

AN ORDINANCE OF THE CITY OF AURORA, MISSOURI AMENDING "TITLE I GOVERNMENT CODE, CHAPTER 135 PROCUREMENT POLICY" OF THE AURORA CITY CODE OF ORDINANCES

WHEREAS, the City of Aurora, Missouri (the "City"), is a city of the third class and political subdivision of the State of Missouri, duly created, organized, and existing under and by virtue of the constitution and laws of the State of Missouri; and

WHEREAS, upon review of the current ordinances regarding the City's "Procurement Policy", it was determined that there was a need to update, revise, and clarify the City's policies, procedures, and practices regarding the routine procurement of goods and services for the efficient and effective provision of City operations; and

WHEREAS, the following recommended amendments governing purchasing and procurement have been submitted to the City Council for consideration and adoption.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, MISSOURI, AS FOLLOWS:

Section 1: Chapter 135 of the Aurora City Code of Ordinances shall be amended as follows:

CHAPTER 135 PROCUREMENT POLICY

SECTION 135.010 PURCHASING AND SALES POLICY.

- A. Purpose.** The purpose of this Chapter is to establish guidelines regarding purchases made by the City and the sale of City property in order to maximize the value realized for each public dollar spent and for public property.
- B. Applicability.** This Chapter is applicable to all purchases for the City, regardless of the source of funds used for the purchase and the sale of any City property outside the scope of ordinary services. With the exception of Federal forfeiture funds, which are managed by the Chief of Police and may be utilized to acquire any authorized items or services, the Police Chief will additionally comply with the latest copy of the Guide to Equitable Sharing for State and Local Law Enforcement Agencies published by the United States Department of Justice.
- C. Basic goals.** The basic goals of the City are:
 - 1.** To comply with all applicable Federal, State, and local legal requirements.
 - 2.** To assure vendors and buyers that impartial and equal treatment will be afforded to all who wish to do business with the City.

3. To maximize the value realized for each public dollar spent and for public property.
4. To obtain goods and services at the time and place needed in the proper quantity and quality.
5. To sell or lease property that is no longer necessary or useful to the City and that can be better used by the private sector.

If the procedures and guidelines established in this Chapter are followed, each department should efficiently manage, control and plan its available resources to meet present and future departmental needs and help the City meet its goals.

SECTION 135.020 DEFINITIONS

The following terms shall be defined as stated for purposes of this Chapter:

APPROPRIATION — The legal authorization of monies for anticipated or incurred expenses.

AUTHORIZED PURCHASER — An approved employee of the City who has been nominated by a Department Head and appointed by the City Manager to make purchases at a specified monetary level on behalf of the City. The Accounts Payable Clerk shall maintain the list of authorized purchasers as supplied by the Department Heads.

BUDGET — A document that sets forth proposed revenues and expenses to be incurred during a fiscal year for the various City operations.

CONSTRUCTION — The process of building, altering, repairing, improving or demolishing any public structure or facility or other public improvement of any kind.

CONTRACT — A legally binding promise enforceable by law and, generally, in writing.

COOPERATIVE PURCHASING AGREEMENT — A legally binding contract approved by the City Council entered into by the City, the United States of America, the State of Missouri, or any of the subordinate agencies or departments, and any other approved organization that manages a cooperative purchasing program to obtain goods and services at the most advantageous price for its members and the City specifically.

COST COMPARISONS — An informal analysis of the amounts paid or requested for a product or service accomplished through personal contact, printed or digital media.

DEPARTMENTS — Includes administration, finance, police, fire, cemetery, parks and recreation, community development, public works, Municipal Court, wastewater, and the office of the City Clerk.

EXISTING PURCHASING CONTRACT — A contract previously entered into by the City and currently existing, including, but not limited to, a term-and-supply contract, an annual contract, a maintenance contract, and a warranty contract.

FORMAL WRITTEN BID — A competitive bid which must be submitted in response to an advertised request in a prescribed format pursuant to applicable instructions, typically that the bid be submitted in a sealed envelope to be opened in public at a specified time.

ITEM — A product, material, or service.

OPEN MARKET SALE — The sale of an item of property in a market in which any buyer or seller may trade and in which prices and product availability are determined by free competition.

MATERIAL VALUE — The value of an item to be purchased or sold, to be determined in the first (1st) instance by the department Head.

PROCUREMENT — Purchasing, renting, leasing, or otherwise acquiring any supplies, services, property, or construction, including performance of any necessary functions such as writing specifications, selection and solicitation of sources, preparation and award of contract, and contract administration.

PURCHASE ORDER — An offer to make a contract between the City and a vendor. The contract is not binding until it is accepted by the vendor.

QUOTATION — A statement of price, terms of sale, and description of property, goods, or services offered by a vendor to a prospective purchaser by digital communication, letter, fax, telephone, or other means of communication. A quotation (or "quote") is not required to be in writing from the vendor; however, some written memorandum of the elements listed above must be maintained.

SCOPE OF SERVICES — A detailed description of the tasks to be performed.

SPECIFICATIONS — A description of the physical or functional characteristics or the nature of a supply, service, property, or construction item; the requirements to be satisfied by a product or process; indicating, if appropriate, the procedures to determine whether the requirements are satisfied and/or the capabilities and performance characteristics that the item must satisfy.

TERM AND SUPPLY CONTRACTS — A term and supply contract is an open-ended contract for specific goods or services that the City uses on a regular basis. The City establishes term and supply contracts to maximize the volume of purchases across all of the departments. Once these contracts have been established, Purchasing requires that the vendor selected be used for applicable purchases.

SECTION 135.030 PURCHASING AGENT

The City Manager of the City of Aurora, Missouri, or his/her designated person(s) are hereby designated as the City's Purchasing Agent(s). The Purchasing Agent, when authorized, shall procure for the City the bids for all supplies and contractual services needed by the City, in

accordance with the procedures prescribed by this Chapter or required by law. The City Manager may delegate certain purchasing duties to other staff members.

SECTION 135.040 GENERAL GUIDELINES.

- A. Buying preferences.** It is the desire of the City to purchase from the City of Aurora, Missouri, and/or American vendors whenever possible. When all other factors are equal, preference shall be provided to City of Aurora vendors first (1st), Missouri vendors second (2nd), and American vendors third (3rd). To be considered a City of Aurora vendor, the person or entity must have a physical place of business located in the City and a City business license. To be considered a Missouri vendor, the person or entity must have a physical place of business in the State and authority to conduct business in the State. To be considered an American vendor, the person or entity must have a physical place of business in the country and authority to conduct business in the country.
- B. Recycled products.** The City shall purchase recycled-content products in preference to those made from virgin materials when cost, quality, variety, quantity, delivery time and any other defined specifications are comparable to products made from virgin materials.
- C. Planning.** Small orders and last-minute purchases should be minimized, thereby increasing the capability of each department to purchase its goods and services in larger quantities in order to obtain the maximum discounts possible.
- D. Buying proper quality.** It is the duty of the department that is purchasing to secure the best quality for the purpose intended. "Quality buying" is the buying of goods or services that will meet or exceed the requirements for which they are intended.
- E. Sales tax.** The City is generally exempt from paying local and State sales taxes and Federal excise taxes. The Finance Department can provide the necessary exemption documents to any vendor upon request.
- F. Endorsements.** It is the policy of the City not to endorse or in any way permit an employee's name, position, or the City's name to be used and advertised as supporting a product or vendor.
- G. Personal purchases.** Purchases for employees' personal use by the City are prohibited. City employees are also prohibited from using the City's name or their position to obtain special consideration in personal purchases.

H. Lowest responsible bidder. Contracts for purchases shall be awarded to the lowest and best bidder. In determining the "lowest responsible bidder", in addition to price, the City will consider, when applicable, the following:

1. The ability, capacity, and skill of the bidder to perform the contract or provide the service required.
2. Whether the bidder can perform the contract or provide the service promptly or within the time specified without delay or interference.
3. The character, integrity, reputation, judgment, experience, and efficiency of the bidder.
4. The quality of performance of previous contracts or services.
5. The previous and existing compliance by the bidder with all applicable laws.
6. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
7. The quality, availability, and adaptability of the supplies or contractual services to the particular use required.
8. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.
9. The number and scope of conditions attached to the bid.
10. Any other pertinent factor.

SECTION 135.050 PURCHASING PROCEDURES FOR MATERIALS AND SUPPLIES

Purchases for all dollar amounts listed below shall require the completion and approval of a purchase order.

- A.** Purchases with material value below one thousand dollars (\$1,000.00) within total budget may be made by an authorized purchaser without a quotation. However, staff are encouraged to seek out the most competitive price and quality on any item before proceeding with a purchase.
- B.** Purchases with material value from one thousand dollars one cent (\$1,000.01) to five thousand dollars (\$5,000.00) within the total budget and not available through an existing purchasing contract or a cooperative purchasing agreement may be made by an authorized purchaser. Prior to placing an order, the authorized purchaser should obtain the lowest cost through quotations whenever reasonably possible. Any

purchase order must be signed by the authorized purchaser and submitted, along with a record of the quotations, to the Finance Department for issuance of payment.

- C.** Purchases with material value from five thousand dollars one cent (\$5,000.01) to ten thousand dollars (\$10,000.00) within the total budget and not available through an existing purchasing contract or a cooperative purchasing agreement may be ordered by the authorized purchaser with the approval of the City Manager. Such a purchase must have at least three (3) quotations. Any purchase order must be signed by the Head of the Department and the City Manager and submitted, along with a record of the quotations, to the Finance Department for issuance of a payment.
- D.** Any purchase request having a value greater than ten thousand dollars one cent (\$10,000.01) may be ordered only after a formal written bid, advertised once a week on the same day for two (2) consecutive weeks in a written and/or electronic publication of general circulation and formal approval by a majority of the City Council.
- E.** Purchases with material value greater than ten thousand dollars one cent (\$10,000.01) and available through an existing purchasing contract or a cooperative purchasing agreement, may be ordered with formal approval by the majority of the City Council.
- F. Multiple or repeat orders.** Multiple or repeat orders from the same vendor during any consecutive five (5) business days cannot be used to avoid the requisite approvals for the total purchase amount.
- G. Special circumstances.** On purchases of less than ten thousand dollars (\$10,000.00), if less than three (3) quotations are received and the quotations all exceed the amount budgeted for the purchase, departments should either request new quotations for the desired goods or services or obtain approval from the City Manager to proceed based on the initial quotation(s) on the grounds that special circumstances exist such that requests for new quotations would not generate a different result. Such special circumstances should be explained by the Department Head in a written memorandum accompanying the purchase order.
- H. Exempt purchases.** The following purchases, by their very nature, are exempt from the normal purchasing guidelines and require the special procurement practices set forth below:
 - 1.** Fuel purchases;
 - 2.** Cooperative purchase agreements;
 - 3.** Term-and-supply and annual contracts;
 - 4.** Professional services;
 - 5.** Emergency purchases;
 - 6.** Sole-source and monopoly purchases.

7. Purchase of used equipment that has been thoroughly inspected by City staff and has a substantially lower cost than the same or comparable equipment that is brand new.

Section 135.060 Bids

Bids shall be submitted sealed to the Purchasing Agent or his/her designee and shall be identified as bids on the envelope. They shall be opened in public at the time and place stated in the public notices.

Section 135.070 Change Orders.

A. Construction Change Orders – City Manager Authority. The City Manager is authorized to approve and execute one (1) or more change orders to an existing construction contract without prior City Council approval, provided that:

1. The cumulative total of all change orders does not exceed fifteen percent (15%) of the original contract amount awarded pursuant to a competitive bidding or competitive proposal process; and
2. Sufficient funds are available within the approved project budget.

In no event shall the cumulative total of change orders approved by the City Manager exceed Fifty Thousand Dollars (\$50,000), regardless of the percentage calculations above.

Notwithstanding the authority granted in this Section, any Change Order that would cause the total project cost to exceed the amount appropriated or budgeted for the project shall require prior approval by the City Council.

B. Council Approval Required

City Council approval shall be required prior to execution of any change order when:

1. The cumulative change orders exceed the limits established in subsection A;
2. A single change order exceeds Fifty Thousand Dollars (\$50,000); or
3. The proposed change materially alters the scope, character, or intent of the original project.

The City Manager shall provide a written report to the City Council outlining:

- The justification for the change
- The fiscal impact to the project
- The funding source
- Any recommendations from the project engineer or architect

Section 135.080 Fuel Purchases.

Bulk fuel purchases for vehicles may be made without approval of a purchase order, provided that three (3) quotes are obtained and the lowest cost vendor is selected. To the extent vehicles cannot be fueled through the City's bulk- purchasing program, purchases may be made at any commercial service station, although price shopping is still encouraged. Documentation of the purchase shall be submitted.

Section 135.090 Cooperative Agreements.

- A.** The City may contract directly with other governmental entities (political subdivisions or municipalities, County, State, or Federal) for the purchase of items or the provision of services. The City may also participate in, sponsor, conduct, or administer a cooperative-purchasing agreement whereby items are procured in accordance with a contract established by another governmental entity, provided that such contract was established in accordance with the laws and regulations applicable to the establishing governmental entity.
- B.** The City Clerk shall make available to Department Heads and authorized purchasers a list of cooperative-purchasing programs in which the City will participate. The City Clerk shall be responsible for notifying the Departments of current approved cooperative-purchasing agreements and any limitations or special requirements for their use.
- C.** The City Manager will review and approve all cooperative-purchasing agreements with other governmental agencies with material value under ten thousand dollars (\$10,000.00) prior to their use. The City Council shall review and approve cooperative-purchasing agreements with a material value of ten thousand dollars (\$10,000.00) or more. Competitive bidding procedures do not apply to such purchases made through approved cooperative-purchasing agreements.
- D.** "Acceptable cooperative purchasing agreements" are agreements that contain the same terms, conditions, specifications, and pricing for the respective item that the department would bid and purchase on its own.
- E.** Additional City Council approval shall not be required for the purchase of any budgeted items from approved "acceptable cooperative-purchasing agreements".

Section 135.100 Term-And-Supply and Annual Contracts Open Purchase Orders.

- A.** Term-and-supply contracts and annual contracts shall be bid through each department following the same procedures established by this policy for other

purchases based upon the estimated material value of a contract. The department requesting the service shall prepare a recommendation of award for the City Council approval for all term-and-supply and annual contracts with a material value of ten thousand dollars (\$10,000.00) or more, based upon the annual value of the contract. All multiple-year contracts should contain a clause explaining that the obligation of the City to pay for goods and/ or services under the contract is limited to payment from available revenues and shall constitute a current expense of the City and shall not in any way be construed to be a debt of the City in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the City nor shall anything contained in the contract constitute a pledge of the general tax revenues, funds or monies of the City and all provisions of the contract shall be construed to give effect to such intent.

- B.** Once such a contract is approved, specific purchases within budget should be made on an "as-needed" basis without further bidding while the contract remains open, unless and until the City terminates the contract. Any department that believes such a contract is no longer competitive should provide such information to the City Clerk.

Section 135.110 Professional Services Contracts.

- A.** Contracts for professional services provided by legal counsel, financial advisors, physicians, certified public accountants, engineers, architects, land surveyors, brokers, consultants, and other specialized or technical services shall be obtained through the special procurement procedures set forth in this Section.
- B.** Requests for qualifications for professional services shall be submitted to the City Manager or other appropriate Department Head as assigned by the City Manager for review and approval prior to distribution. When an RFQ for professional services is approved, a number of qualified professionals will be invited to submit a proposal setting forth their interest, qualifications, and description of proposed services. The selection committee will then proceed with the necessary stages of the selection process, including, but not limited to, development of a selection committee, grading of proposals based upon fair and equitable grading criteria, ranking of interviews based upon fair and equitable criteria, and negotiation of a contract with the professionals deemed to best meet the City's needs.
- C.** Unless otherwise required by State Statute and upon approval of the City Manager, professional services contracts under ten thousand dollars (\$10,000.00) annually may be exempt from the request for qualifications process.
- D.** Professional services contracts for ten thousand dollars (\$10,000.01) or more annually must be approved by the City Council.

Section 135.120 Emergency Purchases.

In case of an emergency that requires immediate purchase of supplies or services, the City Manager may authorize such purchase or secure such services needed without complying with the procedures as set out above. Department Heads faced with an emergency purchase need shall notify the City Manager as soon as possible. When possible (if the purchase is greater than ten thousand dollars (\$10,000.00)) in such an emergency, the City Manager shall seek approval from the City Council at a special or regular meeting prior to the purchase. If a timely special or regular meeting of the City Council is not possible, a full report of such an emergency purchase shall be made by the City Manager to the City Council as soon as possible.

Section 135.130 Sole-Source and Monopoly Purchases.

- A.** The City Manager may authorize a sole-source purchase, at any monetary purchasing level set forth in Section III General Guidelines above, and accordingly waive competitive-purchasing procedures, when such a request is presented in writing by the requesting Department Head that documents that only a single feasible procurement source exists. A single feasible sole source exists when:
 - 1.** Supplies or services are proprietary and only available from a single manufacturer or a single distributor; or
 - 2.** It is determined that only one (1) distributor services the region; or
 - 3.** When supplies or services are available at a significant discount from a single distributor for a limited period of time; or
 - 4.** When a project with specific circumstances requires a specialized consultant or technical services with a unique combination of abilities or expertise.
- B.** In the event the amount of a sole-source purchase will exceed ten thousand dollars (\$10,000.00), it must also be approved in advance by the City Manager and must be approved by the City Council.

Section 135.140 Lease of Real Property.

- A.** The City may lease real property that it owns for fair market value, if authorized by the City Council, when such property is currently underutilized, in order to maximize the economic return of the property to the City until such property is required for public usage.
- B.** Nothing herein shall prevent the City Manager or designated representative from negotiating a higher rent for a lessee of any real property that is shown to have a

unique value to such lessee due to its configuration, accessibility or size, subject to approval from the City Council.

Section 135.150 Sale of Real Property.

- A.** The City may sell unneeded real property for fair market value with the approval of the City Council.
- B.** Nothing herein shall prevent the City Manager or designated representative from negotiating a higher price for sale or trade to a buyer for any real property that is shown to have a unique value to such buyer due to its configuration, accessibility, or size, subject to approval from the City Council.

Section 135.160 Disposal of Surplus Goods.

The City should promptly dispose of all surplus property to the economic advantage of the City. Competitive bidding on surplus, obsolete, or unusable goods is required through sealed bids, auction, open market sales, or other available means. The disposal of all such goods requires the approval of the City Manager; additional approval by the City Council is required for goods in excess of ten thousand dollars (\$10,000.00) in total material value. Trade-in opportunities should be pursued when available to reduce the City's purchasing costs. Competitive bidding shall only apply to a trade-in to the extent it applies to the new purchase. Approvals of a trade-in shall be handled in conjunction with the approval of the new purchase, as dictated by the purchase price. The City Manager is hereby authorized to dispose of any surplus property by transfer to any governmental agency within the State of Missouri, regardless of the value of the surplus property.

Section 135.170 Purchasing Policy Supplements.

In the event a specific procurement procedure is required to be in writing when the City is purchasing an item which is funded in whole or in part by grant funds (i.e., CDBG), the City Manager shall have the authority to supplement this Section to incorporate the special requirements of that procurement.

Section 135.180 Gifts and Rebates.

No officer or employee of the City may accept, directly or indirectly, any gift, rebate, money, or anything else of value whatsoever from any person or entity if the gift, rebate, money, or item of value is intended as a reward or inducement for conducting business, placing orders with, or otherwise using the employee's position to favor the contributor. Promotional items of nominal value shall not constitute a gift if received as a non-personal item by the officer or employee, and the item is distributed to customers or potential customers routinely by the contributor.

Section 135.190 Penalties and Sanctions.

City employees shall follow these standards in all procurement and contracting activities. Sanctions and penalties for violating these requirements shall be as cited in the City of Aurora's Personnel Handbook, as amended, which governs disciplinary actions for violations of City policies and regulations.

Section 135.200 Policy Clarification.

The City Manager may clarify the provisions of this Section in furtherance of the stated goals of this Section by written statement, provided the City Manager cannot alter in any way the extent to which City Council action is required hereunder.

Section 2: This ordinance shall be in full force and effect from and after the date of its passage by the City Council.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF AURORA, MISSOURI, THIS 10TH DAY OF MARCH 2026.

APPROVED:

Tony Kennedy, Mayor

ATTEST:

Kamy Kulow, City Clerk