NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held before the Mayor of the City of Rochester in Room 309A, City Hall, 30 Church Street, on Friday, October 18, 2024 at 1:00 P.M., upon the following entitled local law which was passed by the City Council and which may be read at [www.cityofrochester.gov/councilproceedings](http://www.cityofrochester.gov/councilproceedings):

**Int. No. 383: Local Law amending the City Charter with respect to the Director of Purchasing and Assistant Director of Purchasing offices**

Malik D. Evans

Mayor



Local Law No.

**Local Law amending the City Charter with respect to the Director of Purchasing and Assistant Director of Purchasing offices**

 BE IT ENACTED, by the Council of the City of Rochester as follows:

 Section 1. Chapter 755 of the Laws of 1907, entitled “An Act Constituting the Charter of the City of Rochester”, as amended, is hereby further amended:

A. By revising Section 2-18 of the City Charter, Code of Ethics, in a segment of its subsection G(1) list of City positions requiring the filing of a financial disclosure form as follows:

Parking Director

Assistant Director of Parking

~~Purchasing Agent~~

Director of Purchasing

Assistant Director of Purchasing

Commissioner of Neighborhood and Business Development

Neighborhood Service Centers Director

B. By revising the following sections of City Charter Article VI, Department of Finance, to substitute “Director of Purchasing” for the phrase “Purchasing Agent” in each place that it appears therein:

§ 6-7. Bureau of Purchasing

§ 6-33. Competition on purchases and sales.

§ 6-34. Contracts exceeding one year.

§ 6-36. Emergency repairs.

C. And by revising the following section of City Charter Article XIII, Local Improvements, to substitute “Director of Purchasing” for the phrase “Purchasing Agent” in each place that it appears therein:

 §13-7. Contracts for local improvements.

 Section 2. This local law shall take effect upon its filing in the Office of the Secretary of State as provided by Section 27 of the NYS Municipal Home Rule Law.

Ordinance No.

**Amending Chapters 8, 8A, 10 and 106 of the Municipal Code with respect to the Director of Purchasing and Assistant Director of Purchasing offices**

 BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The following sections of Municipal Code Chapter 8, Department of Finance, are hereby amended by substituting “Director of Purchasing” for the phrase “Purchasing Agent” in each place that it appears therein:

§ 8-3. Fiscal agent.

§ 8-12. Purchases without competition.

§ 8-14. Sales without competition.

§ 8-25. Sale of publications.

 Section 2. Municipal Code Chapter 8A, Purchasing and Property Management, is hereby amended:

A. By revising the definitions list in Section 8A-2, Definitions, as follows

AGENCY HEADS — The head or the deputy head of any City department, agency or commission, and shall mean the head or the deputy head of any bureau reporting directly to the Mayor.

CITY — The City of Rochester, New York.

CITY COUNCIL or COUNCIL — The Council of the City of Rochester.

CONTRACTS — All types of agreements and orders for the procurement or sale of supplies or services. It includes awards, notices of award, letter contract, purchase orders, leases, rentals and bills of sale.

CONTRACTUAL SERVICES — All public works, including the construction, repair and maintenance of buildings, roadways, equipment, machinery and other City-owned real and personal property, and also all telephone, gas, water, electric light, power, cleaning and similar services. The term shall not include professional or other personal services which are in their nature unique and not subject to competition.

DIRECTOR OF PURCHASING — The designated purchasing agent of the City of Rochester.

EXCESS PROPERTY — Any property under the control of any using agency which is not required for its needs and the discharge of its responsibilities as determined by the head thereof.

INVITATION FOR BIDS — Includes the advertisement for bids and all of the proposed contract documents, including any plans and specifications, instructions to bidders, proposals, contract agreements and addenda thereto.

MINOR INFORMALITY OR IRREGULARITY IN A BID — An informality or irregularity which is merely a matter of form and not of substance or which pertains to some immaterial or inconsequential defect or variation of a bid from the exact requirements of the invitation for bids, the correction or waiver of which would not be prejudicial to other bidders. The defect or variation in the bid is "immaterial and inconsequential" when its significance as to price, quantity, quality or delivery is trivial or negligible when contrasted with the total cost or scope of the supplies or services being procured.

PERSON (and the masculine pronoun as used throughout this chapter) — Includes any individual, association, partnership, corporation, firm, trust, estate or other entity.

~~PURCHASING AGENT — The designated purchasing agent of the City of Rochester.~~

SUPPLIES — All supplies, materials and equipment and other personal property.

SURPLUS PROPERTY — Any excess personal property not required for the needs and the discharge of the responsibilities of all using agencies in the City government, as determined by the ~~Purchasing Agent~~ Director of Purchasing.

USING AGENCY — Any department, agency, commission, bureau, establishment or other unit in the City government which derives its support wholly or in part from the City and which uses supplies or procures contractual services.

B. By revising Section 8A-3, Purchasing Agent; powers and duties, as follows:

§ 8A-3. ~~Purchasing Agent~~Director of Purchasing; powers and duties.

A. ~~The Purchasing Agent~~Director of Purchasing shall have the powers and duties prescribed by law, by this chapter and by any rules or regulations as may be prescribed by the Mayor.

B. Scope of purchasing authority. The ~~Purchasing Agent~~ Director of Purchasing shall have the power and it shall be his or her duty to enter into purchase rental and lease contracts for supplies and to enter into contracts for public work and other contractual services, except professional and other personal services which are in their nature unique and not subject to competition, needed by any using agency in the City government and to sell surplus property and other personal property owned by the City.

C. ~~The Purchasing Agent~~Director of Purchasing shall assume charge and control of, and be responsible for, the general conduct of the business of his or her office and for the faithful discharge of the duties of his or her deputy and other persons under his or her direct supervision and control. Provided he or she remains so responsible, the ~~Purchasing Agent~~ Director of Purchasing may designate the Assistant Director of Purchasing or other persons under ~~his or her~~ the direct supervision and control of the Director of Purchasing to place orders for the purchase of supplies and contractual services.

D. Except as herein provided and except for persons under the direct supervision and control of the ~~Purchasing Agent~~ Director of Purchasing, it shall be unlawful for any City officer or employee or any using agency to order the purchase of any supplies or make any contract within the purview of this chapter other than through the ~~Purchasing Agent~~ Director of Purchasing. Any purchase ordered or contract made contrary to the provisions hereof shall not be approved by the City officials, and the City shall not be bound thereby.

E. Other powers and duties. In addition to the purchasing authority conferred in Subsection B of this section, and in addition to any other powers and duties conferred by this chapter, the ~~Purchasing Agent~~ Director of Purchasing shall:

(1) Act to procure for the City the highest quality in supplies and contractual services at the least expense or best value to the City.

(2) Seek to establish uniform specifications for the City where practical, so that the City may obtain favorable quantity and volume pricing.

(3) Discourage uniform bidding and endeavor to obtain full and open competition on all purchases and sales.

(4) Prescribe rules and regulations for the implementation of this chapter, including policies and methods relating to procurement, storage and use of goods and services.

(5) Prescribe and maintain such forms as he or she shall find reasonably necessary to the operation of this chapter.

(6) Cooperate with the Department of Finance so as to secure for the City the maximum efficiency in budgeting and accounting.

(7) Maintain a list of bidders from which to seek bids for supplies, products and services.

C. By revising Section 8A-9, Negotiated contracts, as follows:

§ 8A-9. Negotiated contracts.

A. Except as provided in Subsection B of this section, contracts negotiated on behalf of the City by the ~~Purchasing Agent~~ Director of Purchasing may be of any type which in the opinion of the ~~Purchasing Agent~~ Director of Purchasing will promote the best interests of the City. The ~~Purchasing Agent~~ Director of Purchasing shall determine that the method of contracting for a negotiated contract is likely to be less costly than other methods, that the prospective vendor is responsible, that the supplies or contractual services to be provided are of the kind and quality required by the City and that the price is fair and reasonable.

B. The cost-plus-a-percentage-of-cost system of contracting shall not be used, and in the case of a cost-plus-a-fixed-fee contract, the fee shall not exceed 15% of the estimated cost of the contract, exclusive of the fee, as determined by the ~~Purchasing Agent~~ Director of Purchasing at the time of entering into such contract. The ~~Purchasing Agent~~ Director of Purchasing, the Assistant Director of Purchasing or ~~his or her~~ the Director’s designate, shall have the right to inspect the plans and to audit the books and records of any prime contractor or subcontractor engaged in the performance of a cost or cost-plus-a-fixed-fee contract.

C. All contracts negotiated pursuant to authority contained in this section shall include a clause to the effect that the ~~Purchasing Agent~~ Director of Purchasing or his or her duly authorized representative shall until the expiration of three years after final payment have access to and the right to examine any directly pertinent books, documents, papers and records of the contractor or any of his or her subcontractors engaged in the performance of and involving transactions related to such contracts or subcontracts. Such clause may be omitted from contracts where the ~~Purchasing Agent~~ Director of Purchasing determines, after taking into account the price and availability of the property of services from other sources, that the public interest would be best served by the omission of such clause.

D. By substituting “Director of Purchasing” for the phrase “Purchasing Agent” in each place that it appears in the following sections:

§ 8A-4 Requisitions and estimates.

§ 8A-5 Encumbrance of funds.

§ 8A-7Formal contract procedure.

§ 8A-8 Open market procedure for purchases and sales.

§ 8A-10 Performance and payment security.

§ 8A-11 Storerooms.

§ 8A-12 Emergency purchases.

§ 8A-13 Inspections and testing.

§ 8A-14 Cooperative purchasing.

§ 8A-15 Excess property.

§ 8A-16 Exchange of surplus property.

§ 8A-17 Disposal of surplus property.

 Section 3. Municipal Code Chapter 10, Improvements, Municipal and Local, is hereby amended by substituting “Director of Purchasing” for the phrase “Purchasing Agent” in each place that it appears in the following sections:

§ 10-13. Extra work.

§ 10-26. Compliance with Labor Law.

 Section 4. Municipal Code Chapter 106, Telecommunications in the Right-Of-Way, is hereby amended by substituting “Director of Purchasing” for the phrase “Purchasing Agent” in Section 106-21, Abandonment of telecommunications facilities and accessory equipment.

Section 5. This ordinance shall take effect on July 1, 2017 or on the effective date of an accompanying local law that changes the titles and responsibilities of certain Department of Neighborhood and Business Development officials as provided herein, whichever occurs later.