.

All agencies and departments shall submit to the City Clerk at such time and in such form as he or she shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped.

The respective department heads shall have the authority to sell or dispose of all surplus supplies and equipment of less than forty thousand dollars (\$40,000.00) in value which have become unsuitable or unnecessary for public use. The respective department heads shall sell or dispose of the property by any method which is most advantageous to the City, including offering it first to other City departments, or subsequently by auction, sealed bid, private or public sale, or trade-in for other property. All sales of any one piece of equipment or supplies of forty thousand dollars (\$40,000.00) or more in value shall require the prior approval of the Mayor and City Council.

Any sale of surplus real estate shall be sold or disposed of as directed by the City Administrator.

Sec. 7-108. Prescribed authority structures.

Insofar as the sale or purchasing procedures of this policy are concerned, the following authority structure shall apply:

- (1) Every City employee shall requisition for supplies, equipment or services only with the approval of the employee's department head or duly authorized representative;
- (2) After obtaining the approval of the department head, the employee shall follow the procedures of the sale or purchase as specified in this article;
- (3) No City employee shall circumvent that prescribed authority structure of this policy without permission of the City administrator.

Sec. 7-109. Exceptions.

This policy shall not apply to construction contracts for special improvement districts nor to state or federally funded programs that mandate a different contracting procedure, nor to contracts for legal services.

Sec. 7-110. Contract and agreement approval and signing.

- (a) Contracts and agreements for supplies, equipment materials, and contractual services which exceed forty thousand dollars (\$40,000.00), or in the event of a purchase by the municipal utility for electric supplies, electrical equipment, electrical materials and electrical contractual services which exceeds one hundred twenty thousand dollars (\$120,000.00) shall be approved by the City Council and signed by the Mayor unless:
 - (1) The amount of the expenditure or contract is less than any amount budgeted for the subject supplies, equipment, materials or contractual subjects in which case the contract or agreement need not be approved by the City Council, but shall be signed by the Mayor.
- (b) Multiple year contracts and agreements for supplies, equipment, materials and contractual services exceeding forty thousand dollars (\$40,000.00) over the life of the contract or agreement, or in the event of a purchase by the municipal utility for electric supplies, electrical equipment, electrical materials and electrical contractual services exceeding one hundred twenty thousand dollars (\$120,000.00) over the life of the contract or agreement shall be approved by the City Council and signed by the Mayor.
- (c) Contracts and agreements for supplies, equipment, materials and contractual services not exceeding forty thousand dollars (\$40,000.00), or in the event of a purchase by the municipal utility of supplies, equipment, materials and contractual services not exceeding one hundred twenty thousand dollars (\$120,000.00) may be signed by department heads.

- (d) Other contracts, agreements, memorandums of understanding and other similar documents not described in this section shall be signed by the Mayor or by his or her designee.

DRAFT

Sec. _____. Avoiding traffic control device.

It shall be unlawful for the driver of any vehicle to drive such vehicle directly from a highway across property adjacent to two (2) highways intersecting at an intersection and enter upon the intersecting highway to avoid following the instructions of a traffic control device or signal erected at the intersection.

Sec. _____. Driving or turning on public or private property.

(a) It shall be unlawful for any person to drive a motor vehicle on or across property belonging to another person as a short cut or a part of a route of travel, without stopping the motor vehicle or without having business to conduct with the owner, tenant or licensee of said property.

(b) It shall be unlawful for any person to drive a motor vehicle from a roadway or alley onto property belonging to another and reenter a roadway or alley without stopping the motor vehicle or without conducting legitimate business with the owner or tenant of such property.

(c) Failure to stop a motor vehicle while traveling over or across property as described in this section shall constitute a rebuttable presumption of the violation of this section.

(d) To stop a motor vehicle, for purposes of this section, the operator of a motor vehicle shall be required to (1) bring the motor vehicle to a complete cessation of motion and (2) disembark from the vehicle and conduct legitimate business with the owner or tenant of the property or remain in the vehicle and conduct legitimate business with the owner or tenant.

(e) This section shall not apply to the operator of any law enforcement, public safety or emergency vehicle.

(f) The provisions of this section shall only apply to property for which regulation by the police division has been requested by the owner or tenant thereof. Any owner or tenant requesting regulation shall make such request in writing to the chief of police and shall be responsible for the cost of publishing the enabling ordinance providing for the initial designation of the property as property to be regulated pursuant to this section. The owners or tenants of all properties regulated by this section shall erect signs readily visible to motor vehicle operators entering the regulated property which signs shall identify the parking lot as a restricted parking lot, shall state those persons to whom the regulations apply and shall make reference to this section of the Code.

Neb. Rev. Stat. §60-681

Local authorities may by ordinance or resolution prohibit the operation of vehicles upon any highway or impose restrictions as to the weight of vehicles, for a total period not to exceed one hundred eighty days in any one calendar year, when operated upon any highway under the jurisdiction of and for the maintenance of which such local authorities are responsible whenever any such highway by reason of deterioration, rain, snow, or other climatic condition will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weight thereof reduced. Such local authorities enacting any such ordinance or resolution shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution at each end of that portion of any

highway affected thereby, and the ordinance or resolution shall not be effective until such signs are erected and maintained.

Local authorities may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles or impose limitations as to the weight thereof on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways.