

ORDINANCE NO. 80-838

AN ORDINANCE TO AMEND CHAPTER 2 OF THE CODE OF ORDINANCES RELATING TO PUBLIC CONTRACTS AND RESPONSIBLE BIDDERS

THE CITY OF WARREN ORDAINS:

SECTION 1. That Chapter 2, Article IX of the Code of Ordinances of the City of Warren, Michigan be repealed in its entirety.

SECTION 2. That Chapter 2, Article VI, Division 4 of the Code of Ordinances of the City of Warren, Michigan,

IS HEREBY AMENDED TO READ AS FOLLOWS:

2-331. Short title. This ordinance is known and cited as the “purchasing ordinance”.

2-332. Purpose. It is the purpose of this Division to promote the health, safety, and welfare of the citizens of the City by ensuring that city contracts are awarded to responsible contractors and vendors through a public, fiscally responsible, and fair process.

2-333. General Provisions

2-333.1- Definitions. [formerly Sec. 2-332]

Construction contract is a contract or subcontract to demolish, build, or improve real property. Construction contracts do not include the furnishing of materials, or servicing and maintenance work.

Construction project is a project to demolish, build, or improve real property. Construction projects do not include the manufacturing, furnishing of materials, or servicing and maintenance work.

Construction worker means a skilled or unskilled mechanic, laborer, helper, assistant, apprentice, journeyman or other professional designation working on a construction project. Construction worker does not include executive, administrative, professional, office or custodial employees.

Contracting agent means any officer, board, commission or authority of the city authorized to enter into a construction contract or service contract.

Contractor means a person that contracts with the city to perform certain services.

Contractual services means, insurance, leases for real property rental, repair or maintenance of City-owned personal property, professional and technical services, and services provided to residents and property owners in the city through written agreement with the City.

Controller shall mean the City Controller or their designee.

Employee means an individual who is employed by another to provide labor in exchange for payment of wages or salary.

Employer means the person who engages employees to provide labor in exchange for payment of wages or salary.

Federal poverty line means the official poverty line defined by the office of management and budget based on bureau of census data for a family of four (4), as adjusted to reflect the percentage change in the consumer price index for all urban consumers.

Health care benefits means the right granted to an employee under a contract, certificate or policy of insurance to have payment made by a health care insurer or health care corporation for specified medical or health care services for the employee and dependents.

Living wage means one hundred twenty-five (125) percent of the federal poverty line, unless health care benefits are provided to its employees equal to the level of benefits customarily provided in the industry, then the contractor shall demonstrate that it pays its work force a living wage which is equal to one hundred (100) percent of the federal poverty line.

Major city projects are construction projects involving: (1) city road construction and utility projects; and (2) demolition, construction, or renovations to city-owned land, buildings, or facilities, where the City is the lead in the bidding process and the project is anticipated to cost more than \$250,000. Major city projects do not include projects funded by federal or state grants, sole source, consulting, or emergency services.

Person means firms, joint ventures, partnerships, corporations, clubs, and all associations or organizations of natural persons, either incorporated or unincorporated, however operating or named, and whether acting by themselves or by a servant, agent or fiduciary, and includes all legal representatives, heirs, successors and assigns thereof.

Plant Rehabilitation and Industrial Development District Act shall mean Public Act 198 of 1974, MCL 207.551 *et seq.*

Responsible contractor is a contractor that has been approved and in good standing, pursuant to Section 2-340 of this Division.

Responsible Contracting Committee is a committee made up of the Purchasing Agent, or his or her designee, the City Engineer, or his or her designee, and the Division Head of the Waste Water Treatment Plant, or his or her designee.

Service Contract is a contract or a subcontract to perform city services. Service contracts do not include construction contracts, contracts for the purchase of goods or lease or purchase of property.

2-333.2. Purchasing Division Established. The Purchasing Division is established. The Purchasing Division is a Division of the Controller's Office. The Purchasing Division is responsible for all purchases and contracts for goods and services necessary to operate the city. Except as otherwise provided in this Division, City Departments, Divisions, Offices, Boards and Commissions, and other City agencies shall procure its supplies, equipment, or services in coordination with the Purchasing Division.

2-333.3. Contracting Authority.

- (a) A contract includes a purchase order, conditions and specifications, the bid package and proposal, and any other relevant documents.
- (b) The Purchasing Agent initiates all purchases and contracts for goods and services
- (c) The City shall not enter into a contract or issue a purchase order, unless the requesting office or department has funding to satisfy the contract terms as determined by the City Controller.
- (d) The Mayor and Clerk are authorized to sign contracts on behalf of the City as provided for by Warren City Charter and this Division.

2-333.4. Administrative Procedures and Rules. The City Controller shall establish standard rules and procedures to expedite purchases and ensure efficient implementation of the requirements of this Division.

2-333.5. Duty to update City Council. The City Clerk shall notify City Council at least 90 days before the expiration, renewal, or termination of a contract involving the City or a City officer or employee who entered into a contract in his/her scope of employment. The Purchasing Division shall submit a monthly report to City Council identifying purchases valued over \$20,000 and up to \$30,000.

Cross-reference Charter 7.11(5).

2-333.6. Purchase orders. Except in cases of emergency, a purchase order requires the department head to submit a signed request to the Controller. The Controller may approve a purchase order only if there is sufficient funding in the relevant account.

2-333.7. Department Reports. At a time and a manner determined by the Controller's Office, it may require City Departments to submit a statement estimating their requirements for supplies, materials, equipment, and contractual services.

2-333.8. Persons in default to the city. Pursuant to Charter, the City does not contract with a person, entity, or entity-owner who is in default to the City.

2-333.9. Intent of Contract. When a vendor provides supplies, materials, equipment, goods and services to the City of Warren, the solicitation and procurement of said contract shall be determined by the contract as a whole and by the dominant intent of the contract.

2-334 – Wage Requirements.

2-334.1 Prevailing Wage.

(a) Requirements.

- (1) Every construction contract that uses a construction worker in the performance of a contract and is financed, in whole or in part, by the city, shall contain an express term that the rates of wages and benefits to be paid to each class of construction worker by the bidder and all of his or her subcontractors shall be not less than the wage and benefits rate prevailing on similar projects in the city. The city's department of public service shall determine the prevailing wage at the rate established by the most recent survey of the Michigan Department of Consumer and Industry Services for prevailing wage determination under Act 166 of the Public Acts of 1965 or, if unavailable, a similar schedule, as amended.
- (2) A schedule of the prevailing wage and benefits for the classes of construction workers called for in a contract shall be made a part of the specifications for the work to be performed on a construction project and shall be printed in the contract forms where work is to be done by contract.
- (3) Every contractor and subcontractor on a construction project shall keep posted in a conspicuous place on the construction site a copy of all prevailing wage and fringe benefit rates prescribed by the contract and shall keep accurate records showing the name, occupation, and actual wages and benefits paid to each construction worker employed by him or her in connection with said contract. This record shall be made available on demand for inspection by the contracting agent or the city.
- (4) Contract specifications may include, when appropriate, a requirement that the successful bidder shall enter into a project labor agreement with the Greater Detroit Building and Construction Trades Council, AFL-CIO, and its affiliated unions for the development and construction of the project.
- (5) The contracting agent, by written notice to the contractor and the sureties of the contractor known to the contracting agent, shall terminate the contractor's right to proceed with that part of the contract and construction project for which less than the prevailing rates of wages and benefits have been paid or will be paid, and may proceed to complete the contract by separate agreement with another contractor. The contracting agent shall withhold payment for work done until liabilities for unpaid wages and excess costs to the city for reletting the work have been met.
- (6) In addition to any penalty provisions provided for in this section, any contractor found to be in violation of this section by any contracting agent shall be prohibited for two (2) years from bidding on any construction project, regardless of the anticipated cost of the contract to be bid.

(b) **Exemption.** The following contracts are exempted from prevailing wage requirements:

- (1) a project or contract that is subject to an exemption from labor standards or prevailing wage requirements under federal or state laws or regulations; or
- (2) a contract that is expected to be less than \$100,000.

2-334.2. Living Wage.

(a) **Purpose.** The intent of the following provisions is to ensure that the city requires the contractor who is employed to perform work under a service contract pay a living wage to all employees who are assigned to perform work on the City of Warren premises.

- (1) **Living wage required for service contracts.** The city shall not enter into a service contract with any contractor who does not demonstrate that it pays its work force a *living wage*. The contractor shall maintain this rate of pay for the duration of the contract period.
- (2) **Compliance with adjustments in the federal poverty line.** The purchasing director, his or her designee or other employee designated by city council, shall serve as the contract *compliance auditor*. The contract compliance auditor shall monitor the federal poverty line and shall notify anyone with a service contract with the city of any adjustment in the federal poverty line. The contract compliance auditor shall require all contractors with service contracts with the city to annually demonstrate compliance with the requirements contained in subsection (b) of this section. In addition, any contractor who is required to pay its work force a living wage under subsection (b) of this section shall post a notice of such requirement in the workplace during the contract period. The notice shall also state that if the contractor has failed to comply with the requirement of subsection (b) of this section that the employee may file a notice of noncompliance upon the City of Warren contract compliance auditor and serve a copy on the contractor.
- (3) **Notice of non-compliance.** Any employee of a contractor who believes the contractor has failed to comply with subsection (b) of this section, shall file a notice with the contract compliance auditor and serve it on the contractor alleging noncompliance. The auditor shall determine the accuracy of the allegation and shall notify the contractor to submit proof of compliance within thirty (30) days or it shall be grounds for termination of the contract.
- (4) **Non-compliance.** In the event, the auditor determines that a contractor has failed to comply with the provisions of this section, the failure to rectify the non-compliance within thirty (30) days shall be grounds for the termination of a contract for services.

- (5) **Limitation on bid acceptance.** The city shall not accept any bids for a period of five (5) years from any contractor who, while contracting with the city, had failed on two (2) separate occasions to comply with subsection (b) of this section during the previous five-year period.
- (6) **Exemptions.** The following contracts, contractors, and conditions are exempted from the living wage requirement listed in this Section:
 - (1) A public entity
 - (2) A 501(c)(3) entity with ten (10) employees or less.
 - (3) There is an applicable collective bargaining agreement.
 - (4) Federal, state, or local law requires payment of a prevailing wage.
 - (5) An employee enrolled in a job training program, summer youth employment program, or work study program, if the program does not exceed ninety (90) days.
 - (6) Cooperative contracts.

2-334.3. Living Wage for Plant Rehabilitation and Industrial Development Districts.

The *Plant Rehabilitation and Industrial Development District Act* provides for the establishment of plant rehabilitation districts and industrial development districts in local governmental units and authorizes the exemption of industrial property from certain taxes pursuant to an industrial facilities exemption certificate. In applying the provisions of this act, the City shall also require compliance with the following ordinance provisions:

- (a) The City shall not grant any industrial facilities exemption certificate unless it is demonstrated that the petitioner pays its work force a *living wage*. The petitioner shall be required to maintain this rate of pay for the duration of the exemption period.
- (b) The petitioner shall be required to comply with adjustments in the federal poverty line during the exemption period and shall be required to annually demonstrate compliance with this requirement.
- (c) In the event the city determines that a petitioner has failed to comply with the requirements of this section, the failure to rectify the non-compliance within 30 days is grounds for the revocation of the industrial facilities exemption certificate.
- (d) The provisions of this section shall not apply to a plan rehabilitation or industrial development district established prior to the effective date of this section; nor to an industrial facilities exemption certificate approved prior to the effective date of this section.
- (e) The provision contained in subsection (a) requiring payment of a living wage does not apply to any employee enrolled in a job training program, summer youth employment program or work study program to exceed 90 days.

2-335 - Responsible Contractors.

(a) Applicability. This subsection applies to *construction contracts* involving a *major city project*

(b) Purpose. In enacting this Section, the City is acting in a proprietary role as a market participant. The City has determined that hiring *responsible contractors* ensures efficient use of taxpayer dollars by promoting worker safety, productivity, quality workmanship, minimizing waste, and reducing anticipated shortfalls in a trained workforce required to perform necessary City services.

(c) Prequalification form.

- (1) A potential bid applicant for a *major city project* contract shall submit a Responsible Contractor Prequalification form as developed by the City.
- (2) If not currently on the City's responsible contractor list as described in subsection (e) below, a potential contractor for a *major city project* shall submit the prequalification form by the date listed by the City in the bid advertisement.
- (3) The Prequalification form shall include the contractor's or their agent's signature swearing to the accuracy of the responses.
- (4) A *responsible contractor* has a duty to update its responses to the Prequalification form if there is a significant change to its answers during the bidding process or the term of the contract.
- (5) Failure to respond or sufficiently answer a question on the form shall give rise to a presumption that the potential contractor is not a *responsible contractor* as related to the unanswered question or incomplete answer.
- (6) An applicant or an applicant's agent who provides false or misleading answers on a Prequalification form or fails to update a prequalification form with a material change that may affect his/her status as *responsible contractor* is:
 - i. guilty of a misdemeanor punishable by incarceration for not more than ninety (90) days, a fine of not more than five hundred dollars (\$500.00), or both;
 - ii. not eligible to be awarded future City contracts; and
 - iii. a material breach of any contract between the City and the applicant.

(d) Prequalification factors and determination.

- (1) The *Responsible Contracting Committee* shall determine if each potential bid applicant is a *responsible contractor* by evaluating the following factors:
 - i. Federal, State, or local labor, workplace safety, employment, environmental, license, or tax, civil or criminal violations;
 - ii. Past contract delays, overages, breaches, cancellations, suspensions, and work history;
 - iii. Outstanding judgments or pending legal disputes relevant to the bid applicant's ability to perform the contract;
 - iv. Manager's, member's, officer's, owner's, or other similar person's criminal history;
 - v. Participation in labor force development including, but not limited to apprenticeship and continuing education programs; and

- vi. Proper classification of workers as employees.
- (2) Except as provided in subsection (3) below, the *Responsible Contracting Committee* has general discretion to determine *responsible contractor* status. The determination is fact-specific and is conducted on a case-by-case basis.
- (3) The *Responsible Contracting Committee* shall deny *responsible contractor* status to a potential bid applicant if any person or entity involved in the contract or performing the work has had significant violations involving criminal, licensing, labor and employment, tax, workplace safety, environmental law or regulations; or does not offer employees a *prevailing wage*.

(e) Responsible Contractor List.

- (1) The City shall keep a list of contractors that have been determined to be *responsible contractors* under this section.
- (2) Except if removed from the *responsible contractor* list, the contractor is eligible to enter into *major city contracts*.
- (3) Unless exempted as provided below, all contractors performing work on a *major city project* are required to be listed on the *responsible contractor* list.
- (4) Unless exempted as provided below, if work is performed on a *major city project* by any contractor who is not listed on the *responsible contractor* list, all contractors involved may be subject to revocation as provided below.

(f) Exemption. Contractors with less than ten employees are exempted from the *responsible contractor* prequalification.

(g) Revocation. If the *Responsible Contracting Committee* determines that an applicant on the *responsible contractor* list: (1) has misrepresented or failed to report information relevant to its *responsible contractor* status on the prequalification form; (2) has taken an action after submitting the prequalification form that affects its status as a *responsible contractor*, or (3) for any other reason, should not be included on the list, the *Responsible Contracting Committee* may remove the applicant from the *responsible contractor* list.

(h) Notice of determination.

- (1) If the *Responsible Contracting Committee* determines that an applicant is not a *responsible contractor* within the definition of this Section, it will send written notice of the determination and its reason for denying its application or revoking its status.
- (2) The applicant may appeal this determination as provided in this Section.
- (3) The applicant may reapply to be a *responsible contractor* upon instituting the necessary changes listed in the relevant city department's denial letter.

(i) Appeal.

- (1) An applicant may appeal the determination that an applicant is not a *responsible contractor* to the Public Service Director or his or her designee.

- (2) The appeal must be submitted to the Public Service Director within 7 days of receipt of the notice of determination, be in writing, and state the reasons why the applicant is a *responsible contractor*.
- (3) The Public Service Director's standard of appellate review is to determine if the *Responsible Contracting Committee* acted in an arbitrary and capricious manner.
- (4) Within 10 days of the appeal hearing, the Public Service Director shall provide a written decision to the *Responsible Contracting Committee* and applicant stating the reasons for its decision.
- (5) The applicant may appeal the Public Service Director's decision as provided by law and court rule.

(j) Violations. A person may file a sworn complaint with the *Responsible Contracting Committee* about a contractor on the City's prequalified contractor list. The *Responsible Contracting Committee* will investigate any credible complaint to determine if the contractor is in violation of the requirements of this Chapter.

2-336 - Procurement methods.

Procurement transactions shall be conducted through fair and open competition to satisfy the public need for equipment, material, supplies and services at economical prices. The following source selection techniques shall be employed to provide effective competition in the procurement process:

- (a) Small purchase quotations.
- (b) Request for quotations (RFQ).
- (c) Sealed/electronic bidding.
- (d) Cooperative purchasing.
- (e) Sole source procurement.
- (f) Spot market purchases.
- (g) Merchandise for resale-market quotations.
- (h) Proposals for professional or technical services or services provided to residents and property owners in the city through written agreement with the city.
- (i) Emergency purchases.
- (j) Purchases utilizing grant funds (state and federal).
- (k) Reporting procedure.

2-336.1. Small purchase transactions.

- (a) The using department shall procure equipment, material, supplies, goods and services costing at or below \$10,000 at the discretion of the purchasing agent.

- (b) Petty cash purchases for items constituting supplies, materials, and equipment may be authorized by the office accounting under rules and regulations established by the city controller.
- (c) Small purchase quotation awards do not require council approval.
- (d) Procurement requirements shall not be artificially provided so as to constitute a small purchase under this section.

2-336.2. Requests for quotations.

- (a) Requests for Quotations shall be obtained for procurement of equipment, material, supplies, goods and services costing in excess of \$10,000 and at, or below, \$20,000 by the using department via an electronic bid network, or other means established by the purchasing agent and city controller, and approved by council. Bid submittals shall be issued by the vendor via on-line bidding.
- (b) Quotation procedures shall be established by the office of the city controller, subject to review by the council to ensure that related purchase orders shall be awarded on the basis of low responsible quotation and cost-effective purchase.
- (c) Request for quotation awards do not require council approval.

2-336.3. Sealed/Electronic bidding.

- (a) Sealed/electronic bidding shall be used for procurement of equipment, material, supplies, goods and services costing in excess of \$20,000, except:
 - (1) Those of an emergency nature as outlined in section 2-337(i).
 - (2) Merchandise purchased for resale.
 - (3) In other limited situations identified in the sealed/electronic bidding procedure established by the city controller and reported to the council in the bid report recommending award of a contract where the sealed/electronic-bidding process may discourage competitive bidding and/or not be cost-effective.
- (b) A specifications committee consisting of the purchasing agent and the head of the department for whom the procurement is being made, shall work to develop and approve specifications. The specifications committee shall recommend the low responsible and cost-effective bid for award. When judged necessary by the committee, the city engineer or other technically qualified person may be designated to serve as an additional member of the specifications committee.
- (c) Plans and specifications for items to be procured under the sealed/electronic bid process shall be prepared and posted electronically by the purchasing agent for public inspection.
- (d) The process in which the sealed/electronic bids are posted via an electronic bid network shall be approved by the purchasing agent, city controller, and council.
- (e) Sealed/electronic bid awards costing \$30,000 or less do not require council approval.
- (f) Sealed/electronic bid awards costing in excess of \$30,000 require council approval.

- (g) The purchasing agent may require bid deposits, bonds (performance, payment, maintenance, etc.), and liability insurance as part of the procurement process, if it is deemed to be necessary for the protection of the public interest.

When a bid security is necessary, a certified cashier's check or money order will be held as a guaranty that such a bidder will enter into the contract in accordance with the terms of such advertisement and bid. A bid bond may be used for such guaranty at the discretion of the purchasing agent.

- (h) The mayor and clerk are authorized to sign formal contracts awarded under this section. No contract shall become operative until approved as to legality and form by the city's legal department.
- (i) If the amount of any expenditure or sale of any item is estimated to exceed \$150,000 in any one (1) year, no such expenditure or sale shall be approved by council until thirty (30) days after it has been presented to council and, in the case of a purchase of services, after a report is made in writing to council by the controller specifying the experience, financial reliability and references of the contractor to whom award of the contract is proposed, the requirements of this section 2-337.3(i) may be waived where immediate procurement is essential to protect the life, health, or convenience of citizens, upon a majority vote of council.

2-336.4. Cooperative purchasing.

- (a) The city may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies, equipment, goods or services with one (1) or more public procurement units when it is in the best interest of the city.
- (b) Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between public procurement units and open-ended state or federal public procurement unit contracts which are made available to the city.
- (c) The city may also utilize cooperative purchasing organizations, including those using electronic bidding, to purchase supplies and services when deemed by the purchasing agent, city controller, or council to be in the best interest of the city.
- (d) Each cooperative purchasing agreement is subject to approval of the council, if the procurement of goods or services exceeds \$30,000.

2-336.5. Sole source purchases.

- (a) A sole source purchase for supplies, materials, services, or construction items where the cost is expected to be not more than \$30,000 may be awarded by the purchasing agent without competitive bids or the approval of council, when the purchasing agent determines, after conducting a good faith review of available sources, that there is only one (1) source for supplying the requested supply, material, service, or construction item and that the price is reasonable.

Such sole sources include, but are not necessarily limited to:

- (1) Proprietary replacement parts available only from authorized distributors;

- (2) Professional or trade memberships, subscriptions, and publications;
 - (3) Public utilities and telephone service; and
 - (4) Federal, state and local government or agency contracts.
- (b) A sole source purchase shall be made at the lowest obtainable price. With respect to purchases of supplies, materials, services or construction items with a cost of more than \$30,000, the purchasing agent shall submit a report prior to approval of the council identifying the basis for the determinations that the proposed successful contractor or vendor is the sole source for the supplies, services or construction item sought to be purchased and that the price is reasonable.
- (b) Documentation shall be furnished that supports the sole source determination. The written documentation shall be available for public inspection in the office of purchasing. The purchasing agent, along with a representative from the requesting department, shall conduct negotiations as appropriate.

2-336.6 Spot market purchases.

- (a) Spot market purchases are defined as the procurement of a commodity (not a contractual service) in the open market through the quotation process to obtain the lowest price available at the time the item is needed; notwithstanding the annual cumulative purchasing total of such commodity can be projected to exceed \$30,000.
- (b) Upon the recommendation of the controller's department, the council may authorize the purchasing agent to make spot market purchases of a specific item for a specified period of time, when in the judgment of the council such authorization would be in the best interest of the city.
- (c) After each spot market purchase the purchasing agent shall report to the mayor and the council the circumstances involved, including the name and bid of firms submitting quotations, the quotation selected, and the amount of the order placed.

2-336.7. Merchandise for resale.

Because of the commercial nature and product characteristics of this type of procurement, the purchasing agent is authorized to purchase merchandise for resale through competitive quotation in the open market.

2-336.8. Professional or technical services.

Engagements involving professional or technical services or services provided to residents and property owners in the city through written agreement with the city shall be approved by the mayor. Professional or technical services costing in excess of \$30,000 shall be recommended for award to the council by the review panel after requests for proposals have been issued and reviewed as follows:

- (a) A review panel shall be assembled, consisting of the head of the department requesting the service, a member of council, the controller, the human resources/risk management office, purchasing agent, and the attorney's office, and such other persons who may be appointed by the mayor. The council

representative placed on the review panel shall possess the express authority of the council to exercise his/her authority on the review panel.

- (b) The purchasing agent and the review panel shall identify a list of qualified professionals or technical firms or persons to which a "request for proposal" shall be issued.
- (c) The review panel shall study the proposals submitted, and by majority opinion, shall recommend to the mayor and council that firm or person deemed to possess the best combination of professional or technical skills, related experience, demonstrated responsibility, and a reasonable cost.
- (d) The mayor and city clerk are authorized to sign contracts awarded under this section after approval by council. No contract shall become operative until approved as to legality and form by the department of law.
- (e) To provide for continuity of effort, or uniformity of results, the council may extend an existing contract within the parameters of the Warren City Charter for professional, technical or contractual services as defined herein.
- (f) When requests for proposals are issued:
 - (1) A copy shall be made available to the council office.
 - (2) When responses are received, a copy shall be distributed to each member of the review panel.
 - (3) When a proposal is accepted and sent to council for approval, it should also include the information why it was chosen and others were rejected, and also a financial history and references from other jobs that it has done.

2-336.9. Emergency purchases.

- (a) Emergency purchases are authorized not to exceed the amount of fifty thousand dollars (\$50,000.00) to be procured at the lowest obtainable price. For purposes of this section, an emergency is defined as a severe and imminent threat to the health, safety, or welfare of the public where a delay would be detrimental to efforts to lessen or respond to the threat.
- (b) Emergency purchases shall be authorized by the mayor, the city controller, or his or her designee, and the purchasing agent.
- (c) Council shall be immediately notified upon the execution of an emergency purchase, based upon the limits contained in this section.
- (d) A full report of the circumstances of an emergency purchase shall be filed by the purchasing agent with the council and shall be entered in the minutes of the council and shall be open to public inspection.
- (e) Pursuant to section 5 of the Open Meetings Act, Act 267 of 1976, the city council may meet in an emergency session with less than 18 hours public notice to consider approving emergency expenditures that exceed fifty thousand dollars (\$50,000.00). To convene an emergency session, there shall be a two-thirds ($\frac{2}{3}$)

vote of the members of the city council to determining that there is an actual emergency as defined in subsection (a).

2-336.10. Grant funded purchases.

Except as provided elsewhere in this Division, purchases utilizing grant funds shall be subject to the purchasing ordinance or and the rules governing federal or state grant programs.

2-336.11. Special counsel.

The council shall retain the authority to employ special counsel pursuant to section 7.10(b) of the city charter for matters relating to the affairs of the city notwithstanding the requirements of section 2-341.9 of this division.

2-336.12. Disposition of city equipment, material or supplies.

The purchasing agent is authorized to dispose of equipment, material and supplies which have become obsolete, or for which the city has no further need under the following procedures:

- (a) The purchasing agent may affect disposition through trade-in against the purchase price of new or replacement items, as part of the procurement process outlined in this division.
- (b) The purchasing agent may sell such items at a public auction, or through a sealed/electronic bid process, to the highest responsible bidder. Such auction or sealed/electronic bid process shall be advertised at least once in the official newspaper of the city at least ten (10) days prior to such public auction or public opening of sealed/electronic bids.
- (c) Specialized items relatively unique to a municipal operation (such as fire apparatus, sewer cleaning equipment, street sweepers, etc.) may be sold by the purchasing agent (after advertisement in the official newspaper of the city, and in selected trade journals through open bids, or through a negotiated price with available sources including other units of government).
- (d) Upon recommendation of the purchasing agent, the council may, by resolution, authorize alternative methods of disposition intended to result in a greater benefit to the city.
- (e) Items which cannot be sold through public auction, or through the sealed/electronic or open bid process, may be sold as salvage, or scrapped by the purchasing agent if the item has no market value. A disposition record of all such items shall be maintained by the purchasing agent for three (3) years.

2-336.13. Real Property.

Transactions involving the purchase, sale, gift or lease of real property shall be authorized by council resolution. Offers to purchase and proposals to sell city-owned property shall be reviewed by the city attorney and a recommendation made

concerning: (1) the sufficiency of the consideration and (2) the public purpose involved in the land transaction. The following factors shall be considered and identified by the city attorney in making any recommendations to the city council for the purchase, sale or lease of real property:

(a) *Purchase.*

- (1) Identification of the public purpose involved in the proposed land transaction shall be construed liberally.
- (2) Determination of the market value of the property as indicated by an independent outside appraisal unless purchased by way of tax foreclosure.

(b) *Sale.*

- (1) Identification of the public purpose involved in the proposed land transaction shall be construed liberally.
- (2) Determination of the market value of the property as indicated by the assessor when the real property to be sold is:
 - (i) Vacant; and
 - (ii) Zoned R-1-A, R-1-B, R-1-C or R-1-P; and
 - (iii) To be purchased by the owner of adjacent property that is also zoned either R-1-A, R-1-B, R-1-C or R-1-P; and
 - (iv) To be permanently combined with the adjacent property; and
 - (v) Prohibited, by recorded deed restriction, from being used solely to construct a subsequent stand alone single family residence. This does not prohibit the combined real property from being used for this purpose.

All real property transactions shall be authorized by council resolution. The market price of any property sold by the city and not within the zoning designations noted in paragraph 2. above shall be confirmed to the city council by both an independent appraiser and the city assessor pursuant to charter section 9.23. All land transactions involving city officers or employees shall be governed by applicable provisions of state law and city charter on conflicts of interest and in any event, shall require a full disclosure of the officer or employee's interest and non-voting of the officer involved. Notwithstanding the above, all land transactions shall follow the procedures for land transactions as set forth in Warren City Charter Sections 14.3 and 14.4.

SECTION 3. This Ordinance shall take effect on July 1, 2026.

I HEREBY CERTIFY that the foregoing Ordinance No. 80-838 was adopted by the Council of the City of Warren at its meeting held on October 28, 2025.



SONJA BUFFA
City Clerk