



**City of Biddeford
Policy Committee**

July 28, 2025 at 6:00 PM
City Hall Council Chambers & Zoom

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Or call in by phone: +1 312 626 6799

Meeting ID: 927 4641 7261

Passcode: 784948

1. Roll Call
2. Pledge of Allegiance
3. Adjustment(s) to Agenda
4. Approval of Minutes
 - 4.a Policy Committee minutes 6-23-25
5. Discussion/Review
 - 5.a Review / Ordinance Template for Board/Committee/Commission Ordinances
 - 5.b Review / Merge Biddeford Police Advisory Committee & Biddeford Fire Advisory Committee into new Public Safety Committee
 - 5.c Review / Purchasing Policy, Ch 2, Article V, Division 2
6. Adjourn

City of Biddeford
Policy Committee
June 23, 2025 at 6:00 PM
City Hall Council Chambers & Zoom

1. Roll Call

Councilor Belanger – present

Councilor Beaupre – present

Councilor LaFountain – present

Jake Pierson – present

Marie Potvin – present

Fire Department Chief Best sitting in for Acting City Manager Brian Phinney.

2. Pledge of Allegiance

3. Adjustment(s) to Agenda

None

4. Approval of Minutes

4.a Policy Minutes 4-29-25

Motion: Councilor Beaupre

Second: Marie Potvin

Vote: Unanimous in favor.

Minutes approved.

5. Discussion/Review

5.a Review / Finance Committee

Councilors discussed changing the City Auditor title to the Finance Director and all references to it. Councilors would like to do a full review of the responsibilities of the Finance Committee, what they need to review, how often they would review it, clarify the purchasing authority and amounts, and greater definition. They will discuss this again at a future meeting.

5.b Review / Merge Biddeford Police Advisory Committee & Biddeford Fire Advisory Committee into new Public Safety Committee

Councilor Beaupre shared documents earlier in the day for everyone to look at and discuss at the next meeting. He would like the committee to think about the number of committee members that would be needed. It might also include the Traffic Committee. Chief Best spoke about the current role of the Fire Advisory Committee. They should also review the new group with the standardized list that has been previously discussed.

Councilor LaFountain suggested that committee resignations should be sent to the mayor.

5.c Review / Condominium Conversion Ordinance Amendments - Part III Land

Development Regulations, Article VI Performance Standards, Sec. 72 Condominium Conversions.

City Planner David Galbraith reviewed the progress to date. He asked if they wanted to look at adding thresholds for large conversions.

Councilor LaFountain commented on the tenant's rights and suggested improving those. The visibility of the process for tenants is important to spell out. He also suggested language for a threshold of 8 units or more to be reviewed by the Planning Board review and fees at different levels. All conversions, regardless of size, would be covered by the ordinance and tenant's rights. When a Credit Enhancement has been used in the past 30 years then it would also need to come back to Council for approval.

Jake Pierson – would like to see clear definitions for apartments and condominiums.

Councilor Belanger also recommended fee amounts with different thresholds and revisit them as needed.

Councilor Beaupre suggested that the fee amounts could be adjusted annually to the CPI.

Planner Galbraith will work on the suggestions and bring the revised language back to the Policy Committee.

5.d Review / Purchasing Policy, Ch 2, Article V, Division 2

Finance Director Gerry Matherne spoke about the proposed changes.

Councilor LaFountain asked about sec 2-344 b, if we were following the labor practices section. Director Matherne said it is old language.

Councilor Beaupre asked for an answer to whether the Finance Committee can have read only access to the financial sections of MUNIS.

Councilor Belanger– motion to amend 2-345 Definitions as indicated in highlight

Amended: COVERED BY BUDGETED AMOUNT – An item specifically listed by name in the [approved current year](#) budget document with an associated defined cost.

Second: Councilor Beaupre

Vote: Unanimous in favor.

Motion passed.

Councilor LaFountain - motion to amend 2-347 1.c remove ~~and School Lunch supply inventories ; and school lunch department heads~~

Second: Councilor Beaupre

Vote: Unanimous in favor.

Motion passed

Councilor Belanger – motion to add the words “[and the](#)” in Sec 2-346 between City Manager, Finance Director.

Second: Beaupre

Vote: Unanimous in favor.

Motion passed.

Councilor LaFountain – motion to replace “~~telegraphic~~” with “[electronic](#)” in Sec. 2-348 Section F.

Second: Councilor Beaupre

Vote: Unanimous in favor.

Motion passed.

Councilor LaFountain proposed amendments to 2-348 section (g)

“The contract shall be awarded with reasonable promptness by written notice to the lowest responsive and responsible bidder whose bid meets the specifications and criteria set forth in the invitation for bids. If the lowest responsive and responsible bid for a construction project exceeds the available funds, as certified by the Finance Director, and the overage does not exceed 10% of the available funds, the Purchasing Agent and the department head, in coordination with the Finance Director, may negotiate a reduction in the total bid amount. Such negotiations shall be limited to eliminating independent deductive items specified in the bid solicitation. Once finalized by the Finance Director:

- i. Bids over \$5,000 and up to \$50,000 that are both the lowest bid and within the budgeted amount may be awarded by the City Manager. These awards shall be reported monthly to the Finance Committee.
- ii. Any bid in this range (\$5,000–\$50,000) that is not the lowest bid or exceeds the budgeted amount shall be submitted to the Finance Committee for review and approval prior to award.
- iii. All bids over \$50,000 and up to \$150,000, regardless of budget status or bid ranking, shall be submitted to the Finance Committee for review and approval prior to award.
- iv. Contracts exceeding \$150,000 require approval by the City Council prior to award without the necessity of the Finance Committee.
- a. For contracts based on unit pricing where the total quantity is unspecified, the estimated contract value shall be determined by a reasonable estimate based on prior usage or relevant forecasting. Approval requirements shall be based on the estimated total value as outlined above.”

Second: Councilor Beaupre

Vote: Unanimous in favor.

Motion passed.

Councilor LaFountain motion to amend section 2-353 add to Emergency Procurements:

“A written explanation of the nature of the emergency, the goods or services procured, the procurement method used, and the total cost shall be submitted to the Finance Committee at its next scheduled meeting following the procurement. This report shall be entered into the public record and include a certification by the Finance Director verifying the availability and source of funds.”

Second: Councilor Beaupre

Vote: Unanimous in favor.

Motion passed.

Councilor LaFountain motion to amend Sec 2-357 ss b. contract performance and payment bonds.

“A reduction in the required performance and payment bonds, up to a maximum of 50 percent of the contract price for each bond, may be approved by the same awarding authority that approved the contract (whether the City Manager, Finance Committee, or City Council, as defined in Sec. 2-348(g)). The Purchasing Agent may request such a reduction upon providing a written determination that it is in the best interest of the City.”

Second: Councilor Beaupre

Vote: Unanimous in favor.

Motion passed.

Councilor LaFountain – motion to amend Sec 2-361 Finance Committee may examine and order payments: remove the last sentence: ~~The Finance Committee shall sign a warrant...~~

Second: Councilor Beaupre

Vote: Unanimous in favor.

Motion passed.

Councilor LaFountain motion to amend Sec 2-361 to add:

“To support its review and oversight responsibilities, the Finance Committee shall be provided read-only access to the City’s financial software system (e.g., MUNIS or any current equivalent). This access shall include all expenditures, encumbrances, and financial activity, as well as line-item budgeted amounts. Information shall be provided in a format that enables the Committee to evaluate all financial activity, whether or not previously budgeted, relative to the appropriations approved by the City Council in the adopted budget.”

The Finance Committee shall also have oversight responsibility to ensure that all expenditures—budgeted or unbudgeted—are properly recorded, tracked, and documented in the City’s financial system. Discrepancies, omissions, or material concerns related to financial data integrity or unauthorized spending shall be documented and reported to the City Council and City Manager for corrective action.”

Second: Councilor Beaupre

Vote: Unanimous in favor.

Motion passed.

Councilor LaFountain motion that any reference to 2-336 (f) should be restated to 2-348 (f)

Second: Councilor Beaupre

Vote: Unanimous in favor.

Motion passed.

Councilor Belanger – motion to amend 2-363 change Treasurer to Finance Director

Second: Councilor LaFountain

Vote: Unanimous in favor.

Motion passed.

Councilor LaFountain had questions on small purchase procedures and would like clarification. 2-351 a. specifically, regarding contracts.

Councilor Belanger add: “by the relevant department head”.

Second: Councilor Beaupre

Vote: Unanimous in favor.

Motion passed.

Councilor LaFountain brought up issues with door-to-door solicitations. Staff will research the current procedures.

Councilor LaFountain requested the changes to this ordinance to come back to Policy for a review before going to Council.

Councilor Beaupre had questions about modifying Council Rules.

Councilor Belanger explained that all policy and ordinance changes should go through the Policy Committee except for those going to the Traffic Committee.

6. Adjourn

Councilor Beaupre- motion to adjourn at 7:45 pm

Second: Councilor LaFountain

Vote: Unanimous in favor.

Meeting adjourned.



Policy Committee

Meeting Date: July 28, 2025

Meeting Time: 6:00 PM

Agenda Item No: 5.a

Item Description: Review / Ordinance Template for Board/Committee/Commission Ordinances

Submitted By: Brian S. Phinney, Acting City Manager

Supporting Information/Documentation:

20250728 Board Committee Template - FOR REVIEW

Key Terms:

Executive Summary:

A template has been created to serve as the basis for discussions as the Policy Committee conducts its comprehensive review of the various ordinances identifying the city's boards, committees, and commissions.

Detailed Review:

The Policy Committee expressed interest in standardizing the structure of the various board/committee/commission ordinances for consistency and ease of use by elected officials, board/committee/commission members, members of the public, and staff.

A draft template is provided to serve as a basis for discussions.

Funding Source:

N/A

Staff Recommendation:

Neutral as to the nature of the review with support for standardizing the format.

**Board/Committee/Commission
Ordinance Template**

Section X-XX1. {COMMITTEE NAME}

- A. Authority or Establishment. The City of Biddeford {COMMITTEE NAME} (hereafter the "{BOARD/COMMITTEE/COMMISSION}"), is hereby created.

- B. Duties and responsibilities. The {BOARD/COMMITTEE/COMMISSION} shall have the following duties and responsibilities:
 - 1. {Prepare, and revise (specify)}.
 - 2. {Review and approve, (specify)}
 - 3. {Specify other duties and responsibilities as applicable}

- C. Membership.
 - 1. The {BOARD/COMMITTEE/COMMISSION} shall consist of {NUMBER} members, {NUMBER} voting members and {NUMBER} associate members. Each member shall be nominated by the Mayor, confirmed by the City Council. All current appointments shall have a term of office expiring no later than {DATE}. The Mayor shall have the discretion of appointing members and associate members to the {BOARD/COMMITTEE/COMMISSION} with terms expiring after two years but less than three years for the purpose of staggering Associate appointments throughout a calendar year.
 - 2. Associate members may be made voting members of the {BOARD/COMMITTEE/COMMISSION} upon the retirement or nonappointment of a voting member.
 - 3. All members of the {BOARD/COMMITTEE/COMMISSION} shall be registered voters and residents of the City of Biddeford. [*Statutory optional language -No serving municipal officer or official of the City of Biddeford shall serve as a member of the {BOARD/COMMITTEE/COMMISSION}.*]
 - 4. Members of the {BOARD/COMMITTEE/COMMISSION} shall reflect as much as possible several geographic areas of the City, and shall have diverse professional or employment backgrounds. This is to insure as much as possible that the interests of the City and applicants are fairly and reasonably represented. In no case shall more than two members be from the same ward except in the case of a council member and citizen member.
 - 5. {Section designated for special requirements that may be specific to a particular BOARD/COMMITTEE/COMMISSION}.

- D. Term of office.
 - 1. No member shall serve more than three consecutive terms, including any term or part of a term served under any predecessor in this section. Any member appointed to fill a vacancy for which more than half of the unexpired term remains, for purposes of this provision, shall be deemed to have served one full term.
 - 2. When there is a permanent vacancy, the Mayor shall nominate with confirmation by the City Council a new member to serve for the remainder of the unexpired term.

- E. Removal from office.

1. Members of the {BOARD/COMMITTEE/COMMISSION} may be removed from office by the municipal officers for the following reasons:
 - a. A member is no longer a resident of the City of Biddeford; or
 - b. A member is absent from three consecutive regular {BOARD/COMMITTEE/COMMISSION} meetings without prior satisfactory explanation; or
 - c. A member is absent from six meetings or workshops of the {BOARD/COMMITTEE/COMMISSION} without prior satisfactory explanation; or
 - d. A member conducts himself/herself in a manner that is inconsistent with the official position of the {BOARD/COMMITTEE/COMMISSION}, i.e. consistent conflicts of interest or unprofessional behavior toward applicants, City employees or members of the public.
 2. Removal action may be initiated by the Mayor, the City Council or a member of the {BOARD/COMMITTEE/COMMISSION}. A letter shall be submitted to the municipal officers stating the reasons for the removal request.
 3. The {BOARD/COMMITTEE/COMMISSION} member in question shall be provided a copy of the letter and shall be given the opportunity to reply to the municipal officers.
- F. {BOARD/COMMITTEE/COMMISSION} officers.
1. A Chairperson shall be appointed by the Mayor and confirmed by the Council each January. The Board shall elect from its voting membership the following officers:

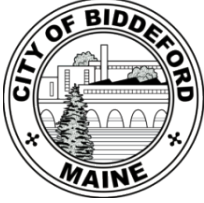
Vice Chairperson;
[Optional officers, Secretary, etc].
 2. The terms of these officers shall be one year. The Chairperson may not be reelected for more than three consecutive terms. The Board shall hold elections during the January meeting, the results of which shall be submitted to the municipal officers.
 3. Elected officers shall be responsible for the following:
 - a. Chairperson Conduct of meetings, scheduling and announcing meetings, signing official correspondence for the {BOARD/COMMITTEE/COMMISSION}. *[Optional language specific to the board/committee/commission: The Chairperson shall vote only in case of a tie OR The Chairperson shall be a voting member.]*
 - b. Vice Chairperson acts in place of the Chairperson when he/she is absent or required to leave the Chair because of conflict; acts as Chair for special subcommittees of the {BOARD/COMMITTEE/COMMISSION} as needed.
 - c. *[Optional for other officers: Secretary: ensures that the records of meetings are accurate and available for the Board's review and reference.]*

G. Staff. The {BOARD/COMMITTEE/COMMISSION} *[Insert language that may define specific powers or responsibilities of staff relative to supporting the board/committee/commission].*

H. Meetings.

1. The {BOARD/COMMITTEE/COMMISSION} shall conduct {FREQUENCY} meetings, or at least regular scheduled meetings during a calendar year subject to actionable items. Meetings shall convene on the {NUMBER} {DAY OF WEEK} of each month, unless prior arrangement and public (as described elsewhere in the Code) announcement has been made by the {BOARD/COMMITTEE/COMMISSION}
2. Upon motion by the {BOARD/COMMITTEE/COMMISSION} the Chairperson may call for special meetings and workshops as needed.
3. All meetings of the {BOARD/COMMITTEE/COMMISSION} shall be open to the public. Materials and records of the meetings shall be maintained and available for public inspection.
4. *[Optional language specific to the respective board/committee/commission designating the requirement to publish rules for the conduct of meetings to insure orderly conduct and efficient processing of board/committee/commission matters or that the board/committee/commission shall adopt Roberts Rules of Order.]*
5. {BOARD/COMMITTEE/COMMISSION} meetings shall be called to order when a quorum of the voting members are present. For this purpose a quorum shall be {NUMBER} voting members. When a regular member of the {BOARD/COMMITTEE/COMMISSION} is unable to serve because of conflict of interest, incapacity, absence or lack of confirmed appointment to fill a permanent vacancy, an associate member shall be designated to vote by the Chairperson.
6. *[Optional language specific to the respective board/committee/commission designating the need to issue written decisions on matters and where the written decisions are directed.]*

I. Conflicts. Any questions raised by any interested party of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting shall be decided by a majority of the members present except the member who is being challenged.



Policy Committee

Meeting July 28, 2025

Date:

Meeting 6:00 PM

Time:

Agenda 5.b

Item No:

Item Review / Merge Biddeford Police Advisory Committee & Biddeford Fire Advisory

Description: Committee into new Public Safety Committee

Submitted Brian S. Phinney, Acting City Manager (on behalf of the Policy Committee)

By:

Supporting Information/Documentation:

20250728 Remove Chapter 2, Art IV, Div 11 Fire Advisory Committee , 20250728 Biddeford Public Safety Advisory Committee - REVIEW DRAFT

Key Terms:

Executive Summary:

Detailed Review:

The Policy Committee performed a preliminary review of the proposed ordinance at the June 23rd regular meeting. The item was tabled for future discussion. Based on the general discussion at the June meeting, the original redline version has been updated to reflect the discussion items. Additional items have been added/deleted for consideration. The amendments follow the redline format with the exception that new amendments are highlighted for ease of reference.

Upon further review, it is respectfully asked that the Policy Committee consider retaining Div 11 - Fire Advisory Committee and Div 12 - Police Advisory Committee in order to define the establishment and membership of each committee, indicating the make-up and terms of each committee, specifying their role as part of the Public Safety Committee, then create a separate Public Safety Committee section to establish what the committee does. Alternatively, the existing format can be used and the structure amended to match an adopted template. In this

case, there would be subsections that speak to the structure and make-up of the Police and Fire Advisory Committees.

Funding Source:

N/A

Staff Recommendation:

Neutral as to the nature of the review with support for standardizing the format.

Part II Code of Ordinances, Article IV Boards, Committees, Commissions
Division 11 Fire Advisory Committee

~~Sec. 2-315. Establishment.~~

~~There is hereby created and established the Biddeford Fire Advisory Committee, herein after BFAC, comprised of five members and a member of the Biddeford Fire Department to serve as an ex-officio member. All members shall be citizens and reside within the corporate limits of the City of Biddeford, with the exception of the ex-officio member who may reside outside of the City. In appointing members to the BFAC, the Mayor and City Council shall seek to appoint members from a cross-section of all citizens. The BFAC is established under the authority of the Biddeford City Council and shall serve under the directive of the City Council.~~

~~Sec. 2-316. Purpose; responsibilities.~~

~~(a) The purpose of the Committee is to provide an organized forum for two-way communication between the Biddeford Fire Department and the community.~~

~~(b) Responsibilities shall include:~~

~~(1) Where appropriate, make recommendations to the City Council and Fire Department on substantive issues, with the goal of improved fire services. For the purpose of this division, "substantive issues" are defined as matters of major or practical importance to all concerned. It shall not include personnel issues involving individual members or officers of the Fire Department or daily fire operations and implementation.~~

~~(2) Assist in identifying potential Fire Department community partnerships to address public safety related issues within the community.~~

~~(3) Identify community resources and support for public safety activities (such as parking and traffic); and give input to the City Council and the Fire Department regarding perceived effectiveness.~~

~~(4) Receive information and comments from citizens at the Committee's open and public meeting forum regarding public safety issues.~~

~~(5) Make reports to the City Council at such times as may be requested by the City Council or as the BFAC determines is necessary.~~

~~Sec. 2-317. Membership.~~

~~Members shall be appointed by the Mayor and confirmed by a majority of the City Council for staggered three-year terms. All subsequent appointments, except to fill a vacancy, shall be for three-year terms. A vacancy is created upon the death or written resignation to the BFAC Chair, or upon the vote of the City Council to remove a member. Members of the Committee shall serve without pay and at the discretion of the City Council. The Biddeford Fire Chief, or his designee, shall serve as the administrator, advisor and ex-officio member, and shall provide assistance to the BFAC.~~

~~Sec. 2-318. Organization of Committee.~~

~~(a) The Mayor shall appoint a Chair and a Vice Chair. The Chair shall serve a two-year term. A quorum shall consist of three members. The Chair shall be counted in determining a quorum~~

~~and shall have one vote.~~

- ~~(b) The Vice Chair shall serve a two-year term. The Vice Chair shall serve as Chair upon the death or resignation of the Chair, or upon the office of the Chair becoming vacant. The Vice Chair shall discharge the powers of the office of the Chair at any meeting at which the Chair is absent. The Vice Chair shall be counted in determining a quorum and shall have one vote.~~
- ~~(c) The ex officio member of the BFAC is a nonvoting member and shall serve in an advisory capacity.~~
- ~~(d) The duties of a secretary responsible for recording meeting minutes shall be rotated sequentially among the Committee's membership for each meeting. The Chair shall be excluded from this responsibility. A roster for secretarial duties shall be established by the Committee.~~
- ~~(e) A quorum consisting of three members shall be necessary to take any BFAC action authorized or required by this division. An issue shall carry by a majority of those voting.~~
- ~~(f) Notice of any expired terms and/or vacancies shall be given to the public. The Mayor shall nominate and the City Council shall confirm all appointments to fill expired terms and/or vacancies. The City Council may remove any member for misconduct or nonperformance of duty.~~
- ~~(g) The BFAC may adopt and amend from time to time rules to govern the conduct of its administrative business, consistent with the provisions of this division.~~

~~Sec. 2-319. Meetings.~~

- ~~(a) Meetings of the Biddeford Fire Advisory Committee shall be established by the BFAC. Meetings shall be held at the Biddeford City Hall or at a suitable municipal public location. Prior notice of any change in meeting date, time or place shall be provided to all members, the public, and the administrative staff 48 hours in advance of said meeting.~~
- ~~(b) All regularly scheduled and special meetings shall have an agenda approved by the Chair.~~

Part II Code of Ordinances
Chapter 2 – Administration
Article IV – Boards, Committees, Commissions
Division 12 – ~~Police Advisory~~ Public Safety Committee

Sec. 2-320. Establishment. [Amended 12-15-2020 by Ord. No. 2020.84]

Under the provisions of the City Charter under ARTICLE VI, Police Advisory Committee, and ARTICLE VII, Fire Advisory Committee, the City Council hereby merges the two Committees as the Biddeford Public Safety Committee.

There is hereby created and established the Biddeford Public Safety ~~Advisory~~ Committee, which includes members from the Biddeford Police Advisory Committee, ~~hereinafter BPAC,~~ and the Biddeford Fire Advisory Committee and the Biddeford City Council. The Public Safety Committee shall be comprised of five voting members – two from the Biddeford Police Advisory Committee, two members from the Fire Advisory Committee and one member from the Biddeford City Council. Additionally the Public Safety Committee shall include ~~and~~ a student member and a member from each of the Biddeford Police Department and the Biddeford Fire Department to serve as an ex officio members. All members shall be citizens and reside within the corporate limits of the City of Biddeford, except the ex officio member who may reside outside of the City. In appointing members to the ~~BPAC,~~ Public Safety Committee, the Mayor and City Council shall seek to appoint members from a cross section of all citizens, taking into consideration the person's expertise, background and other relevant experiences. The ~~BPAC~~ Public Safety Advisory Committee is established under the authority of the Biddeford City Council and shall serve under the directive of the City Council.

Sec. 2-321. Purpose; responsibilities.

- (a) The purpose of the Committee is to provide an organized forum for two-way communication between the Biddeford Police Department, the Biddeford Fire Department and the community.
- (b) Responsibilities shall include:
 - (1) When appropriate, make recommendations to the Police and Fire Department on matters, with a goal of enhancing police/fire-community relations. These recommendations shall not include personnel matters involving individual members or officers of either the Police or Fire Departments, or matters that deal with daily police operational enforcement, fire prevention, and their implementation strategies. **[Amended 12-15-2020 by Ord. No. 2020.84]**
 - (2) Assist in identifying potential Police/Fire Department community partnerships that focus or address public safety matters within the community. **[Amended 12-15-2020 by Ord. No. 2020.84]**
 - (3) Identify community resources and support for public safety activities. **[Amended 12-15-2020 by Ord. No. 2020.84]**
 - (4) Receive information and comments from citizens at the Committee's open and public meeting forum regarding public safety issues.
 - (5) Make reports to the City Council and/or Police Chief or Fire Chief at such times as may be requested by the City Council, Police Chief or as the ~~BPAC~~ Public Safety Advisory Committee determines is necessary. Make reports to the City Council at such times as

may be requested by the City Council. [Amended 12-15-2020 by Ord. No. 2020.84]

Sec. 2-322. Membership.

Members shall be appointed by the Mayor and confirmed by a majority of the City Council for staggered three-year terms. All subsequent appointments, except to fill a vacancy, shall be for three-year terms. A vacancy is created upon the death or written resignation to the ~~BPAC~~ [Public Safety Advisory Committee Chair and Mayor](#), or upon the vote of the City Council to remove a member. Members of the Committee shall serve without pay and at the discretion of the City Council. The Biddeford Police Chief, [Fire Chief](#) or ~~his~~ designee, shall serve as the administrator, advisor and ex officio member, and shall provide assistance to the ~~BPAC~~ [Public Safety Advisory Committee](#).

Sec. 2-323. Organization of Committee.

- (a) The Mayor shall appoint a Chair and a Vice Chair. The Chair shall serve a two-year term. A quorum shall consist of three members. The Chair shall be counted in determining a quorum and shall have one vote.
- (b) The Vice Chair shall serve a two-year term. The Vice Chair shall serve as Chair upon the death or resignation of the Chair, or upon the office of the Chair becoming vacant. The Vice Chair shall discharge the powers of the office of the Chair at any meeting at which the Chair is absent. The Vice Chair shall be counted in determining a quorum and shall have one vote.
- (c) The ~~student and~~ ex officio members of the ~~BPAC~~ [Biddeford Public Safety Committee](#) ~~is a~~ [are](#) nonvoting member and shall serve in an advisory capacity.
- (d) The duties of a secretary responsible for recording meeting minutes shall be rotated sequentially among the Committee's membership for each meeting. The Chair shall be excluded from this responsibility. A roster for secretarial duties shall be established by the Committee.
- (e) A quorum consisting of three members shall be necessary to take any ~~BPAC~~ [Biddeford Public Safety Committee](#) action authorized or required by this article. An issue shall carry by a majority of those voting.
- (f) Notice of any expired terms and/or vacancies shall be given to the public. The Mayor shall nominate and the City Council shall confirm all appointments to fill expired terms and/or vacancies. The City Council may remove any member for misconduct or nonperformance of duty.
- (g) The ~~BPAC~~ [Biddeford Public Safety Committee](#) may adopt and amend from time to time rules to govern the conduct of its administrative business, consistent with the provisions of this division.

Sec. 2-324. Meetings.

- (a) Meetings of the Biddeford ~~Police~~ Public Safety Advisory Committee shall be at the call of the Chair, and established by the ~~BPAC~~ [Biddeford Public Safety Advisory Committee](#). Meetings shall be held at the Biddeford City Hall or at a suitable municipal public location. Prior notice of any change in meeting date, time or place shall be provided to all members, the public, and the administrative staff 48 hours in advance of said meeting. [Amended 12-15-2020 by Ord. No. 2020.84]

(b) All regularly scheduled and special meetings shall have an agenda approved by the Chair.



Policy Committee

Meeting Date: July 28, 2025
Meeting Time: 6:00 PM
Agenda Item No: 5.c
Item Description: Review / Purchasing Policy, Ch 2, Article V, Division 2
Submitted By: Brian S. Phinney, Acting City Manager

Supporting Information/Documentation:

20250623 Review of Purchasing Rules - Ch 2-Article V-Div 2 - REDLINE ORIGINAL, 20250728 Review of Purchasing Rules - Ch 2-Article V-Div 2 - REDLINE UPDATED, 20250728 Review of Purchasing Rules - Ch 2-Article V-Div 2 - CLEAN UPDATED

Key Terms:

Executive Summary:

This agenda item proposes revisions to the City's procurement code to improve clarity, ensure consistency in procurement thresholds, correct typographical issues, and better reflect current purchasing practices. Changes include updated terminology, streamlined approval processes, and adjustments to dollar thresholds for competitive bidding and contract approvals. This is a continuation of the June 23rd review of the purchasing rules.

Detailed Review:

The Policy Committee reviewed the draft ordinance changes at the June 23rd regular meeting. The original redline version is included in the packet along with an updated redline version to depict the changes discussed by the Committee at the June 23rd meeting, and a clean version is provided depicting all the working changes to date. The changes follow the redline format but the June 23rd amendments have highlighting added for ease of reference.

Please note:

- References to 2-336 have been reviewed and replaced with the appropriate references as requested.
- There was also an incorrect reference to Section 2-235(f) in Section 2-347(1)(d). The

correct reference is Section 2-352. This change has been made.

There were questions asked at the meeting as well. Responses to the questions are listed below:

What steps are involved in monitoring compliance with Section 2-344(b)? Answer: Confirming compliance with this provision is difficult. The language stems from early federal efforts to address so-called sweatshop conditions. This has expanded over the years to a requirement that all federal contractors certify compliance with the Trafficking of Victims Protection Act and Executive Order 13126 specifying compliance with FAR Clause 52.222-18 (Certification Regarding Knowledge of Child Labor for Listed End Products). In order to establish a reasonable method for staff to comply with the intent of the federal requirement, if chosen to apply for all local solicitations, the City can adopt a policy that uniform language be included in all solicitations requiring certification by bidders. The certification shifts responsibility to the bidder. This would only apply to local solicitations since federal and state projects require the language in their respective contracts. A draft policy is included in the packet for consideration.

What is the status of the request from Finance Department members to have read-only access to Munis? Answer: This is still being worked on. The required modules are being identified. There also needs to be an exception created within our systems for the non-council members on the Committee that do not have employee-level permissions. Some level of "training manual" must be created since Munis use is not intuitive. Please be aware that this request is being acted upon. It is asked that the Committee be patient given the list of ongoing priorities. To that end, staff will provide an update at each future Finance Committee meeting to better inform the Committee of the status of the request.

What is the basis for the \$35,000 threshold in Section 2-355? Answer: This is an arbitrary legacy threshold. In practice, every project has a staff member responsible for monitoring the progress of projects and reviewing invoices. The threshold can be amended to ensure assignment based on a minimum project value if desired, but the practice will remain regardless of the dollar amount.

Regarding the discussion specific to Section 2-351 *Small Purchases*, it is recommended that the section includes clarifying language indicating that "contract" in this context refers to a one-time expense rather than, for example, a contract less than \$5,000 that renews every year for a period of ten years. This will clarify and prevent obligations that in aggregate exceed \$5,000. The proposed language is as follows:

"(a) Any non-renewing contract not exceeding \$5,000..."

Other than as noted above, the Committee will determine if the item requires additional amendments and is otherwise ready to forward to City Council for consideration and adoption.

Funding Source:

N/A

Staff Recommendation:

Staff defers to the Policy Committee regarding the various amendments to the purchasing procedures under Chapter 2, Article V, Division 2, as noted in the attached redline document.

Part II Code of Ordinances
Chapter 2 – Administration
Article V – Finance
Division 2 – Procurement

Original Redline
Version for Policy
Committee of
June 23

Sec. 2-343. Purpose. [Ord. of 4-21-1998(2)]

The purpose of this article is to provide for the fair and equitable treatment of all persons involved in public purchasing by the City, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

Sec. 2-344. Application of article. [Ord. of 4-21-1998(2); Ord. No. 99.78, 9-21-1999]

- (a) This article applies to contracts for the procurement of supplies, services and construction entered into by the City. It shall apply to every expenditure of public funds by any department of the City irrespective of the source of funding. When the procurement involves the expenditure of federal or state assistance or contract funds, the procurement shall be conducted in accordance with any applicable laws and regulations. Nothing in this article shall prevent any department of the City from complying with the terms and conditions of any grant, gift or request that is otherwise consistent with law.
- (b) Representatives of the City involved in the purchase of goods; especially items of apparel or textiles such as clothing, uniforms, footwear, linens or fabric; shall not knowingly contract with vendors offering goods or services produced under sweatshop conditions by manufacturers, launderers or distributors of such items who may be paying poverty wages, violating workplace regulations or suppressing worker rights. In order to promote contracts with vendors having responsible employment practices, preference should be given to goods or services produced in the United States and to vendors known for their responsible labor practices. Responsible labor practices shall include wage and benefit levels sufficient to meet basic needs while providing some discretionary income for a family of four, respect for workers' rights including the right to be heard and to organize and a safe and healthy work environment. Any complaints or information received by a representative of the City involved in the purchase of goods or services identifying vendors or their subcontractors as producing their products under sweatshop conditions shall investigate said allegations and shall cease to do business with any vendor or subcontractor found to be other than maintaining responsible labor practices.

Sec. 2-345. Definitions. [Ord. of 4-21-1998(2)]

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

BRAND NAME OR EQUAL SPECIFICATION — A specification limited to one or more items by manufacturers' names or catalogue numbers to describe the standard of quality, performance and other salient characteristics needed to meet City requirements, and which provides for the submission of equivalent products.

BRAND NAME SPECIFICATION — A specification limited to one or more items by manufacturers' names or catalogue numbers.

CONSTRUCTION — The process of building, altering, repairing, improving or demolishing any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.

CONTRACT — All types of agreements, regardless of what they may be called, for the procurement of supplies, services or construction.

CONTRACTOR — Any person having a contract with the City or any of its departments.

COVERED BY BUDGETED AMOUNT – An item specifically listed by name in the submitted budget document with an associated defined cost.

LOCATION AND OPERATION — Is narrowly defined as owning, leasing or renting physical space within the City limits of Biddeford, and staffing the same a minimum of 20 hours per week during a period commencing no less than thirty days prior to the bid deadline and continuing through the end of the bid agreements. **[Added 11-1-2011 by Ord. No. 2011.71]**

SERVICES — The furnishing of labor, time or efforts by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.

SPECIFICATION — Any description of the physical or functional characteristics or the nature of a supply, service or construction item. It may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery.

SUPPLIES — All consumables or property, including but not limited to equipment, materials, printing and leases for real property, excluding land or a permanent interest in land.

Sec. 2-346. Scope of authority. [Ord. of 4-21-1998(2)]

The current policy of the City is to maintain a decentralized purchasing process which shall be monitored by the City Manager, Finance Director ~~and Purchasing Agent~~. Each department head within this decentralized purchasing function shall be responsible for the function of procurement of suitable supplies, services or construction for their using departments, except as may be otherwise noted in these regulations. In all cases, purchase orders, ~~shall channel through the Purchasing Agent's office and~~, claims, invoices and any other such supporting documentation shall channel through the Finance Director's office in order that proper purchasing records may be maintained.

Sec. 2-347. Responsibility of departments. [Ord. of 4-21-1998(2); Ord. No. 99.69, 8-17-1999]

- (1) The responsibility of department heads regarding procurement shall be as follows:
 - (a) Development of specifications for supplies, services or construction shall be the responsibility of department heads. ~~Any specifications to be included in an invitation for competitive sealed bids or proposals shall be submitted to the Purchasing Agent.~~
 - (b) Procuring the highest quality item(s) for a specified use at the lowest possible expense is required by all department heads, or their delegates who have authority to purchase.
 - (c) Department heads are required to control, supervise and maintain any necessary inventories in a storeroom. Such storerooms shall serve as the receiving and distribution points for materials purchased by a using department.

With the exception of public works parts and fuel inventories and school lunch supply inventories, departments will be charged for items at the time of purchase. Departments receiving parts and fuel from public works inventories will be charged as items are used. Public works and school lunch department heads will conduct a physical inventory count of all supplies at such time as there is a change in personnel directly responsible for those storerooms, at fiscal year end, and as required throughout the year.

- (d) Local purchasing is encouraged where competitive market prices exist except when Section 2-235(f) and Section 2-336 apply. Local purchasing is required unless non-local purchasing is more cost effective. The following factors shall be considered to determine cost effectiveness:
- a. Price;
 - b. Comparable quality;
 - c. Cost/ability to secure prices;
 - d. Shipping and handling cost;
 - e. Convenience of follow-up service;
 - f. Time to secure the supply, item or service.
- (e) Inspection of incoming materials or services shall be performed for compliance with specifications. These inspections are to be maintained under rigorous review by department heads and their authorized designees. The receiving report copy of the purchase order and any packing slips are to be completed and returned to the Finance Department upon acceptance of an order.
- (f) ~~Unless otherwise provided, the single purchase of a supply or construction item in an amount estimated at \$5,000 or above shall be made only by written contract award through the formal bidding procedure. No supply, service or construction generally purchased in the whole shall be purchased as a sum of the parts for the purpose of avoiding the requirement to solicit bids. A single purchase of services in an amount estimated at \$10,000 shall be made only by written contract award through the appropriate proposal procedure.~~ Sole source purchases and emergency purchases shall be exceptions to these rules. **[Amended 11-1-2011 by Ord. No. 2011.71]**
- (2) ~~Appointment, a~~ Authority and duties of Finance Director as Purchasing Agent:
- (a) ~~The City Manager shall appoint a candidate for Purchasing Agent, who will be confirmed by the City Council.~~
 - (b) The authority and duties of the Purchasing Agent shall be as follows:
 1. Except as may be otherwise provided, the Purchasing Agent shall serve as the principal purchasing official for the City, and shall be responsible for the procurement of supplies, services and construction in accordance with this article,

as well as the management and disposal of supplies.

2. In accordance with this article, and subject to the supervision of the City Manager, the Purchasing Agent shall:
 - a. Procure or supervise the procurement of all supplies, services and construction needed by the City;
 - b. Exercise direct supervision over the City's central stores and general supervision over all other storeroom inventories belonging to the City;
 - c. Sell, trade or otherwise dispose of surplus supplies belonging to the City; assist the departments of the City with the establishment and maintenance of programs for specification development, contract administration and product inspection and acceptance and coordination of supplies and service purchases.
3. Consistent with this article, and with the approval of the City Manager, the Purchasing Agent may adopt operational procedures relating to the execution of his or her duties.

Sec. 2-348. Competitive sealed bidding. [Ord. of 4-21-1998(2)]

- (a) All contracts of the City for purchases of supplies or construction at or in excess of \$5,000 and for the purchase of services at or in excess of \$5,000 shall be awarded by competitive sealed bidding except as otherwise provided in this article. **[Amended 11-1-2011 by Ord. No. 2011.71]**
- (b) An invitation to bid shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement.
- (c) Adequate public notice of the invitation to bid shall be given for a reasonable time, but not less than 10 calendar days prior to the date set forth therein for the opening of bids. Such notice shall include publication in a newspaper of general circulation a reasonable time prior to bid opening and shall be posted in a conspicuous place on the City's internet website, in a place designated for this purpose. This public notice shall minimally state the place, date and time of the bid opening. **[Amended 5-5-2009 by Ord. No. 2009.25]**
- (d) Bids shall be opened publicly at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as the Purchasing Agent deems appropriate, together with the name of each bidder shall be publicly read for the benefit of any bidders and each bid shall be open to public inspection.
- (e) Bids shall be unconditionally accepted without alteration or correction, except as authorized in this article. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in a bid evaluation that are not set forth in the invitation for bids.

- (f) Correction or withdrawal of inadvertently erroneous bids before or after bid opening or cancellation of awards or contracts based on such bid mistakes may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice received in the office designated in the invitation for bids prior to the time set for the bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the City or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:
- (1) The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - (2) The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Purchasing Agent.
- (g) The contract shall be awarded with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids. In the event the low responsive and responsible bid for a construction project exceeds available funds as certified by the Finance Director and such bid does not exceed such funds by more than 10%, the ~~Purchasing Agent~~ department head in conjunction with the Finance Director is authorized to negotiate an adjustment of the bid price with the low responsive and responsible bidder in order to bring the bid within the amount of available funds. Any such negotiated adjustment shall be based only upon eliminating independent deductive items specified in the invitation for bids. When finalized ~~by the Purchasing Agent~~, bid results greater than \$5,000 and less than \$50,000 and covered by the budgeted amount can be approved by the City Manager and awarding of the contract to the successful bidder. These results will be reported to the ~~City Council and/or the~~ Finance Committee on a monthly basis. ~~Bids less than \$150,000 and Bid~~ bid results less than \$50,000 and over the budgeted amount or not the lowest bid will be submitted to the Finance Committee of the City Council for acceptance and awarding of the contract to the successful bidder. Contracts that exceed ~~\$50,000~~ \$150,000 shall be approved by the City Council prior to signing and executing said contract. Contracts based on units of measure and unit pricing where the total number of units is not specified shall be calculated using a best estimate methodology or prior history to determine the estimated contract value. Approval of such contracts shall be managed under the approval criteria listed above based on the total estimated value. [Amended 11-1-2011 by Ord. No. 2011.71; 4-16-2019 by Ord. No. 2019.30]
- (h) When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

Sec. 2-349. Competitive sealed proposals. [Ord. of 4-21-1998(2)]

- (a) When the Purchasing Agent determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the City, a contract may be entered into by use of the competitive sealed proposal method.
- (b) Proposals shall be solicited through a request for proposals.
- (c) Adequate public notice of the request for proposals shall be given in the same manner as provided in Section 2-336(c), provided the minimum time shall be 20 calendar days.
- (d) No proposals shall be handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during the process of negotiation. A register of proposals shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after contract award.
- (e) The request for proposals shall state the relative importance of price and other evaluation factors.
- (f) As provided in the request for proposals, discussions may be conducted with the responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions there shall be no disclosure of the identity of competing offerors or of any information derived from proposals submitted by competing offerors.
- (g) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made. When finalized by the Purchasing Agent, proposal results will be ~~submitted to the Finance Committee of the City Council for acceptance and awarding of the contract to the successful bidder. Contracts that exceed \$30,000 shall be approved by the City Council prior to signing and executing said contract~~ processed and awarded in the same manner and under the same dollar thresholds and identified in Sec. 2-348(g). [Amended 11-1-2011 by Ord. No. 2011.71]

Sec. 2-350. Contracting for professional services. [Ord. of 4-21-1998(2)]

- (a) For the purpose of procuring professional services such as auditing, accounting, banking, computer or information processing, architect, engineering, land surveying, clergy, medical, veterinary or dental; the department of the City requiring such services may procure them ~~through a request for bid, request for proposal, or request for qualifications on its own behalf, following notification of the Purchasing Agent and~~ in accordance with the selection procedures specified in this section.
- (b) Except as provided under the provisions for sole source procurement and emergency procurements, professional services as described in Subsection (a) of this section shall be procured as follows when soliciting via a request for qualifications:
 - (1) Persons engaged in providing the described professional services may submit statements of qualifications and expressions of interest in providing such professional

services. The department of the City using such professional services may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.

- (2) Adequate notice of the need for such services shall be given by the City department requiring the services through a request for services. The request for proposals shall describe the service required, list the types of information and data required of each offeror, and state the relative importance of particular qualifications.
- (c) Sealed proposals shall be required with the exception of interest rate quotations for loans which may be received by telephone or facsimile.
- (d) Discussions may be conducted with any offeror who has submitted a proposal to determine such offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.
- (e) Award shall be ~~made to the offeror determined in writing~~ recommended by the head of the City department procuring the required professional services to be best qualified based on evaluation factors set forth in the request for proposals, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified offeror, then negotiations will be formally terminated with the selected offeror. If proposals were submitted by one or more other offerors determined to be qualified, negotiations may be conducted with such other offer or offerors, in the order of their respected qualification ranking, and the contract may be awarded to the offeror then ranked best qualified if the amount of compensation is determined to be fair and reasonable. Awarding of contracts shall be consistent with Section ~~2-337(g)~~ 2-348(g).

Sec. 2-351. Small purchases. [Ord. of 4-21-1998(2); amended 11-1-2011 by Ord. No. 2011.71]

- (a) Any contract not exceeding \$5,000 may be made in accordance with the small purchase procedures authorized in this section.
- (b) Insofar as it is practical for small purchases in excess of \$1,000, no less than three businesses shall be solicited to submit quotations. Quotations may be accepted by telephone. Award shall be made to the business offering the lowest acceptable quotation. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be recorded with purchase orders and maintained as a public record.

Sec. 2-352. Sole source procurement. [Ord. of 4-21-1998(2); amended 12-15-2020 by Ord. No. 2020.110]

A contract may be awarded without competition when the ~~City Manager~~ Finance Committee determines ~~in writing, after conducting a good faith review of available sources,~~ that there is only one source for the required supply, service or construction item based upon review of the rationale and supporting documentation, if applicable. The City Manager with the appropriate department head or designee shall conduct negotiations, as appropriate, as to price, delivery and terms. ~~A record of sole source procurements shall be maintained as a public record and shall list each contractor's name, the amount and type of each contract, a listing of the item(s) procured under each contract and the identification number of each contract file~~ Award of sole source contracts shall be in accordance with Sec. 2-348(g).

Sec. 2-353. Emergency procurements. [Ord. of 4-21-1998(2)]

Notwithstanding any other provision of this article, the City Manager may make or authorize others to make emergency procurements of supplies, services or construction items when there exists a threat to public health, welfare or safety; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances.

Sec. 2-354. Cancellation of invitation for bids or requests for proposals. [Ord. of 4-21-1998(2)]

An invitation for bids, a request for proposals or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interests of the City. The reasons therefor shall be made part of the contract file. Each solicitation issued by the City shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interest of the City. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar items. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.

Sec. 2-355. Responsibility for selection of methods of construction contract management. [Ord. of 4-21-1998(2)]

The City Manager shall designate the official(s) to be responsible for any construction project in excess of \$35,000. ~~The designated official shall have discretion to select the appropriate method of construction contracting management for a particular project. In determining which method to use, the designated official shall consider the City's requirements, its resources and the potential contractor's capabilities. The designated official shall execute, and include in the contract file a written statement setting forth the facts which led to the selection of a particular method of construction contracting management for each project.~~

Sec. 2-356. Bid security. [Ord. of 4-21-1998(2)]

- (a) Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the designated official for construction contracting management to exceed \$50,000. Bid security shall be a bond provided by a surety company authorized to do business in the state, or the equivalent in cash, or otherwise supplied in a form satisfactory to the Finance Director. Nothing herein shall prevent the requirement of such bonds on construction contracts under \$50,000 when the circumstances warrant.
- (b) Bid security shall be in an amount equal to at least 5% of the amount of the bid.
- (c) When the invitation for bids requires security, noncompliance requires that the bid be rejected unless it is determined that the bid fails to comply only in a nonsubstantial manner with the security requirements.
- (d) If a bidder is permitted to withdraw a bid before award as provided in Section 2-336(f), no action shall be taken against the bidder or the bid security.

Sec. 2-357. Contract performance and payment bonds. [Ord. of 4-21-1998(2)]

- (a) When a construction contract is awarded in excess of \$50,000, the following bonds or security shall be delivered to the City and shall become binding on the parties upon the execution of the contract:
- (1) A performance bond satisfactory to the Finance Director executed by a surety company authorized to do business in Maine or otherwise secured in a manner satisfactory to the City Manager and Finance Director in an amount equal to 100% of the price specified in the contract; and
 - (2) A payment bond satisfactory to the Finance Director executed by a surety company authorized to do business in the state or otherwise secured in a manner satisfactory to the City Manager and Finance Director for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in the amount equal to 100% of the price specified in the contract.
- (b) After notice to approval by the ~~City Manager~~ awarding authority defined under Sec. 2-348(g), the ~~Purchasing Agent may reduce~~ the amount of performance and payment bonds may be reduced to 50% of the contract price for each bond when a written determination is made that it is in the best interests of the City to do so.
- (c) Nothing in this section shall be construed to limit the authority of the City to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in Subsection (a) of this section. Nor shall this section be construed to limit the authority of the City to require warranties or guarantees against defects where circumstances recommend them.

Sec. 2-358. Maximum practicable competition. [Ord. of 4-21-1998(2)]

All specifications shall be drafted to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs, and shall not be unduly restrictive. The policy enunciated in this section applies to all specifications including but not limited to, those prepared for the City by architects, engineer, designers and draftsmen.

Sec. 2-359. Brand name or equal specification. [Ord. of 4-21-1998(2)]

- (a) Brand name or equal specification may be used when the Purchasing Agent determines in writing that:
- (1) No other design or performance specification or qualified products list is available;
 - (2) Time does not permit the preparation of another form of purchase description, not including a brand name specification;
 - (3) The nature of the product or the nature of the City's requirements makes use of a brand name or equal specification suitable for procurement; or
 - (4) Use of a brand name or equal specification is in the City's best interest.
- (b) Brand name or equal specifications shall seek to designate three, or as many different brands

as are practicable, as or equal references and shall further state that substantially equivalent products to those designated will be considered for award.

- (c) Where brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition.

Sec. 2-360. Brand name specification. [Ord. of 4-21-1998(2)]

- (a) Since use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing Agent makes a written determination that only the identified brand name item or items will satisfy the City's needs.
- (b) The department head shall provide sufficient information to the Purchasing Agent ~~shall seek~~ to identify sources from which the designated brand name item(s) can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section ~~2-340~~2-352.

Sec. 2-361. Finance Committee may examine and order payments. [Ord. of 4-21-1998(2)]

The Finance Committee may examine every bill, claim and demand presented for payment by any person or department official and may question its legality and validity. The Finance Committee shall sign a warrant or order directed to the City Treasurer to pay such bill, claim or demand and designate the fund or appropriation to be charged therewith in accordance with the Charter.

Sec. 2-362. Signed statement required. [Ord. of 4-21-1998(2)]

The ~~City Auditor~~Finance Director is expressly enjoined and forbidden from approving any bill contracted by any official, agent or employee of the City unless the goods, articles or materials charged in the bill have been delivered and that they are of the quality and quantity ordered.

Sec. 2-363. Treasurer forbidden to pay or honor certain bills, warrants. [Ord. of 4-21-1998(2)]

- (a) The ~~Treasurer~~Finance Director is expressly enjoined and forbidden to pay any bill contracted by any official, agent or employee of the City unless an approved purchase order form is attached to each bill presented for payment.
- (b) The Treasurer is expressly forbidden to honor or pay any warrant drawn for the payment of moneys from the City treasury when the appropriation of the department to which such payment would properly be charged has been fully expended, or when such payment would overdraw such department's appropriation.

Updated Redline Copy of
Policy Committee
Changes from June 23

Part II Code of Ordinances
Chapter 2 – Administration
Article V – Finance
Division 2 – Procurement

(Highlighted text indicates change
specific to June 23)

Sec. 2-343. Purpose. [Ord. of 4-21-1998(2)]

The purpose of this article is to provide for the fair and equitable treatment of all persons involved in public purchasing by the City, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

Sec. 2-344. Application of article. [Ord. of 4-21-1998(2); Ord. No. 99.78, 9-21-1999]

- (a) This article applies to contracts for the procurement of supplies, services and construction entered into by the City. It shall apply to every expenditure of public funds by any department of the City irrespective of the source of funding. When the procurement involves the expenditure of federal or state assistance or contract funds, the procurement shall be conducted in accordance with any applicable laws and regulations. Nothing in this article shall prevent any department of the City from complying with the terms and conditions of any grant, gift or request that is otherwise consistent with law.
- (b) Representatives of the City involved in the purchase of goods; especially items of apparel or textiles such as clothing, uniforms, footwear, linens or fabric; shall not knowingly contract with vendors offering goods or services produced under sweatshop conditions by manufacturers, launderers or distributors of such items who may be paying poverty wages, violating workplace regulations or suppressing worker rights. In order to promote contracts with vendors having responsible employment practices, preference should be given to goods or services produced in the United States and to vendors known for their responsible labor practices. ~~Responsible labor practices shall include wage and benefit levels sufficient to meet basic needs while providing some discretionary income for a family of four, respect for workers' rights including the right to be heard and to organize and a safe and healthy work environment.~~ All solicitations offered by the City, not otherwise required to include contractor certifications related to a prohibition on trafficking of victims and forced or indentured child labor shall include such a certification. Any complaints or information received by a representative of the City involved in the purchase of goods or services identifying vendors or their subcontractors as producing their products under sweatshop conditions shall report such allegations to the respective authorities. ~~investigate said allegations and~~ The City shall cease to do business with any vendor or subcontractor found to be other than maintaining responsible labor practices.

Sec. 2-345. Definitions. [Ord. of 4-21-1998(2)]

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

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submission of equivalent products.

BRAND NAME SPECIFICATION — A specification limited to one or more items by manufacturers' names or catalogue numbers.

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CONTRACT — All types of agreements, regardless of what they may be called, for the procurement of supplies, services or construction.

CONTRACTOR — Any person having a contract with the City or any of its departments.

COVERED BY BUDGETED AMOUNT – An item specifically listed by name in the approved current year submitted budget document with an associated defined cost.

LOCATION AND OPERATION — Is narrowly defined as owning, leasing or renting physical space within the City limits of Biddeford, and staffing the same a minimum of 20 hours per week during a period commencing no less than thirty days prior to the bid deadline and continuing through the end of the bid agreements. **[Added 11-1-2011 by Ord. No. 2011.71]**

SERVICES — The furnishing of labor, time or efforts by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.

SPECIFICATION — Any description of the physical or functional characteristics or the nature of a supply, service or construction item. It may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery.

SUPPLIES — All consumables or property, including but not limited to equipment, materials, printing and leases for real property, excluding land or a permanent interest in land.

Sec. 2-346. Scope of authority. [Ord. of 4-21-1998(2)]

The current policy of the City is to maintain a decentralized purchasing process which shall be monitored by the City Manager, ~~and the~~ Finance Director ~~and Purchasing Agent~~. Each department head within this decentralized purchasing function shall be responsible for the function of procurement of suitable supplies, services or construction for their using departments, except as may be otherwise noted in these regulations. In all cases, purchase orders, ~~shall channel through the Purchasing Agent's office and~~, claims, invoices and any other such supporting documentation shall channel through the Finance Director's office in order that proper purchasing records may be maintained.

Sec. 2-347. Responsibility of departments. [Ord. of 4-21-1998(2); Ord. No. 99.69, 8-17-1999]

- (1) The responsibility of department heads regarding procurement shall be as follows:
 - (a) Development of specifications for supplies, services or construction shall be the responsibility of department heads. ~~Any specifications to be included in an invitation for competitive sealed bids or proposals shall be submitted to the Purchasing Agent.~~
 - (b) Procuring the highest quality item(s) for a specified use at the lowest possible expense is required by all department heads, or their delegates who have authority to purchase.

- (c) Department heads are required to control, supervise and maintain any necessary inventories in a storeroom. Such storerooms shall serve as the receiving and distribution points for materials purchased by a using department.

With the exception of public works parts and fuel ~~inventories and school lunch supply~~ inventories, departments will be charged for items at the time of purchase. Departments receiving parts and fuel from public works inventories will be charged as items are used. Public works ~~and school lunch~~ department heads will conduct a physical inventory count of all supplies at such time as there is a change in personnel directly responsible for those storerooms, at fiscal year end, and as required throughout the year.

- (d) Local purchasing is encouraged where competitive market prices exist except when Section ~~2-3522-235(f)~~ and Section ~~2-3532-336~~ apply. Local purchasing is required unless non-local purchasing is more cost effective. The following factors shall be considered to determine cost effectiveness:
- a. Price;
 - b. Comparable quality;
 - c. Cost/ability to secure prices;
 - d. Shipping and handling cost;
 - e. Convenience of follow-up service;
 - f. Time to secure the supply, item or service.
- (e) Inspection of incoming materials or services shall be performed for compliance with specifications. These inspections are to be maintained under rigorous review by department heads and their authorized designees. The receiving report copy of the purchase order and any packing slips are to be completed and returned to the Finance Department upon acceptance of an order.
- (f) ~~Unless otherwise provided, the single purchase of a supply or construction item in an amount estimated at \$5,000 or above shall be made only by written contract award through the formal bidding procedure. No supply, service or construction generally purchased in the whole shall be purchased as a sum of the parts for the purpose of avoiding the requirement to solicit bids. A single purchase of services in an amount estimated at \$10,000 shall be made only by written contract award through the appropriate proposal procedure.~~ Sole source purchases and emergency purchases shall be exceptions to these rules. [Amended 11-1-2011 by Ord. No. 2011.71]
- (2) ~~Appointment, a~~ Authority and duties of Finance Director as Purchasing Agent:
- (a) ~~The City Manager shall appoint a candidate for Purchasing Agent, who will be confirmed by the City Council.~~
 - (b) The authority and duties of the Purchasing Agent shall be as follows:
 1. Except as may be otherwise provided, the Purchasing Agent shall serve as the principal purchasing official for the City, and shall be responsible for the procurement of supplies, services and construction in accordance with this article,

as well as the management and disposal of supplies.

2. In accordance with this article, and subject to the supervision of the City Manager, the Purchasing Agent shall:
 - a. Procure or supervise the procurement of all supplies, services and construction needed by the City;
 - b. Exercise direct supervision over the City's central stores and general supervision over all other storeroom inventories belonging to the City;
 - c. Sell, trade or otherwise dispose of surplus supplies belonging to the City; assist the departments of the City with the establishment and maintenance of programs for specification development, contract administration and product inspection and acceptance and coordination of supplies and service purchases.
3. Consistent with this article, and with the approval of the City Manager, the Purchasing Agent may adopt operational procedures relating to the execution of his or her duties.

Sec. 2-348. Competitive sealed bidding. [Ord. of 4-21-1998(2)]

- (a) All contracts of the City for purchases of supplies or construction at or in excess of \$5,000 and for the purchase of services at or in excess of \$5,000 shall be awarded by competitive sealed bidding except as otherwise provided in this article. **[Amended 11-1-2011 by Ord. No. 2011.71]**
- (b) An invitation to bid shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement.
- (c) Adequate public notice of the invitation to bid shall be given for a reasonable time, but not less than 10 calendar days prior to the date set forth therein for the opening of bids. Such notice shall include publication in a newspaper of general circulation a reasonable time prior to bid opening and shall be posted in a conspicuous place on the City's internet website, in a place designated for this purpose. This public notice shall minimally state the place, date and time of the bid opening. **[Amended 5-5-2009 by Ord. No. 2009.25]**
- (d) Bids shall be opened publicly at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as the Purchasing Agent deems appropriate, together with the name of each bidder shall be publicly read for the benefit of any bidders and each bid shall be open to public inspection.
- (e) Bids shall be unconditionally accepted without alteration or correction, except as authorized in this article. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in a bid evaluation that are not set forth in the invitation for bids.

- (f) Correction or withdrawal of inadvertently erroneous bids before or after bid opening or cancellation of awards or contracts based on such bid mistakes may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or ~~telegraphic~~ electronic notice received in the office designated in the invitation for bids prior to the time set for the bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the City or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:
- (1) The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - (2) The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Purchasing Agent.
- (g) The contract shall be awarded with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids. In the event the low responsive and responsible bid for a construction project exceeds available funds as certified by the Finance Director and the average such bid does not exceed such funds by more than 10% of the available funds, the Purchasing Agent department head in conjunction with the Finance Director is authorized to may negotiate a reduction in the total bid amount an adjustment of the bid price with the low responsive and responsible bidder in order to bring the bid within the amount of available funds. Any such negotiations negotiated adjustment shall be limited to be based only upon eliminating independent deductive items specified in the bid solicitation invitation for bids. When Once finalized by the Finance Director:
- (1) ~~by the Purchasing Agent, bid~~ Bids results greater than \$5,000 and less than \$50,000 that are both the lowest bid and within covered by the budgeted amount can be approved by the City Manager ~~and awarding of the contract to the successful bidder~~. These awards shall results will be reported monthly to the ~~City Council and/or the Finance Committee on a monthly basis~~.
 - (2) Any bid in the range \$5,001 Bids less than \$150,000 and Bidbid results less than to \$50,000 and over the budgeted amount or that is not the lowest bid or exceeds the budgeted amount will/shall be submitted to the Finance Committee for review and approval prior to award.
 - (3) All bids over \$50,000 and up to \$150,000 regardless of budget status or bid ranking shall be submitted to the Finance Committee for review and approval prior to award.
 - (4) ~~of the City Council for acceptance and awarding of the contract to the successful bidder~~. Contracts or bids exceeding that exceed \$50,000 \$150,000 require approval shall be approved by the City Council prior to award signing and executing said contract without the necessity of Finance Committee review.
 - (5) Contracts based on units of measure and unit pricing where the total number of units is

not specified shall be calculated using a best estimate methodology or prior history to determine the estimated contract value. Approval of such contracts shall be managed under the approval criteria listed above based on the total estimated value. **[Amended 11-1-2011 by Ord. No. 2011.71; 4-16-2019 by Ord. No. 2019.30]**

- (h) When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

Sec. 2-349. Competitive sealed proposals. [Ord. of 4-21-1998(2)]

- (a) When the Purchasing Agent determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the City, a contract may be entered into by use of the competitive sealed proposal method.
- (b) Proposals shall be solicited through a request for proposals.
- (c) Adequate public notice of the request for proposals shall be given in the same manner as provided in Section ~~2-348(c)~~~~2-336(e)~~, provided the minimum time shall be 20 calendar days.
- (d) No proposals shall be handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during the process of negotiation. A register of proposals shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after contract award.
- (e) The request for proposals shall state the relative importance of price and other evaluation factors.
- (f) As provided in the request for proposals, discussions may be conducted with the responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions there shall be no disclosure of the identity of competing offerors or of any information derived from proposals submitted by competing offerors.
- (g) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made. When finalized by the Purchasing Agent, proposal results will be ~~submitted to the Finance Committee of the City Council for acceptance and awarding of the contract to the successful bidder. Contracts that exceed \$30,000 shall be approved by the City Council prior to signing and executing said contract~~ processed and awarded in the same manner and under the same dollar thresholds and identified in Sec. 2-348(g). **[Amended 11-1-2011 by Ord. No. 2011.71]**

Sec. 2-350. Contracting for professional services. [Ord. of 4-21-1998(2)]

- (a) For the purpose of procuring professional services such as auditing, accounting, banking,

computer or information processing, architect, engineering, land surveying, clergy, medical, veterinary or dental; the department of the City requiring such services may procure them through a request for bid, request for proposal, or request for qualifications ~~on its own behalf, following notification of the Purchasing Agent and~~ in accordance with the selection procedures specified in this section.

- (b) Except as provided under the provisions for sole source procurement and emergency procurements, professional services as described in Subsection (a) of this section shall be procured as follows when soliciting via a request for qualifications:
- (1) Persons engaged in providing the described professional services may submit statements of qualifications and expressions of interest in providing such professional services. The department of the City using such professional services may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.
 - (2) Adequate notice of the need for such services shall be given by the City department requiring the services through a request for services. The request for proposals shall describe the service required, list the types of information and data required of each offeror, and state the relative importance of particular qualifications.
- (c) Sealed proposals shall be required with the exception of interest rate quotations for loans which may be received by telephone or facsimile.
- (d) Discussions may be conducted with any offeror who has submitted a proposal to determine such offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.
- (e) Award shall be ~~made to the offeror determined in writing~~ recommended by the head of the City department procuring the required professional services to be best qualified based on evaluation factors set forth in the request for proposals, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified offeror, then negotiations will be formally terminated with the selected offeror. If proposals were submitted by one or more other offerors determined to be qualified, negotiations may be conducted with such other offer or offerors, in the order of their respected qualification ranking, and the contract may be awarded to the offeror then ranked best qualified if the amount of compensation is determined to be fair and reasonable. Awarding of contracts shall be consistent with Section ~~2-337(g)~~ 2-348(g).

Sec. 2-351. Small purchases. [Ord. of 4-21-1998(2); amended 11-1-2011 by Ord. No. 2011.71]

- (a) Any contract not exceeding \$5,000 may be made by the relevant department head in accordance with the small purchase procedures authorized in this section.
- (b) Insofar as it is practical for small purchases in excess of \$1,000, no less than three businesses shall be solicited to submit quotations. Quotations may be accepted by telephone. Award shall be made to the business offering the lowest acceptable quotation. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be recorded ~~with purchase orders~~ and maintained as a public record.

Sec. 2-352. Sole source procurement. [Ord. of 4-21-1998(2); amended 12-15-2020 by Ord. No. 2020.110]

A contract may be awarded without competition when the ~~City Manager~~ Finance Committee determines ~~in writing, after conducting a good faith review of available sources,~~ that there is only one source for the required supply, service or construction item based upon review of the rationale and supporting documentation, if applicable. The City Manager with the appropriate department head or designee shall conduct negotiations, as appropriate, as to price, delivery and terms. ~~A record of sole source procurements shall be maintained as a public record and shall list each contractor's name, the amount and type of each contract, a listing of the item(s) procured under each contract and the identification number of each contract file.~~ Award of sole source contracts shall be in accordance with Sec. 2-348(g).

Sec. 2-353. Emergency procurements. [Ord. of 4-21-1998(2)]

Notwithstanding any other provision of this article, the City Manager may make or authorize others to make emergency procurements of supplies, services or construction items when there exists a threat to public health, welfare or safety; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written explanation of the nature of the emergency, the goods or services procured, the procurement method used, and the total cost shall be submitted to the Finance Committee at the next scheduled meeting following the procurement. This report shall be entered into the public record and include certification by the Finance Director verifying the availability and source of funds.

Sec. 2-354. Cancellation of invitation for bids or requests for proposals. [Ord. of 4-21-1998(2)]

An invitation for bids, a request for proposals or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interests of the City. The reasons therefor shall be made part of the contract file. Each solicitation issued by the City shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interest of the City. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar items. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.

Sec. 2-355. Responsibility for selection of methods of construction contract management. [Ord. of 4-21-1998(2)]

The City Manager shall designate the official(s) to be responsible for any construction project in excess of \$35,000. ~~The designated official shall have discretion to select the appropriate method of construction contracting management for a particular project. In determining which method to use, the designated official shall consider the City's requirements, its resources and the potential contractor's capabilities. The designated official shall execute, and include in the contract file a written statement setting forth the facts which led to the selection of a particular method of construction contracting management for each project.~~

Sec. 2-356. Bid security. [Ord. of 4-21-1998(2)]

- (a) Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the designated official for construction contracting

management to exceed \$50,000. Bid security shall be a bond provided by a surety company authorized to do business in the state, or the equivalent in cash, or otherwise supplied in a form satisfactory to the Finance Director. Nothing herein shall prevent the requirement of such bonds on construction contracts under \$50,000 when the circumstances warrant.

- (b) Bid security shall be in an amount equal to at least 5% of the amount of the bid.
- (c) When the invitation for bids requires security, noncompliance requires that the bid be rejected unless it is determined that the bid fails to comply only in a nonsubstantial manner with the security requirements.
- (d) If a bidder is permitted to withdraw a bid before award as provided in Section ~~2-336(f)~~ ~~2-348(f)~~, no action shall be taken against the bidder or the bid security.

Sec. 2-357. Contract performance and payment bonds. [Ord. of 4-21-1998(2)]

- (a) When a construction contract is awarded in excess of \$50,000, the following bonds or security shall be delivered to the City and shall become binding on the parties upon the execution of the contract:
 - (1) A performance bond satisfactory to the Finance Director executed by a surety company authorized to do business in Maine or otherwise secured in a manner satisfactory to the City Manager and Finance Director in an amount equal to 100% of the price specified in the contract; and
 - (2) A payment bond satisfactory to the Finance Director executed by a surety company authorized to do business in the state or otherwise secured in a manner satisfactory to the City Manager and Finance Director for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in the amount equal to 100% of the price specified in the contract.
- (b) After notice to ~~approval by the City Manager~~ ~~awarding authority, defined under Sec. 2-348(g), at the time of approval by the respective department, the Purchasing Agent may reduce~~ the amount of performance and payment bonds ~~may be reduced by the awarding authority~~ to 50% of the contract price for each bond when a written determination is ~~provided in the approval documentation that demonstrates to the awarding authority that such a reduction made that it~~ is in the best interests of the City to do so.
- (c) Nothing in this section shall be construed to limit the authority of the City to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in Subsection (a) of this section. Nor shall this section be construed to limit the authority of the City to require warranties or guarantees against defects where circumstances recommend them.

Sec. 2-358. Maximum practicable competition. [Ord. of 4-21-1998(2)]

All specifications shall be drafted to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs, and shall not be unduly restrictive. The policy enunciated in this section applies to all specifications including but not limited to, those prepared for the City by architects, engineer, designers and draftsmen.

Sec. 2-359. Brand name or equal specification. [Ord. of 4-21-1998(2)]

- (a) Brand name or equal specification may be used when the Purchasing Agent determines in writing that:
- (1) No other design or performance specification or qualified products list is available;
 - (2) Time does not permit the preparation of another form of purchase description, not including a brand name specification;
 - (3) The nature of the product or the nature of the City's requirements makes use of a brand name or equal specification suitable for procurement; or
 - (4) Use of a brand name or equal specification is in the City's best interest.
- (b) Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as or equal references and shall further state that substantially equivalent products to those designated will be considered for award.
- (c) Where brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition.

Sec. 2-360. Brand name specification. [Ord. of 4-21-1998(2)]

- (a) Since use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing Agent makes a written determination that only the identified brand name item or items will satisfy the City's needs.
- (b) The department head shall provide sufficient information to the Purchasing Agent ~~shall seek~~ to identify sources from which the designated brand name item(s) can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section ~~2-3402-~~352.

Sec. 2-361. Finance Committee may examine and order payments. [Ord. of 4-21-1998(2)]

The Finance Committee may examine every bill, claim and demand presented for payment by any person or department official and may question its legality and validity. ~~The Finance Committee shall sign a warrant or order directed to the City Treasurer to pay such bill, claim or demand and designate the fund or appropriation to be charged therewith in accordance with the Charter. To support its oversight and review responsibilities, the Finance Committee shall be provided read-only access to the city's financial software system (for instance Munis or any current equivalent). This access shall include all expenses, revenues, encumbrances, and financial activity as well as line-item budgeted amounts. Information shall be provided in a format that enables the Committee to evaluate all financial activity whether or not previously budgeted relative to the appropriations approved by the City Council in the adopted budget. The Finance Committee shall also have oversight responsibility to ensure that all expenditures budgeted or unbudgeted are properly recorded, tracked, and documented in the city's financial system. Discrepancies, omissions, and material concerns related to financial data integrity or unauthorized spending shall be documented and reported to the City Council and City Manager for corrective action.~~

Sec. 2-362. Signed statement required. [Ord. of 4-21-1998(2)]

The ~~City Auditor~~ Finance Director is expressly enjoined and forbidden from approving any bill contracted by any official, agent or employee of the City unless the goods, articles or materials charged in the bill have been delivered and that they are of the quality and quantity ordered.

Sec. 2-363. ~~Treasurer~~ Finance Director forbidden to pay or honor certain bills, warrants. [Ord. of 4-21-1998(2)]

- (a) The ~~Treasurer~~ Finance Director is expressly enjoined and forbidden to pay any bill contracted by any official, agent or employee of the City unless an approved invoice purchase order form is attached to each bill presented for payment.
- (b) The ~~Treasurer~~ Finance Director is expressly forbidden to honor or pay any warrant drawn for the payment of moneys from the City treasury when the appropriation of the department to which such payment would properly be charged has been fully expended, or when such payment would overdraw such department's appropriation.

Clean Copy of June 23 Policy Committee Changes

Part II Code of Ordinances

Chapter 2 – Administration

Article V – Finance

Division 2 – Procurement

Sec. 2-343. Purpose. [Ord. of 4-21-1998(2)]

The purpose of this article is to provide for the fair and equitable treatment of all persons involved in public purchasing by the City, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

Sec. 2-344. Application of article. [Ord. of 4-21-1998(2); Ord. No. 99.78, 9-21-1999]

- (a) This article applies to contracts for the procurement of supplies, services and construction entered into by the City. It shall apply to every expenditure of public funds by any department of the City irrespective of the source of funding. When the procurement involves the expenditure of federal or state assistance or contract funds, the procurement shall be conducted in accordance with any applicable laws and regulations. Nothing in this article shall prevent any department of the City from complying with the terms and conditions of any grant, gift or request that is otherwise consistent with law.
- (b) Representatives of the City involved in the purchase of goods; especially items of apparel or textiles such as clothing, uniforms, footwear, linens or fabric; shall not knowingly contract with vendors offering goods or services produced under sweatshop conditions by manufacturers, launderers or distributors of such items who may be paying poverty wages, violating workplace regulations or suppressing worker rights. In order to promote contracts with vendors having responsible employment practices, preference should be given to goods or services produced in the United States and to vendors known for their responsible labor practices. All solicitations offered by the City, not otherwise required to include contractor certifications related to a prohibition on trafficking of victims and forced or indentured child labor shall include such a certification. Any complaints or information received by a representative of the City involved in the purchase of goods or services identifying vendors or their subcontractors as producing their products under sweatshop conditions shall report such allegations to the respective authorities. The City shall cease to do business with any vendor or subcontractor found to be other than maintaining responsible labor practices.

Sec. 2-345. Definitions. [Ord. of 4-21-1998(2)]

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

BRAND NAME OR EQUAL SPECIFICATION — A specification limited to one or more items by manufacturers' names or catalogue numbers to describe the standard of quality, performance and other salient characteristics needed to meet City requirements, and which provides for the submission of equivalent products.

BRAND NAME SPECIFICATION — A specification limited to one or more items by manufacturers' names or catalogue numbers.

CONSTRUCTION — The process of building, altering, repairing, improving or demolishing any

public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.

CONTRACT — All types of agreements, regardless of what they may be called, for the procurement of supplies, services or construction.

CONTRACTOR — Any person having a contract with the City or any of its departments.

COVERED BY BUDGETED AMOUNT – An item specifically listed by name in the approved current year budget document with an associated defined cost.

LOCATION AND OPERATION — Is narrowly defined as owning, leasing or renting physical space within the City limits of Biddeford, and staffing the same a minimum of 20 hours per week during a period commencing no less than thirty days prior to the bid deadline and continuing through the end of the bid agreements. **[Added 11-1-2011 by Ord. No. 2011.71]**

SERVICES — The furnishing of labor, time or efforts by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.

SPECIFICATION — Any description of the physical or functional characteristics or the nature of a supply, service or construction item. It may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery.

SUPPLIES — All consumables or property, including but not limited to equipment, materials, printing and leases for real property, excluding land or a permanent interest in land.

Sec. 2-346. Scope of authority. [Ord. of 4-21-1998(2)]

The current policy of the City is to maintain a decentralized purchasing process which shall be monitored by the City Manager and the Finance Director. Each department head within this decentralized purchasing function shall be responsible for the function of procurement of suitable supplies, services or construction for their using departments, except as may be otherwise noted in these regulations. In all cases, purchase orders, claims, invoices and any other such supporting documentation shall channel through the Finance Director's office in order that proper purchasing records may be maintained.

Sec. 2-347. Responsibility of departments. [Ord. of 4-21-1998(2); Ord. No. 99.69, 8-17-1999]

- (1) The responsibility of department heads regarding procurement shall be as follows:
 - (a) Development of specifications for supplies, services or construction shall be the responsibility of department heads.
 - (b) Procuring the highest quality item(s) for a specified use at the lowest possible expense is required by all department heads, or their delegates who have authority to purchase.
 - (c) Department heads are required to control, supervise and maintain any necessary inventories in a storeroom. Such storerooms shall serve as the receiving and distribution points for materials purchased by a using department.

With the exception of public works parts and fuel inventories, departments will be charged for items at the time of purchase. Departments receiving parts and fuel from

public works inventories will be charged as items are used. Public works department heads will conduct a physical inventory count of all supplies at such time as there is a change in personnel directly responsible for those storerooms, at fiscal year end, and as required throughout the year.

- (d) Local purchasing is encouraged where competitive market prices exist except when Section 2-352 and Section 2-353 apply. Local purchasing is required unless non-local purchasing is more cost effective. The following factors shall be considered to determine cost effectiveness:
- a. Price;
 - b. Comparable quality;
 - c. Cost/ability to secure prices;
 - d. Shipping and handling cost;
 - e. Convenience of follow-up service;
 - f. Time to secure the supply, item or service.
- (e) Inspection of incoming materials or services shall be performed for compliance with specifications. These inspections are to be maintained under rigorous review by department heads and their authorized designees. The receiving report copy of the purchase order and any packing slips are to be completed and returned to the Finance Department upon acceptance of an order.
- (f) Sole source purchases and emergency purchases shall be exceptions to these rules. **[Amended 11-1-2011 by Ord. No. 2011.71]**
- (2) Authority and duties of Finance Director as Purchasing Agent:
- (a) The authority and duties of the Purchasing Agent shall be as follows:
1. Except as may be otherwise provided, the Purchasing Agent shall serve as the principal purchasing official for the City, and shall be responsible for the procurement of supplies, services and construction in accordance with this article, as well as the management and disposal of supplies.
 2. In accordance with this article, and subject to the supervision of the City Manager, the Purchasing Agent shall:
 - a. Procure or supervise the procurement of all supplies, services and construction needed by the City;
 - b. Exercise direct supervision over the City's central stores and general supervision over all other storeroom inventories belonging to the City;
 - c. Sell, trade or otherwise dispose of surplus supplies belonging to the City; assist the departments of the City with the establishment and maintenance of programs for specification development, contract administration and product inspection and acceptance and coordination of supplies and service purchases.
 3. Consistent with this article, and with the approval of the City Manager, the

Purchasing Agent may adopt operational procedures relating to the execution of his or her duties.

Sec. 2-348. Competitive sealed bidding. [Ord. of 4-21-1998(2)]

- (a) All contracts of the City for purchases of supplies or construction at or in excess of \$5,000 and for the purchase of services at or in excess of \$5,000 shall be awarded by competitive sealed bidding except as otherwise provided in this article. **[Amended 11-1-2011 by Ord. No. 2011.71]**
- (b) An invitation to bid shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement.
- (c) Adequate public notice of the invitation to bid shall be given for a reasonable time, but not less than 10 calendar days prior to the date set forth therein for the opening of bids. Such notice shall include publication in a newspaper of general circulation a reasonable time prior to bid opening and shall be posted in a conspicuous place on the City's internet website, in a place designated for this purpose. This public notice shall minimally state the place, date and time of the bid opening. **[Amended 5-5-2009 by Ord. No. 2009.25]**
- (d) Bids shall be opened publicly at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as the Purchasing Agent deems appropriate, together with the name of each bidder shall be publicly read for the benefit of any bidders and each bid shall be open to public inspection.
- (e) Bids shall be unconditionally accepted without alteration or correction, except as authorized in this article. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in a bid evaluation that are not set forth in the invitation for bids.
- (f) Correction or withdrawal of inadvertently erroneous bids before or after bid opening or cancellation of awards or contracts based on such bid mistakes may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or electronic notice received in the office designated in the invitation for bids prior to the time set for the bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the City or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:
 - (1) The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - (2) The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Purchasing Agent.

- (g) The contract shall be awarded with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids. In the event the low responsive and responsible bid for a construction project exceeds available funds as certified by the Finance Director and the average does not exceed 10% of the available funds, the department head in conjunction with the Finance Director may negotiate a reduction in the total bid amount such negotiations shall be limited to eliminating independent deductive items specified in the bid solicitation. Once finalized by the Finance Director:
- (1) Bids results greater than \$5,000 and less than \$50,000 that are both the lowest bid and within the budgeted amount can be approved by the City Manager. These awards shall be reported monthly to the Finance Committee.
 - (2) Any bid in the range of \$5,001 to \$50,000 that is not the lowest bid or exceeds the budgeted amount shall be submitted to the Finance Committee for review and approval prior to award.
 - (3) All bids over \$50,000 and up to \$150,000 regardless of budget status or bid ranking shall be submitted to the Finance Committee for review and approval prior to award.
 - (4) Contracts or bids exceeding \$150,000 require approval by the City Council prior to award without the necessity of Finance Committee review.
 - (5) Contracts based on units of measure and unit pricing where the total number of units is not specified shall be calculated using a best estimate methodology or prior history to determine the estimated contract value. Approval of such contracts shall be managed under the approval criteria listed above based on the total estimated value. **[Amended 11-1-2011 by Ord. No. 2011.71; 4-16-2019 by Ord. No. 2019.30]**
- (h) When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

Sec. 2-349. Competitive sealed proposals. [Ord. of 4-21-1998(2)]

- (a) When the Purchasing Agent determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the City, a contract may be entered into by use of the competitive sealed proposal method.
- (b) Proposals shall be solicited through a request for proposals.
- (c) Adequate public notice of the request for proposals shall be given in the same manner as provided in Section 2-348(c), provided the minimum time shall be 20 calendar days.
- (d) No proposals shall be handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during the process of negotiation. A register of proposals shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after contract award.
- (e) The request for proposals shall state the relative importance of price and other evaluation

factors.

- (f) As provided in the request for proposals, discussions may be conducted with the responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions there shall be no disclosure of the identity of competing offerors or of any information derived from proposals submitted by competing offerors.
- (g) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made. When finalized by the Purchasing Agent, proposal results will be processed and awarded in the same manner and under the same dollar thresholds and identified in Sec. 2-348(g). **[Amended 11-1-2011 by Ord. No. 2011.71]**

Sec. 2-350. Contracting for professional services. [Ord. of 4-21-1998(2)]

- (a) For the purpose of procuring professional services such as auditing, accounting, banking, computer or information processing, architect, engineering, land surveying, clergy, medical, veterinary or dental; the department of the City requiring such services may procure them through a request for bid, request for proposal, or request for qualifications in accordance with the selection procedures specified in this section.
- (b) Except as provided under the provisions for sole source procurement and emergency procurements, professional services as described in Subsection (a) of this section shall be procured as follows when soliciting via a request for qualifications:
 - (1) Persons engaged in providing the described professional services may submit statements of qualifications and expressions of interest in providing such professional services. The department of the City using such professional services may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.
 - (2) Adequate notice of the need for such services shall be given by the City department requiring the services through a request for services. The request for proposals shall describe the service required, list the types of information and data required of each offeror, and state the relative importance of particular qualifications.
- (c) Sealed proposals shall be required with the exception of interest rate quotations for loans which may be received by telephone or facsimile.
- (d) Discussions may be conducted with any offeror who has submitted a proposal to determine such offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.
- (e) Award shall be recommended by the head of the City department procuring the required professional services to be best qualified based on evaluation factors set forth in the request for proposals, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified offeror, then negotiations will be

formally terminated with the selected offeror. If proposals were submitted by one or more other offerors determined to be qualified, negotiations may be conducted with such other offer or offerors, in the order of their respected qualification ranking, and the contract may be awarded to the offeror then ranked best qualified if the amount of compensation is determined to be fair and reasonable. Awarding of contracts shall be consistent with Section 2-348(g).

Sec. 2-351. Small purchases. [Ord. of 4-21-1998(2); amended 11-1-2011 by Ord. No. 2011.71]

- (a) Any contract not exceeding \$5,000 may be made by the relevant department head in accordance with the small purchase procedures authorized in this section.
- (b) Insofar as it is practical for small purchases in excess of \$1,000, no less than three businesses shall be solicited to submit quotations. Quotations may be accepted by telephone. Award shall be made to the business offering the lowest acceptable quotation. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be recorded and maintained as a public record.

Sec. 2-352. Sole source procurement. [Ord. of 4-21-1998(2); amended 12-15-2020 by Ord. No. 2020.110]

A contract may be awarded without competition when the Finance Committee determines that there is only one source for the required supply, service or construction item based upon review of the rationale and supporting documentation, if applicable. The City Manager with the appropriate department head or designee shall conduct negotiations, as appropriate, as to price, delivery and terms. Award of sole source contracts shall be in accordance with Sec. 2-348(g).

Sec. 2-353. Emergency procurements. [Ord. of 4-21-1998(2)]

Notwithstanding any other provision of this article, the City Manager may make or authorize others to make emergency procurements of supplies, services or construction items when there exists a threat to public health, welfare or safety; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written explanation of the nature of the emergency, the goods or services procured, the procurement method used, and the total cost shall be submitted to the Finance Committee at the next scheduled meeting following the procurement. This report shall be entered into the public record and include certification by the Finance Director verifying the availability and source of funds.

Sec. 2-354. Cancellation of invitation for bids or requests for proposals. [Ord. of 4-21-1998(2)]

An invitation for bids, a request for proposals or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interests of the City. The reasons therefor shall be made part of the contract file. Each solicitation issued by the City shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interest of the City. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar items. Reasons for rejection shall be provided upon request by

unsuccessful bidders or offerors.

Sec. 2-355. Responsibility for selection of methods of construction contract management. [Ord. of 4-21-1998(2)]

The City Manager shall designate the official(s) to be responsible for any construction project in excess of \$35,000.

Sec. 2-356. Bid security. [Ord. of 4-21-1998(2)]

- (a) Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the designated official for construction contracting management to exceed \$50,000. Bid security shall be a bond provided by a surety company authorized to do business in the state, or the equivalent in cash, or otherwise supplied in a form satisfactory to the Finance Director. Nothing herein shall prevent the requirement of such bonds on construction contracts under \$50,000 when the circumstances warrant.
- (b) Bid security shall be in an amount equal to at least 5% of the amount of the bid.
- (c) When the invitation for bids requires security, noncompliance requires that the bid be rejected unless it is determined that the bid fails to comply only in a nonsubstantial manner with the security requirements.
- (d) If a bidder is permitted to withdraw a bid before award as provided in Section 2-348(f), no action shall be taken against the bidder or the bid security.

Sec. 2-357. Contract performance and payment bonds. [Ord. of 4-21-1998(2)]

- (a) When a construction contract is awarded in excess of \$50,000, the following bonds or security shall be delivered to the City and shall become binding on the parties upon the execution of the contract:
 - (1) A performance bond satisfactory to the Finance Director executed by a surety company authorized to do business in Maine or otherwise secured in a manner satisfactory to the City Manager and Finance Director in an amount equal to 100% of the price specified in the contract; and
 - (2) A payment bond satisfactory to the Finance Director executed by a surety company authorized to do business in the state or otherwise secured in a manner satisfactory to the City Manager and Finance Director for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in the amount equal to 100% of the price specified in the contract.
- (b) After notice to the awarding authority, defined under Sec. 2-348(g), at the time of approval by the respective department, the amount of performance and payment bonds may be reduced by the awarding authority to 50% of the contract price for each bond when a written determination is provided in the approval documentation that demonstrates to the awarding authority that such a reduction is in the best interests of the City to do so.
- (c) Nothing in this section shall be construed to limit the authority of the City to require a performance bond or other security in addition to those bonds, or in circumstances other than

specified in Subsection (a) of this section. Nor shall this section be construed to limit the authority of the City to require warranties or guarantees against defects where circumstances recommend them.

Sec. 2-358. Maximum practicable competition. [Ord. of 4-21-1998(2)]

All specifications shall be drafted to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs, and shall not be unduly restrictive. The policy enunciated in this section applies to all specifications including but not limited to, those prepared for the City by architects, engineer, designers and draftsmen.

Sec. 2-359. Brand name or equal specification. [Ord. of 4-21-1998(2)]

- (a) Brand name or equal specification may be used when the Purchasing Agent determines in writing that:
- (1) No other design or performance specification or qualified products list is available;
 - (2) Time does not permit the preparation of another form of purchase description, not including a brand name specification;
 - (3) The nature of the product or the nature of the City's requirements makes use of a brand name or equal specification suitable for procurement; or
 - (4) Use of a brand name or equal specification is in the City's best interest.
- (b) Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as or equal references and shall further state that substantially equivalent products to those designated will be considered for award.
- (c) Where brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition.

Sec. 2-360. Brand name specification. [Ord. of 4-21-1998(2)]

- (a) Since use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing Agent makes a written determination that only the identified brand name item or items will satisfy the City's needs.
- (b) The department head shall provide sufficient information to the Purchasing Agent to identify sources from which the designated brand name item(s) can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 2-352.

Sec. 2-361. Finance Committee may examine and order payments. [Ord. of 4-21-1998(2)]

The Finance Committee may examine every bill, claim and demand presented for payment by any person or department official and may question its legality and validity. To support its oversight and review responsibilities, the Finance Committee shall be provided read-only access to the city's financial software system (for instance Munis or any current equivalent). This access shall include all expenses, revenues, encumbrances, and financial activity as well as line-item budgeted

amounts. Information shall be provided in a format that enables the Committee to evaluate all financial activity whether or not previously budgeted relative to the appropriations approved by the City Council in the adopted budget. The Finance Committee shall also have oversight responsibility to ensure that all expenditures budgeted or unbudgeted are properly recorded, tracked, and documented in the city's financial system. Discrepancies, omissions, and material concerns related to financial data integrity or unauthorized spending shall be documented and reported to the City Council and City Manager for corrective action.

Sec. 2-362. Signed statement required. [Ord. of 4-21-1998(2)]

The Finance Director is expressly enjoined and forbidden from approving any bill contracted by any official, agent or employee of the City unless the goods, articles or materials charged in the bill have been delivered and that they are of the quality and quantity ordered.

Sec. 2-363. Treasurer forbidden to pay or honor certain bills, warrants. [Ord. of 4-21-1998(2)]

- (a) The Finance Director is expressly enjoined and forbidden to pay any bill contracted by any official, agent or employee of the City unless an approved invoice is attached to each bill presented for payment.
- (b) The Treasurer is expressly forbidden to honor or pay any warrant drawn for the payment of moneys from the City treasury when the appropriation of the department to which such payment would properly be charged has been fully expended, or when such payment would overdraw such department's appropriation.