

10.1100

**CHAPTER 11
CONTRACTS AND LEASES**

10.1101

Sec. 11.1. PURCHASE AND SALE OF PROPERTY; RESTRICTIONS.

- a. The city manager shall be responsible for the purchase and sale of all city property.
- b. Comparative prices shall be obtained for the purchase or sale in an amount not in excess of two thousand dollars, of all materials, supplies, and public improvements, except (1) in the employment of professional services and (2) when the city manager shall determine that no advantage to the city would result.
- c. In all sales or purchases in excess of two thousand dollars, (1) the sale or purchase shall be approved by the council, (2) sealed bids shall be obtained, except that where the council shall determine by unanimous resolution of those present at the meeting that the public interest will be best served by joint purchase with, or purchase from, another unit of government, and (3) shall comply with the requirements of section 11.2. No sale or purchase shall be divided for the purpose of circumventing the dollar value limitation contained in this section. The council may authorize the making of public improvements or the performance of any city work by any city agency, without competitive bidding.
- d. Purchase shall be made from the lowest qualified bidder meeting specifications, unless the council shall determine that the public interest will be better served by accepting a higher bid; sales shall be made to the bidder whose bid is most advantageous to the city. In any case where a bid, other than the lowest, is accepted, the council shall set forth its reasons therefor in its resolution accepting such bid.
- e. All purchases and sales shall be evidenced by written contract or purchase order.
- f. The city may not sell any park, cemetery, or any part thereof, except in accordance with restriction placed thereon by law.
- g. The city may not sell, exchange, or lease any real estate or any interest therein, except by the affirmative vote of five or more members of the council and subject to the referendary requirements of paragraph (h) of this section.
- h. Agreement or contracts for the sale, exchange or the lease of real estate or any interest therein shall be subject to the same referendum procedure as is provided in the case of ordinances passed by the council but any petition for such referendum must be filed within thirty days after publication of the proceedings of the meeting of the council at which such agreement or contract is authorized.
(char. eff. Nov. 25, 1974)

10.1102 **Sec. 11.2. OPENING AND ACCEPTANCE OF BIDS.**

Except as provided by section 11.1 of this chapter, each contract for public improvement or for the purchase of personal property shall be let only after opportunity for competitive bidding. All bids shall be opened in public in the council room by the clerk or the purchasing officer at the time designated in the notice that such bids will be received and shall be reported by him to the council at its next meeting. The council may reject any or all bids or parts of bids, if deemed advisable.

When one or more parts of a bid are rejected, the council may accept any part or parts which are not rejected. If, after two or more opportunities for competitive bidding have been had, with like notice and opportunity for bidding in each case, no bids have been received or the bids that have been received were not satisfactory to the council and were rejected by it, the council may endeavor to obtain new bids or may authorize the purchasing officer or proper official of the city to negotiate in the open market for a contract. If the council shall accept any bid, other than the lowest bid according to specifications, the reason for such action shall be set forth in the resolution accepting such bid.

(char. eff. Nov. 25, 1974)

10.1103 **Sec. 11.3. CONTRACTS.**

- a. The authority to contract on behalf of the city is vested in the council and shall be exercised in accordance with the provisions of the law; provided, that purchases and sales may be made by the city manager, subject to the provisions of Sec. 11.1.
- b. Any contract or agreement in an amount of two thousand dollars or more, made with form or terms other than the standard city purchase form, shall, before execution, be submitted to the city attorney and his opinion obtained with respect to its form and legality. A copy of all contracts or agreements requiring such opinion shall be filed with the office of the clerk, together with a copy of the opinion.
- c. Before any contract, agreement, or purchase order which obligates the city to pay an account of two thousand dollars or more is executed the accounting officer of the city shall first certify that an appropriation has been made for the payment thereof, or that sufficient funds will be available if it be for a purpose being financed by the issuance of bonds, by special assessments, or for some other purpose not chargeable to a budget appropriation. In the case of a contract or agreement obligating the city for periodic payments in future fiscal years for the furnishing of a continuing service or the leasing or purchase of property, such certification need not cover those payments which will be due in future fiscal years, but this exception shall not apply to a contract for the purchase or construction of a public improvement. Certification by the accounting officer of the city shall be endorsed on each contract, agreement or purchase order requiring the same or shall be filed as an attachment or rider thereto.
- d. No contract or purchase order shall be subdivided for the purpose of

**Sec. 10.000
Charter**

circumventing the dollar value limitations contained in this section.

- e. No contract shall be altered or amended, after the same has been made, except upon the authority of the council; provided that, the city manager may alter or amend contracts for those purchases and sales made by him under authority of section 11.1.
- f. No compensation shall be paid to any contractor except in accordance with the terms of the contract made with him.
- g. No contract shall be made with any person who is in default to the city.
(char. eff. Nov. 25, 1974)

10.1104

Sec. 11.4. RESTRICTION ON POWERS TO LEASE PROPERTY.

- a. Any agreement or contract for the renting or leasing of public property to any person for a period longer than three years shall be subject to the same referendum procedure as is provided in the case of ordinance passed by the council but any petition for such referendum must be filed within thirty days after publication of the proceedings of the meeting of the council at which such agreement or contract is authorized.
- b. The transfer or assignment of any agreement or contract for such renting or leasing of public property may be made only upon approval of the council but the approval of such transfer or assignment shall not be subject to referendum.
- c. Rentals and leases, and renewals thereof, shall be for a fair consideration as determined by the council.
(char. eff. Nov. 25, 1974)

10.1200

**CHAPTER 12
UTILITIES**

10.1201

**ARTICLE A
MUNICIPAL UTILITIES**

10.1202

Sec. 12.1. GENERAL POWERS RESPECTING UTILITIES.

The city shall possess and hereby reserves to itself all the powers granted to cities by statute and Constitution to acquire, construct, own, operate, improve, enlarge, extend, repair, and maintain, either within or without its corporate limits, including but not by the way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment, and solid waste disposal facilities, or any of them, to the municipality and the inhabitants thereof, and also to sell and deliver water, light, heat, power, gas and other public utility services without its corporate limits to an amount not to exceed the limitations set by statute and Constitution.
(char. eff. Nov. 25, 1974)

10.1203

Sec. 12.2. MANAGEMENT OF PUBLIC UTILITIES.

All municipally-owned or operated utilities shall be administered as a regular department of the city government under the management and supervision of the city manager.
(char. eff. Nov. 25, 1974)

10.1204

Sec. 12.3. RATES.

The council shall have the power to fix from time to time such just and reasonable rates and other charges as may be deemed advisable for supplying the inhabitants of the city and others with such public utility services as the city may provide. There shall be no discrimination in such rates within any classification of users thereof, nor shall free services be permitted. Higher rates may be charged for service outside the corporate limits of the city.
(char. eff. Nov. 25, 1974)

10.1205

Sec. 12.4. UTILITY RATES AND CHARGES; COLLECTION.

The council shall provide by ordinance for the collection of all public utility rates and charges of the city. Such ordinance shall provide at least:

- a. The terms and conditions under which utility services may be discontinued in case of delinquency in paying such rate or charges.
- b. That suit may be instituted by the city before a competent tribunal for the collection of such rates or charges. With respect to the collection of rates charged for water, the city shall have all the powers granted to cities by Act No. 178 of the Public Acts of 1939.
(char. eff. Nov. 25, 1974)

10.1206 **Sec. 12.5. DISPOSAL OF UTILITY PLANTS AND PROPERTY.**

Unless approved by the affirmative vote of three-fifths of the electors voting thereon at a regular or special election, the city shall not sell, exchange, lease or in any way dispose of any property, easements, equipments, privileges or assets belonging to and appertaining to any municipally-owned public utility which is needed to continue operating such utility. All contracts, negotiations, licenses, grants, leases, or other forms of transfers in violation of this section shall be void and have no effect as against the city. The restrictions of this section shall not apply to the sale or exchange of any articles of machinery or equipment of any city-owned public utility which are worn out or useless or which have been, or could with advantage to the service be, replaced by new and improved machinery or equipment, to the leasing of property not necessary for the operation of the utility, or to the exchange of property or easements for other needed property or easements. It is provided, however, that the provisions of this section shall not extend to vacation or abandonment of streets, as provided by statute.

(char. eff. Nov. 25, 1974)

10.1207 **Sec. 12.6. UTILITY FINANCES.**

The rates and charges for any municipal public utility for the furnishing of water, light, heat, power or gas shall be so fixed as to at least meet all the costs of such utility.

Transactions pertaining to the ownership and operation by the city of each public utility shall be recorded in a separate group of accounts under an appropriate fund caption, which accounts shall be classified in accordance with generally accepted utility accounting practices. Charges for all service furnished to, or rendered by, other city departments or agencies shall be recorded. An annual report shall be prepared to show fairly the financial position of each utility and the result of its operation, which report shall be available for inspection at the office of the Clerk.

(char. eff. Nov. 25, 1974)

10.1208

**ARTICLE B
PRIVATELY-OWNED UTILITIES; FRANCHISES**

10.1209 Sec. 12.7. **FRANCHISE REQUIRED.**

No person, partnership, association or corporation operating a public utility shall have the right to use the highways, streets, alleys or other public places of the city for wires, poles, pipes, tracks or conduits without first obtaining the consent of the council; nor may it transact a local business in the city without first obtaining a franchise therefor from the city.
(char. eff. Nov. 25, 1974)

10.1210 Sec. 12.8. **RIGHT OF CITY.**

The city shall have the right

- a. To regulate public utilities;
- b. To regulate the location of poles and other facilities used by public utilities, and
- c. To require that wires in alleys and streets be placed underground.
(char. eff. Nov. 25, 1974)

10.1211 Sec. 12.9. **PERMIT REVOCABLE.**

Temporary permits for public utilities, revocable at any time at the will of the city council, may be granted, by resolution on such terms and conditions as it shall determine, provided that such permits shall in no event be construed to be franchises or amendments to franchises.
(char. eff. Nov. 25, 1974)

10.1212 Sec. 12.10. **GRANTING OF PUBLIC UTILITY FRANCHISE.**

- a. Public utility franchises and all renewals, and extensions thereof and amendments thereto shall be granted by ordinance. No franchise shall be granted for a longer period than thirty (30) years.
- b. No franchise ordinance which is not subject to revocation at the will of the council shall be enacted nor become operative until the same has been referred to the people at a regular or special election and received the affirmative vote of three-fifths of the electors voting thereon. No such franchise ordinance shall be approved by the council for referral to the electorate before thirty (30) days after application therefor has been filed with the council nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the clerk his unconditional acceptance of all the terms of such franchise. No special election for such purpose shall be ordered unless the expense of holding such election, as determined by the council, shall have first been paid to the treasurer by the grantee.

Sec. 10.000
Charter

- c. A franchise ordinance, or renewal or extension thereof, or amendment thereto, which is subject to revocation at the will of the council may be enacted by the council without referral to the voters, but shall not be enacted unless it shall have been complete in the form in which it is finally enacted and shall have so been on file in the office of the clerk for public inspection for at least four weeks after publication of a notice that such ordinance is on file.
(char. eff. Nov. 25, 1974)

10.1213 Sec. 12.11. **FRANCHISE; LIMITATION AS TO TYPE.**

No exclusive franchise shall ever be granted to any person, firm or corporation.
(char. eff. Nov. 25, 1974)

10.1214 Sec. 12.12. **FURTHER REGULATORY POWERS.**

The grant of every franchise shall be subject to the right of the city whether in terms reserved or not, to make all regulations which shall be necessary to secure in the most ample manner the safety, welfare and accommodation of the public, and the right to make and enforce all such regulations as shall be reasonably necessary to secure adequate, sufficient and proper service, extensions and accommodations for the people and insure their comfort and convenience. Such right of the city shall include but shall not be limited to the following viz:

- a. To repeal the same for misuse, or nonuse, or for failure to comply with the provisions thereof;
- b. To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- c. To require the public utility to which any franchise is granted to permit joint use of its property and appurtenances located in the streets, alleys and public places of the city, by the city and other utilities, insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor; provided that, in event of the inability of the parties to agree, upon application by either party, the council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor;
- d. To pay such part of the cost of improvement or maintenance of the streets, alleys, bridges, and public places of the city, as shall arise from its use thereof and to protect and save the city harmless from all damages arising from such use.
(char. eff. Nov. 25, 1974)

10.1215 Sec. 12.13. **ORDINANCE REGULATION.**

The council may by ordinance provide for efficient inspection and regulation of all public utilities operated in the city. It is the intention of this section to provide means for securing to the city efficient service from all public utilities operated in the city and

the proper observance of the conditions imposed by the franchise, the Charter and ordinance of the city and law of the state.
(char. eff. Nov. 25, 1974)

10.1216 **Sec. 12.14. REPEAL AND TERMINATION OF FRANCHISE; ACQUISITION OF UTILITY PROPERTY.**

All ordinances granting franchises, or extensions or renewals thereof, shall reserve to the city the right to terminate the same and to purchase all the property of the utility in the streets and highways in the city and elsewhere, used in or useful for the operation of the utility, at a price fixed in the ordinance or to be fixed in the manner provided by the ordinance granting the same. Nothing in such ordinance shall prevent the city from acquiring the property of any such utility by condemnation proceedings or in any other lawful mode; but all such methods or acquisition shall be alternative to the power to purchase reserved in the ordinance granting such franchise, extension or renewal as herein before provided. Upon the acquisition by the city of the property of any utility by purchase, condemnation or otherwise, all franchises, extensions and renewals shall at once terminate.
(char. eff. Nov. 25, 1974)

10.1217 **Sec. 12.15. FRANCHISE ORDINANCE REQUIREMENTS.**

No ordinance granting such franchise, or extension or renewal thereof, shall be valid unless it shall expressly provide therein that the price to be paid by the city for the property that any be acquired by it from such utility by purchase, condemnation or otherwise, shall exclude all value of such franchise, extension or renewal, except that, unless otherwise provided in such ordinance, the utility shall be entitled to the return of the proportionate amount of and for the unused period of any compensation paid the city for such franchise, extension or renewal.
(char. eff. Nov. 25, 1974)