

364.4 Property and services outside of city — lease-purchase — insurance.

A city may:

1. *a.* Acquire, hold, and dispose of property outside the city in the same manner as within. However, the power of a city to acquire property outside the city does not include the power to acquire property outside the city by eminent domain, except for the following, subject to the provisions of chapters 6A and 6B:

- (1) The operation of a city utility as defined in section 362.2.
- (2) The operation of a city franchise conferred the authority to condemn private property under section 364.2.
- (3) The operation of a combined utility system as defined in section 384.80.
- (4) The operation of a municipal airport.
- (5) The operation of a landfill or other solid waste disposal or processing site.
- (6) The use of property for public streets and highways.
- (7) The operation of a multistate entity, of which the city is a participating member, created to provide drinking water that has received or is receiving federal funds, but only if such property is to be acquired for water transmission and service lines, pump stations, water storage tanks, meter houses and vaults, related appurtenances, or supporting utilities.

b. The exceptions provided in paragraph “*a*”, subparagraphs (1) through (3), apply only to the extent the city had this power prior to July 1, 2006.

2. By contract, extend services to persons outside the city.

3. Enact and enforce ordinances relating to city property and city-extended services outside the city.

4. Enter into leases or lease-purchase contracts for real or personal property in accordance with the following terms and procedures:

a. A city shall lease or lease-purchase property only for a term which does not exceed the economic life of the property, as determined by the governing body.

b. A lease or lease-purchase contract entered into by a city may contain provisions similar to those sometimes found in leases between private parties, including, but not limited to, the obligation of the lessee to pay any of the costs of operation or ownership of the leased property and the right to purchase the leased property.

c. A provision of a lease or lease-purchase contract which stipulates that a portion of the rent payments be applied as interest is subject to chapter 74A. Other laws relating to interest rates do not apply. Chapter 75 is not applicable. A city utility or city enterprise is a separate entity under this subsection whether it is governed by the governing body of the city or another governing body.

d. The governing body must follow substantially the same authorization procedure required for the issuance of general obligation bonds issued for the same purpose to authorize a lease or a lease-purchase contract made payable from the debt service fund.

e. The governing body may authorize a lease or lease-purchase contract which is payable from the general fund if the contract would not cause the total of annual lease or lease-purchase payments due from the general fund of the city in any single future fiscal year for all lease or lease-purchase contracts in force on the date of the authorization, excluding payments to exercise purchase options or to pay the expenses of operation or ownership of the property, to exceed ten percent of the last certified general fund budget amount in accordance with the following procedures:

(1) The governing body must follow substantially the authorization procedures of section 384.25 to authorize a lease or lease-purchase contract for personal property which is payable from the general fund. The governing body must follow substantially the authorization procedures of section 384.25 to authorize the lease or lease-purchase contract for real property which is payable from the general fund if the principal amount of the lease-purchase contract does not exceed the following limits:

- (a) Four hundred thousand dollars in a city having a population of five thousand or less.
 - (b) Seven hundred thousand dollars in a city having a population of more than five thousand but not more than seventy-five thousand.
 - (c) One million dollars in a city having a population of more than seventy-five thousand.
- (2) The governing body must follow the following procedures to authorize a lease or

lease-purchase contract for real property which is payable from the general fund if the principal amount of the lease or lease-purchase contract exceeds the limits set forth in subparagraph (1):

(a) The governing body must institute proceedings to enter into a lease or lease-purchase contract payable from the general fund by causing a notice of the meeting to discuss entering into the lease or lease-purchase contract, including a statement of the principal amount and purpose of the lease or lease-purchase contract and the right to petition for an election, to be published at least once in a newspaper of general circulation within the city at least ten days prior to the discussion meeting. No sooner than thirty days following the discussion meeting shall the governing body hold a meeting at which it is proposed to take action to enter into the lease or lease-purchase contract.

(b) (i) If at any time before the end of the thirty-day period after which a meeting may be held to take action to enter into the lease or lease-purchase contract, a petition is filed with the clerk of the city in the manner provided by section 362.4, asking that the question of entering into the lease or lease-purchase contract be submitted to the registered voters of the city, the governing body shall either by resolution declare the proposal to enter into the lease or lease-purchase contract to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of entering into the lease or lease-purchase contract. However, for purposes of this subparagraph, the petition shall not require signatures in excess of one thousand persons.

(ii) The question to be placed on the ballot shall be stated affirmatively in substantially the following manner:

Shall the city of enter into a lease or lease-purchase contract in amount of \$..... for the purpose of

(iii) Notice of the election and its conduct shall be in the manner provided in section 384.26, subsections 2 through 4.

(c) If a petition is not filed or if a petition is filed and the proposition of entering into the lease or lease-purchase contract is approved at an election, the governing body may proceed and enter into the lease or lease-purchase contract.

f. The governing body may authorize a lease or lease-purchase contract payable from the net revenues of a city utility, combined utility system, city enterprise, or combined city enterprise by following the authorization procedures of section 384.83.

g. A lease or lease-purchase contract to which a city is a party or in which a city has a participatory interest is an obligation of a political subdivision of this state for the purposes of chapters 502 and 636, and is a lawful investment for banks, trust companies, savings associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees, and any other fiduciaries responsible for the investment of funds.

h. Property that is lease-purchased by a city is exempt under section 427.1, subsection 2.

i. A contract for construction by a private party of property to be leased or lease-purchased by a city is not a contract for a public improvement under section 26.2, subsection 3, except for purposes of section 26.12. However, if a lease-purchase contract is funded in advance by means of the lessor depositing moneys to be administered by a city, with the city's obligations to make rent payments commencing with its receipt of moneys, a contract for construction of the property in question awarded by the city is subject to chapter 26.

5. Enter into insurance agreements obligating the city to make payments beyond its current budget year to procure or provide for a policy of insurance, a self-insurance program, or a local government risk pool to protect the city against tort liability, loss of property, or any other risk associated with the operation of the city. Such a self-insurance program or local government risk pool is not insurance and is not subject to regulation under chapters 505 through 523C. However, those self-insurance plans regulated pursuant to section 509A.14

shall remain subject to the requirements of section 509A.14 and rules adopted pursuant to that section.

[SS15, §741-d, 741-g; C24, 27, 31, 35, 39, §5773; C46, §368.41, 368.42; C50, §368.42, 368.56; C54, 58, 62, 66, 71, 73, §368.18; C75, 77, 79, 81, §364.4]

85 Acts, ch 156, §3; 86 Acts, ch 1211, §22; 92 Acts, ch 1138, §4; 95 Acts, ch 67, §53; 2006 Acts, ch 1017, §35, 42, 43; 2006 Acts, 1st Ex, ch 1001, §32, 49; 2009 Acts, ch 100, §12, 21; 2011 Acts, ch 25, §35; 2012 Acts, ch 1017, §75

Referred to in §346.27, 384.110

[T] Subsection 4, paragraph g amended