

ORDINANCE NO. 7861

AN ORDINANCE OF THE CITY OF ST. PETERS, MISSOURI, AMENDING CHAPTER 135 OF THE CITY CODE BY DELETING IT IN ITS ENTIRETY; ENACTING, IN LIEU THEREOF, A NEW CHAPTER 135; AND ENACTING A PURCHASING POLICY FOR THE CITY

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ST. PETERS, MISSOURI, AS FOLLOWS:

SECTION NO. 1. That Chapter 135 of the St. Peters City Code be and is hereby amended by deleting Chapter 135 in its entirety, and enacting, in lieu thereof, a new Chapter 135 to read as follows:

Section 135.010 Authority of the Director of Purchasing.

The Director of Purchasing is hereby empowered to prescribe and maintain such forms and procedures as he/she finds necessary to accomplish his/her function. The Director of Purchasing is also authorized to reject any and all bids or proposals and waive any informalities or irregularities in order to safeguard the public interest and to deal effectively with conditions such as unsatisfactory bids and collusion. For purposes of this Chapter 135, the term "Director of Purchasing" shall mean such person employed with such title or such person or persons as may be designated as such by the City Administrator, from time to time.

Section 135.020 General Purchasing Procedure.

- A. The quantitative criteria for determining the degree of formality to be observed for each particular purchase (unless provided for specifically in Section 135.060 – Professional Services) by the City is set out as follows:
1. *Purchases three thousand dollars (\$3,000.00) or less.* Contemplated purchases or contracts for services valued at three thousand dollars (\$3,000.00) or less may be procured under procedures established by the Director of Purchasing of the City.
 2. *Purchases over three thousand dollars (\$3,000.00) to twenty-five thousand dollars (\$25,000.00).* For contemplated purchases or contracts for services valued in excess of three thousand dollars (\$3,000.00) and up to, and including, twenty-five thousand dollars (\$25,000.00), the Director of Purchasing shall cause the solicitation of at least three (3) written bids for the item or items or services. The execution of the bid requirement should be documented. He/she may then award the purchase or contract of services to the lowest responsible bidder who submits a responsive bid which is most advantageous to the City (hereafter referred to as the lowest responsible bidder).
 3. *Purchases over twenty-five thousand dollars (\$25,000.00).* Whenever any contemplated purchase or contract for services is valued over *twenty-five thousand*

dollars (\$25,000.00), the Director of Purchasing shall direct a notice inviting bids to be published in at least one (1) issue of a newspaper of general circulation. The notice herein required shall include a general description of the articles to be purchased or services performed and the time and place for opening bids. Nothing in this section is meant to preclude the use of other means of notice as needed to solicit interest in the project.

Section 135.030 Authority of Director of Purchasing To Apply More Formal Procedures — Criteria For Selection of Lowest Responsible Bidder — Local Bidder Preference.

- A. The Director of Purchasing shall not be precluded from applying more formal procedures in a particular situation than those called for under the prescribed requirements.
- B. Notwithstanding any provisions of this Chapter to the contrary, procurement activities involving the expenditure of federal funds must be conducted in compliance with applicable federal laws and regulations, including, but not necessarily limited to, the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200.326, unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. Should the City of St. Peters have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.

Notwithstanding any provisions of this Chapter to the contrary, procurement activities must be conducted in compliance with applicable state laws and regulations, including, but not necessarily limited to, Sections 34.073 and 34.076, RSMo., as amended. Should the City of St. Peters have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.

It is the policy of the City that any manufactured goods or commodities used or supplied in the performance of that contract or any subcontract thereto shall be manufactured or produced in the United States. This provision applies to each contract for the purchase or lease of manufactured goods or commodities, and each contract for construction, alteration, repair, or maintenance of any public works for expenditures \$25,000.00 or greater. This shall not apply when the specified products are not manufactured or produced in the United States in sufficient quantities to meet the City's requirements or cannot be manufactured or produced in the United States within the necessary time in sufficient quantities to meet the City's requirements, or obtaining the specified products manufactured or produced in the United States would increase the cost of the contract by more than ten percent. The Mayor shall certify in writing pursuant to the Missouri Domestic Products Procurement Act that the City has adopted a formal written policy to encourage the purchase of products manufactured, assembled or produced in the United States and it is the intent of the Board of Aldermen that, by virtue of the adoption of the policy stated in this Section, that Section (3) of the Missouri Domestic Products Procurement Act shall not apply to the City, pursuant to the provisions of that Act.

- C. The following criteria for selection of the lowest responsible bidder shall be considered:
 - 1. Responsibility of bidder.
 - a. The financial stability of the bidder.

- b. Production capability of the bidder.
- c. Ability of the bidder to deliver or perform on a timely basis.
- d. Quality of past performance on contracts or services.

In making purchases or accepting bids, the City shall give preference to all licensed businesses in the City of St. Peters, St. Charles County or the State of Missouri when quality and other terms of the purchase are equal or better than the proposed or delivered price. Preference for licensed businesses in the City of St. Peters will be given if the proposed or delivered price is within five percent (5%) of the lowest price but not to exceed one thousand dollars (\$1,000.00) maximum.

2. *Responsiveness of bidder.*

- a. Conformity of specifications, terms and conditions to those in the invitation of bids.
- b. Absence of unilateral mistakes or obvious errors made in calculating or presenting figures.
- c. Reasonableness of price.

Section 135.040 Exceptions To Bid Procedure.

A. Notwithstanding the provision of Section **135.020** of this Chapter, purchase of items or services pursuant to this Chapter may be made which are not in conformity with Section **135.020** under the following circumstances:

- 1. *Single-source purchases.* In the event there is only one (1) acceptable vendor capable of furnishing a particular service or commodity, the Director of Purchasing shall be authorized to direct procurement of such service or commodity without bidding. The Director of Purchasing shall document the particular facts which make the item a single-source purchase, and the City Administrator must approve the purchase. The reason for avoiding single-source purchases is to avoid bias or preference for a particular product made by a particular company.
- 2. *Equipment or system compatibility/standardization purchases.* Defined as "requirements of performance compatibility/standardization with existing commodities or services". The services involve the purchase, repair, modification, maintenance or calibration of equipment, hardware or software when they are to be manufactured or performed by a specific manufacturer (or an authorized dealer) in order to maintain a warranty, system compatibility and/or system standardization. The Director of Purchasing shall maintain a written record of the circumstances surrounding such purchases and the City Administrator must approve the purchases.

3. *Emergency purchases.* Where an emergency situation requires immediate purchase of supplies or services and time is of the essence, the Director of Purchasing shall be authorized to procure the supplies or services needed without bidding. The Director of Purchasing shall maintain a written record of the circumstances surrounding emergency purchases and the City Administrator must approve the purchases.
4. *Situations calling for competitive negotiations.* Where it can be demonstrated that the City receives the best value on a purchase through informal discussion and bargaining rather than through the conventional bidding process, the Director of Purchasing shall not be required to follow the conventional bidding process exclusively. Such purchases shall be documented by the Director of Purchasing and approved by the City Administrator. Examples would include, but not be limited to, circumstances when time is a crucial factor, when the procurement involves high technology items, or when there is obvious inherent economy in purchasing from a particular vendor.
5. *Cooperative purchasing.* Established purchasing procedures should not apply to purchases made by, through, or with the Division of Procurement of the State of Missouri or any other governmental agency or unit with whom the City is permitted to engage in cooperative purchasing. Such purchases shall be documented by the Director of Purchasing and approved by the City Administrator.
6. *Confidential expenditures.* Confidential expenditures such as payments to informants, purchase of materials as evidence (such as narcotics), or other uses as may be required by law enforcement personnel working in an undercover capacity cannot be subject to normal purchasing procedures. All disbursements made shall be documented by written vouchers showing date, amount, and nature of expenditure, signature of requesting officer or agent, and approval of the Chief of Police and the City Administrator.
7. *Waiver.* The Mayor and the Board of Aldermen may waive any and all of the aforementioned procedural requirements of this Section if such waiver is determined to be in the best interest of the City.

Section 135.050 Blanket Purchase Orders.

Blanket purchase orders may be authorized by the City Administrator to facilitate purchasing items on credit from businesses to allow multiple delivery dates over a period of time to take advantage of predetermined pricing competitively procured.

Section 135.060 Professional Services

- A. *Definitions.* The following words and/or phrases shall have the following meanings as set out herein:

FIRM

Any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, engineering, or land surveying and provide said services.

PROFESSIONAL SERVICES

Those services within the scope of practice of architecture, engineering, or land surveying, or those performed by any architect, professional engineer, or registered land surveyor in connection with this profession, employment or practice.

B. General Selection Procedures

1. *Professional Services Degree of Formality.* The quantitative criteria for determining the degree of formality to be observed for each particular class of professional service is set out as follows:
 - a. *Class A.* Contemplated professional services anticipated to cost ten thousand dollars (\$10,000.00) or less may be selected under procedures established by the Director of Purchasing of the City consistent with the requirements of this Section.
 - b. *Class B.* Contemplated professional services anticipated to cost in excess of ten thousand dollars (\$10,000.00) and up to and including seventy-five thousand dollars (\$75,000.00) the Director of Purchasing shall cause firms to be invited to submit statements of qualifications for the professional services.
 - c. *Class C.* Whenever contemplated professional services is anticipated to cost in excess of seventy-five thousand dollars (\$75,000.00) the Director of Purchasing shall cause notice inviting firms to submit statements of qualifications to be published in one (1) issue of a newspaper of general circulation in the City. The notice herein required shall include a general description of the professional services to be performed and a statement of the time and place when and where the statement of qualifications will be received. Nothing contained herein shall preclude the use of other means as needed to solicit interest in the project by qualified firms.
2. *Statement of Qualifications and Performance.* Present provisions of law notwithstanding, in the procurement of professional services, the Director of Purchasing shall encourage firms engaged in the lawful practice of their professions to annually submit a statement of qualifications and performance data to the City. Whenever a project requiring professional services is proposed for the City, the City shall evaluate current statements of qualifications and performance data of firms on file together with those that may be submitted by other firms regarding the proposed project. In evaluating the qualifications of each firm the City shall use

the following criteria:

- a. The specialized experience and technical competence of the firm with respect to the type of services required;
- b. The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;
- c. The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules; and
- d. The firm's proximity to and familiarity with the area in which the project is located.

3. *Negotiation for Contract.*

- a. The City shall list three highly qualified firms. The City shall then select the firm considered best qualified and capable of performing the desired work and negotiate a contract for the project with the firm selected.
- b. For a basis for negotiations the City shall prepare a written description of the scope of the proposed services.
- c. If the City is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated. The City shall then undertake negotiations with another of the qualified firms selected. If there is a failing of accord with the second firm, negotiations with such firm shall be terminated. The City shall then undertake negotiations with the third qualified firm.
- d. If the City is unable to negotiate a contract with any of the selected firms, the City shall reevaluate the necessary professional services, including the scope and reasonable fee requirements, again compile a list of qualified firms and proceed in accordance with this Section.

C. *Exceptions.* Except where otherwise required by state or federal law, in view of the fact that special conditions will occasionally arise that make use of this policy impractical, there can be exceptions made by the City Administrator. Special conditions may include, but shall not be limited to, emergency situations which preclude the time frame required in this policy, or an extremely specialized need in which there is only one (1) feasible source of expertise. Said exceptions shall be documented and approved by the City Administrator in writing.

D. *Compensation Or Fee.* Compensation or fees for professional services will include all

services to be rendered to the City by the firm, with the exception of certain pass through expenses that will be identified by contract, if applicable, and it will be calculated by one (1) of the following methods, at the preference of the City:

1. Lump sum or fixed fee.
2. Cost per unit.
3. Hourly basis with total not to exceed a fixed amount.

E. *Prohibition Against Contingent Fees.*

1. Each contract entered into by the City of St. Peters for professional services shall contain a prohibition against contingent fees as follows:

"No firm shall retain a person to solicit or secure a City contract for professional services upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business."

2. For the breach or violation of the foregoing provision, the City shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

F. *Use Of Procedures.* The City shall have the right to negotiate amendments to a project and/or to negotiate new contracts with a selected firm for additional projects requiring that expertise for a period not to exceed three (3) years. After three (3) years, this procedure shall be used again for selection of professional services.

G. *Waiver.* The Mayor and the Board of Aldermen may waive any and all of the aforementioned procedural requirements of this Section if such waiver is determined to be in the best interest of the City.

Section 135.070 Authority of Mayor and City Administrator.

A. Except for those contracts or agreements that require approval of the Board of Aldermen pursuant to this Chapter of Section 70.230, RSMo., the City Administrator is authorized to enter into agreements or contracts on behalf of the City calling for expenditures of up to one hundred thousand dollars (\$100,000.00), provided, that the authorization expenditure for professional services shall be seventy-five thousand dollars (\$75,000.00).

1. The City Administrator may delegate his/her authority to approve procurements under Sections **135.020** and **135.060(B)** to Group Managers or other City staff.

B. All such contracts or agreements procured under Section 135.020 that exceed one hundred thousand dollars (\$100,000.00) and contracts or agreements procured under Section 135.060 that exceed seventy-five thousand dollars (\$75,000.00) shall require authorization by the Board of Aldermen.

Section 135.080 Real Estate.

Nothing contained in this Chapter shall be construed to govern the purchase or acquisition of real estate, rights-of-way, easement, licenses, or any other interest of land.

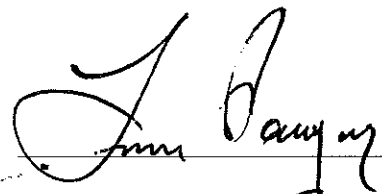
SECTION NO. 2. Effective Date. This Ordinance shall be in full force and take effect from and after the date of its final passage and approval.

SECTION NO. 3. Savings. Except as expressly set forth herein, nothing contained in this Ordinance shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in manner connected with the subject matter hereof.

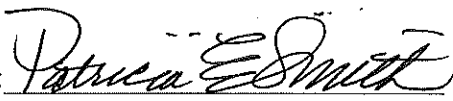
SECTION NO. 4. Severability. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

Read two times, passed and approved this 28th day of September, 2023.





Len Pagano, As Preceding Officer and as Mayor

Attest: 
Patricia E. Smith, City Clerk