388.2A Procedure for disposal of city utility by sale.

1. A proposal to discontinue a city utility and dispose of such utility by sale, whether upon the council's own motion or upon the receipt of a valid petition pursuant to section 388.2, subsection 1, paragraph *"b"*, shall not be submitted to the voters of the city pursuant to section 388.2 at any election unless the governing body of the city utility meets the requirements of this section.

2. *a.* (1) The governing body of the city utility shall determine the fair market value of the utility system after obtaining two appraisals of the system's fair market value. One appraisal shall be obtained from an independent appraiser selected by the governing body, and the other appraisal shall be obtained from an independent appraiser approved by the Iowa utilities commission. Both appraisals shall be conducted in conformance with the uniform standards of professional appraisal practice or substantially similar standards.

(2) Any appraisal obtained pursuant to this paragraph shall consider the depreciated value of the capital assets to be sold, the loss of future revenues to the city utility, including the right to generate surpluses, and the cost of any capital improvements reasonably necessary to provide adequate service and facilities to the city utility's customers.

b. After considering the appraisals obtained pursuant to paragraph *"a"*, the governing body shall establish the city utility's fair market value. The fair market value shall be the greater of any of the following:

(1) The average of the two appraisals obtained pursuant to paragraph *"a"*.

(2) The depreciated value of the capital assets to be sold.

(3) The amount necessary to retire all of the city's outstanding revenue and general obligations issued for purposes of the city utility.

c. The governing body's determination of a city utility's fair market value pursuant to this subsection shall not be dispositive of the city utility's system price, which shall be subject to negotiation by the governing body.

d. The governing body shall prepare an inventory of the city utility's real and personal property, and a statement of net position or balance sheet of the city utility, including all assets, liabilities, outstanding revenue and general obligations used to finance the city utility system.

e. The governing body shall prepare a financial information statement of the city utility that includes current and projected rate schedules for the next five fiscal years, as well as the five most recent fiscal year revenue statements, if such statements exist, and a projection of the city utility's revenue statements for the next five fiscal years.

f. The governing body shall consider alternatives to disposing of the city utility system by sale, including entering into an agreement pursuant to chapter 28E, or into a finance agreement, purchase agreement, or lease agreement with another entity described in section 476.1, subsection 3.

g. (1) The governing body shall make available on its internet site, at least sixty days prior to submitting a proposal for election pursuant to section 388.2, a copy of each item listed in paragraphs *"a"* through *"f"* of this subsection.

(2) If, at the time of posting information pursuant to subparagraph (1), the governing body has received any offers or appraisals of fair market value from any prospective purchasers of the city utility system in connection with a proposal to discontinue the city utility and dispose of such utility by sale, then the governing body shall make available on its internet site each offer and appraisal then in existence. Proprietary information of a rate-regulated public utility under chapter 476 that is exempt from disclosure pursuant to section 22.7 may be withheld from disclosure on the governing body's internet site. The governing body may continue to receive new or revised offers or appraisals thereafter.

(3) The governing body shall make a good-faith effort to provide, by regular mail to each property owner of the city and each ratepayer of the city utility, a notice of the proposal to dispose of the city utility by sale, a summary of the proposal, a summary of the information described in subparagraphs (1) and (2), and instructions for locating the information described in subparagraphs (1) and (2) on the governing body's internet site.

3. Upon the governing body meeting the requirements of subsection 2, a city council may submit a proposal to discontinue and dispose of a city utility pursuant to section 388.2.

4. If a proposal to discontinue and dispose of a city utility is to be submitted to voters following the receipt of a valid petition pursuant to section 388.2, subsection 1, paragraph *"b"*, the council shall submit the proposal at the next general election, regular city election, or a special election called for that purpose, within one hundred twenty days after the governing body of the city utility meets the requirements of subsection 2.

5. A proposal to discontinue and dispose of a city utility by sale that is approved by the voters pursuant to section 388.2, subsection 2, paragraph *"a"*, shall not require the governing body or any purchasing entity to finalize a sale of the city utility.

6. No action may be brought which questions the legality of the election or the city and governing body's compliance with this section, except as provided in section 57.1, within twenty days of the canvass of votes for the election by the county board of supervisors.

2018 Acts, ch 1024, §1; 2020 Acts, ch 1068, §1; 2024 Acts, ch 1170, §369
Referred to in §455B.199D, 476.84