

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 2.18 of the Lincoln Municipal Code relating
2 to the City's Purchasing Division to update department expenditure amounts and to incorporate the
3 changes to the City Charter approved by the voters in the May 2008 election, by amending Section
4 2.18.020 to increase the level of repair expenditures which require purchase by bidding, and to
5 conform language to the revised Charter provisions; amending Section 2.18.030 to increase the
6 threshold of expenditures which require bidding to \$25,000, to update department expenditure
7 amounts, to update obsolete language to reflect electronic bidding provisions, to provide additional
8 grounds under which the City could disqualify vendors from bidding, to create an appeal process
9 for disqualified vendors, and to streamline purchasing provisions allowing joint purchasing with
10 other units of government; by amending Section 2.18.060 to authorize the Purchasing Agent to
11 require pre-delivery or post delivery inspections for purchases, and to require inspections for all
12 purchases over \$100,000; and repealing Sections 2.18.020, 2.18.030, and 2.18.060 of the Lincoln
13 Municipal Code as hitherto existing.

14 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

15 Section 1. That Section 2.18.060 of the Lincoln Municipal Code be amended to read
16 as follows:

17 **2.18.020 Make All Purchases.**

18 It shall be the duty and function of the Purchasing Division to purchase ~~and contract for~~ all
19 materials, parts, supplies, and equipment with an estimated cost of \$1,500.00 or more ~~or~~ and for
20 repairs of equipment and facilities with an estimated cost of ~~\$4,000.00~~ \$10,000.00 or more for the

1 City of Lincoln and each of its departments under the rules and regulations hereinafter enacted and
2 established and subject to the approval of the Mayor.

3 Single purchases of materials, parts, supplies, and equipment with an estimated cost of less
4 than \$1,500.00, ~~or~~ and repairs of equipment and facilities with an estimated cost of less than
5 ~~\$4,000.00~~ \$10,000.00 may be purchased directly by the using department, provided said items are
6 not currently available through a city supply contract. At least three informal bids shall be obtained
7 and recorded, and such purchases shall be awarded to the lowest responsible bidder. Under no
8 circumstances shall purchases be split into smaller purchases to avoid any provision of this chapter.

9 Section 2. That Section 2.18.030 of the Lincoln Municipal Code be amended to read
10 as follows:

11 **2.18.030 Rules and Regulations.**

12 The following rules and regulations are hereby enacted and established for the purchase of
13 materials, parts, supplies, and equipment by the Purchasing Division:

14 (a) The Purchasing Agent shall make all purchases of materials, parts, supplies, and
15 equipment with an estimated cost of \$1,500.00 or more hereby required to be made by the
16 Purchasing Division, and the Purchasing Agent shall sign all purchase orders. Except as herein
17 provided, it shall be unlawful for any city officer, officers, or employee to order or purchase any
18 supplies or equipment or make any contract within the purview of this chapter other than through
19 the Division of Purchasing, and any purchase or contract made contrary to the provisions hereof
20 shall not be approved by the city, and the city shall not be bound thereby.

21 (b) All purchases with an estimated cost of \$1,500.00 or more shall be made upon the
22 requisition of the department desiring the same. The Purchasing Agent may purchase for stock on
23 the basis of the total of such requisitions or upon estimates previously filed. All departments shall

1 file estimates of materials, supplies, and equipment required at such times and in such manner as
2 shall be determined and requested by the Purchasing Division. The Purchasing Division shall
3 examine each requisition or estimate and shall have the authority to revise it as to quality, quantity,
4 or estimate cost; but revision as to quality shall be in accordance with the standards and
5 specifications established pursuant to this chapter.

6 (c) The Purchasing Division, in cooperation with all officers of the several departments,
7 shall provide for the standardization of materials, supplies, and equipment in accordance with the
8 use of which the various articles are to be put and shall provide for adequate specifications for
9 materials, supplies, and equipment used in large quantities or in common use by more than one
10 department. The Purchasing Division shall, in addition to other duties:

11 (1) act to procure for the city the highest quality in supplies and contractual
12 services at least expense to the city, and

13 (2) discourage uniform bidding and endeavor to obtain as full and open
14 competition as possible on all purchases and sales. All specifications shall be definite and certain
15 and shall permit competition.

16 (d) The Purchasing Agent may require bid security when necessary in the public notices
17 inviting bids. The Purchasing Agent shall return bid security to all unsuccessful bidders where the
18 Purchasing Agent has required such security. A successful bidder shall forfeit any bid security
19 required by the Purchasing Agent upon failure to enter into the related contract within ten days after
20 the award, or upon failure to deliver supplies and equipment in keeping with specifications. The
21 Purchasing Agent shall keep and maintain a bid security record to account for all security bids and
22 the disposition of same.

1 (e) The Purchasing Agent may provide for the creation of a store or stores to be under
2 his general direction, supervision, and control. Material, supplies, and equipment placed in the store
3 or stores so created as the Purchasing Agent may determine shall be issued therefrom to departments
4 on requisition and whenever so furnished shall be charged to the department to which issued or
5 delivered and entering same to the credit of the stores account. The Purchasing Agent shall at all
6 times keep a complete inventory of materials, supplies, and equipment on hand.

7 (f) Any purchase calling for an expenditure involving more than ~~\$10,000.00~~ \$25,000.00
8 shall be entered into and authorized only in accordance with City of Lincoln Charter, Article VII,
9 Section 2.

10 (g) Competitive bidding shall not be required when unique or noncompetitive articles
11 are being purchased or when no bids have been received after following the formal procedure or
12 when professional services are being contracted for as determined by the Purchasing Agent, pursuant
13 to the provisions of City of Lincoln Charter, Article VII, Section 2.

14 (h) Advertisement for bids shall not be required for any purchase wherein the probable
15 expenditure shall not exceed ~~\$10,000.00~~ \$25,000.00; but in such case, the Purchasing Agent shall
16 secure and record at least three informal bids, if practicable. If a department is making a single item
17 purchase under \$1,500.00 or a repair under ~~\$4,000.00~~ \$10,000.00, the department shall secure and
18 record at least three informal bids, if practicable.

19 (i) In all cases where bids are required and received, the Purchasing Agent shall award
20 the contracts and purchase orders to the lowest responsible bidder. If, however, the Purchasing
21 Agent believes the interests of the city could be best served by accepting other than the lowest bid,
22 the Purchasing Agent shall submit in writing as a part of the award the reason for accepting such

1 higher bid, and shall present a copy thereof to the Mayor. If the Purchasing Agent finds that the
2 public interest will be best served thereby, and with the approval of the Mayor, the Purchasing Agent
3 may reject any and all bids or parts of any bid or bids upon any one or more articles embraced in any
4 bid. All bidders shall ~~seal and deliver~~ submit their bids to the Purchasing Agent, and the Purchasing
5 Agent shall ~~open~~ electronically unseal all bids at an hour and place which shall be stated in the
6 advertisement for bids and in the presence of all bidders who attend. Bidders may inspect the bids
7 after reference to and tabulation by the Purchasing Agent.

8 (j) In determining “lowest responsible bidder,” in addition to price, the Purchasing Agent
9 or department shall consider:

10 (1) The ability, capacity, and skill of the bidder to perform the contract or provide
11 the service required;

12 (2) Whether the bidder can perform the contract or provide the service promptly,
13 or within the time specified, without delay or interference;

14 (3) The character, integrity, reputation, judgment, experience, and efficiency of
15 the bidder;

16 (4) The quality of performance of previous contracts or services;

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

19 (6) The sufficiency of the financial resources and ability of the bidder to perform
20 the contract or provide the service;

21 (7) The quality, availability, and adaptability of the supplies or contractual
22 services to the particular use required;

23 (8) The ability of the bidder to provide future maintenance and service for the use
24 of the subject of the contract;

25 (9) The number and scope of conditions attached to the bid.

26 (k) In case of low tie bids, all other things being equal, preference shall be given in the
27 following order. If more than one low tie bid in any category occurs, lots shall be drawn.

28 (1) To those bidders who manufacture their products within the limits of the City
29 of Lincoln;

30 (2) To those bidders who manufacture their products within the limits of the
31 County of Lancaster;

1 (3) To those bidders who package, process, or through some other substantial
2 operation have employees and facilities for these purposes in the City of Lincoln;

3 (4) To those bidders who package, process, or through some other substantial
4 operation have employees and facilities for these purposes in the County of Lancaster;

5 (5) To those bidders who maintain a bona fide business office in the City of
6 Lincoln, whose products may be made outside the confines of the County of Lancaster;

7 (6) To those bidders who maintain a bona fide business office in the County of
8 Lancaster, whose products may be made outside the confines of the County of Lancaster;

9 (7) To those bidders whose commodities are manufactured, mined, produced or
10 grown within the State of Nebraska and to all firms, corporations, or individuals doing business as
11 Nebraska firms, corporations, or individuals when quality is equal or better and delivered price is
12 the same or less than the other bids received; provided, however, the above preferences shall not be
13 given where the purchase is made in whole or in part with federal funds and the applicable federal
14 procurement regulations prohibit the giving of any local preference, in which case, in the event of
15 more than one low tie bid, the tie shall be broken by the drawing of lots.

16 (8) To those bidders whose commodities are manufactured, mined, produced or
17 grown within the United States of America and to all firms, corporations, or individuals doing
18 business as firms registered in states other than Nebraska, when quality is equal or better and
19 delivered price is the same or less than the other bids received; provided, however, the above
20 preferences shall not be given where the purchase is made in whole or in part with federal funds and
21 the applicable federal procurement regulations prohibit the giving of any local preference, in which
22 case, in the event of more than one low tie bid, the tie shall be broken by the drawing of lots.

23 (l) In case of actual emergency, and with the consent of the Purchasing Agent, the head
24 of any using agency may purchase directly any supplies whose immediate procurement is essential
25 to prevent delays in the work of the using agency. The head of such using agency shall send to the
26 Purchasing Agent a requisition and a copy of the delivery record, together with a full written report
27 of the circumstances of the emergency.

28 (m) The Purchasing Agent shall prescribe by rules and regulations the procedure under
29 which emergency purchases by heads of using agencies may be made.

30 (n) The Purchasing Agent shall have the authority with the approval of the ~~Mayor~~
31 Finance Director and the Director of Public Works and Utilities to declare vendors ~~who default on~~
32 ~~their bids and contracts~~ irresponsible bidders and to disqualify them from receiving any business
33 from the municipality for a stated period of time, if said vendor (1) has defaulted on previous bids

1 or contracts; (2) has previous unresolved contract performance issues with the City; (3) is involved
2 in collusion with other bidders; (4) has failed to timely complete previous projects with the City; or
3 (5) has unpaid debts owed to the City. Any vendor that has been declared irresponsible may, within
4 14 days of the Purchasing Agent's decision, appeal that determination to the Mayor.

5 (o) The Purchasing Agent shall have the authority to join with other units of government
6 in cooperative purchasing when the best interests of the City would be served thereby; ~~provided,~~
7 ~~however, such purchases shall be made to the extent possible by giving notice and preference to~~
8 ~~qualified local bidders in accordance with the rules and regulations established in this chapter and~~
9 ~~the policies of the Purchasing Division.~~

10 (p) The Purchasing Agent shall keep a commodity record showing commodities
11 purchased, from whom purchased, and the price paid.

12 Section 3. That Section 2.18.060 of the Lincoln Municipal Code be amended to read
13 as follows:

14 **2.18.060 Inspection and Testing.**

15 All materials, supplies, and equipment furnished under any purchase order or contract shall
16 be subject to inspection for conformance with specifications. The Purchasing Agent shall have
17 authority to require pre-delivery or post-delivery inspections to determine conformance with
18 specifications. For all purchases over \$100,000.00, inspections by the Purchasing Agent or his
19 designee shall be required. The Purchasing Agent shall have authority to prescribe tests for the
20 determination of quality of all proposed purchases or deliveries when such quality can be accurately
21 determined by tests. It shall have authority through the head of the department in charge thereof to
22 require the use of laboratory facilities of the city and the technical staffs thereof for such tests of
23 samples of proposed purchases or deliveries. Bills to cover the cost of such tests when approved by

1 the Purchasing Agent shall be paid out of funds of the department for whose use the material,
2 supplies, or equipment is delivered or is proposed to be purchased.

3 Section 4. That Sections 2.18.020, 2.18.030, and 2.18.060 of the Lincoln Municipal
4 Code as hitherto existing be and the same are hereby repealed.

5 Section 5. That this ordinance shall take effect and be in force from and after its
6 passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2008:

Mayor