

**CITY OF THE VILLAGE OF DOUGLAS**

**ALLEGAN COUNTY, MICHIGAN  
ORDINANCE NO. 01-2010**

**AN ORDINANCE TO ESTABLISH PROCEDURES FOR  
PURCHASES, CONTRACTS AND BIDDING FOR  
THE CITY OF THE VILLAGE OF DOUGLAS**

An Ordinance to establish procedures for purchases, contracts and bidding for the procurement of goods and services for the city; to authorize the city manager to exercise certain purchasing, contracting and bidding powers; to provide criteria for the review of proposals; and to provide for certain exceptions from bidding requirements.

**THE CITY OF THE VILLAGE OF DOUGLAS DOES HEREBY ORDAIN AS  
FOLLOWS:**

- Section 1. Responsibilities. All purchases and contracts for materials, supplies, equipment and services required by any department or organizational unit of the city shall be performed under the authority of the city manager or his authorized representative. Any deviations from this authorization shall be approved by the city manager.
- Section 2. Purchases of five thousand dollars and under. The city manager is hereby authorized to make purchases or authorize purchases to be made whose total actual or estimated costs do not exceed five thousand dollars; provided that the funds are provided for within the annual budget, and provided, further, that such purchases are made in accordance with the rules and procedures provided for by this Ordinance.
- Section 3. Purchases in excess of five thousand dollars but under twenty thousand dollars. The city manager is authorized to make purchases or to authorize purchases or contracts, including settlements of pending claims, to be made whose total or actual estimated costs will be greater than five thousand dollars but less than twenty thousand dollars; provided, that (a) where possible at least three written quotations are obtained prior to awarding the purchase to the best qualified vendor, (b) the funds are provided for within the annual budget, and (c) such purchases are made in accordance with the rules and procedures provided for by this Ordinance. The provisions of this section shall not apply to purchases or contracts as set forth in Section 14 of this Ordinance.

Section 4. Purchases in excess of twenty thousand dollars.

- (a) All purchases or contracts covered by this Ordinance whose estimated costs exceed twenty thousand dollars shall be submitted to the mayor and city council for approval prior to purchase or contract.
- (b) Except for the purchases or contracts set forth in Section 14 of this Ordinance, all purchases or contracts whose estimated costs exceed twenty thousand dollars shall be based upon written specifications and awarded in the following manner:
  - (i) By written contract let to the lowest responsible bidder after advertising for sealed bids;
  - (ii) In any manner authorized by resolution of the mayor and city council;
  - (iii) In any manner authorized by statute or ordinance.

Section 5. Local preference in purchasing.

- (a) Any purchase or contract to be made with entirely city funds may be awarded to the lowest written quoted price or lowest evaluated bid price from a responsive and responsible local vendor provided that the local vendor's quote or bid is no higher than the lowest responsive and responsible non-local vendor by more than two percent or two thousand dollars, whichever is less.
- (b) Local vendor means any person, firm, partnership, corporation (including franchises or branches) licensed to conduct business within the city, physically operating within the corporate boundaries of the city, and subject to city taxes.

Section 6. Newspaper notice.

- (a) When a sealed bid is required by this Ordinance, advertisements shall be published at least once in at least one newspaper of general circulation in the city at least twenty days prior to the date announced for the receipt of bids. The newspaper notice required by this section shall include a general description of the articles to be purchased or sold or the work to be performed, the location where blank bid forms and specifications may be secured, the time by which bids must be submitted, the location where the bids must be submitted, and the time and place for opening bids. Irregularities in the notice or publication period shall not invalidate the bidding process.

- (b) The city may solicit sealed bids from all responsible bidders whom the city manager or departmental representatives know from experience or research appear to be capable of providing the items to be purchased or performing the required service. Notice shall be by sending the prospective bidders a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase or sale.

Section 7. Format for submission of bids. Bids shall be submitted in a sealed opaque envelope to the city manager. Each bid shall be addressed to the city manager and shall bear on the face of the envelope the name of the bidder, a statement that it is a sealed bid to be opened on the date and hour mentioned in the public notice, and a statement of the contract for which the bid is made. Each bid shall be submitted on the printed form supplied by the city. Any bid not submitted as required herein may be rejected and not considered a proper bid.

Section 8. Bid opening procedures.

- (a) Bids shall be opened by the city manager, or his/her designee, in public at the time and place specified in the public notice, in the presence of a representative of the department recommending the purchase.
- (b) A tabulation of all bids received shall be made available for public inspection in the office of the city manager within a reasonable period of time after opening of the bids.
- (c) Any bid which is not submitted in the form as required by Section 7 and which is inadvertently opened prior to the official bid opening shall be rejected.

Section 9. Award of contract.

- (a) The city manager is empowered to award contracts on behalf of the city within the purview of this Ordinance, which are for less than twenty thousand dollars. Except as otherwise provided herein, the mayor and city council shall award all other contracts.
- (b) Contracts subject to bidding requirements shall be awarded to the lowest responsible bidder as determined at the sole discretion of the city. In determining the lowest possible bidder, the city shall consider the following as well as other criteria:
  - (i) The ability, capacity and skill of the bidder to perform the contract or provide the service required;
  - (ii) The ability of the bidder to perform the contract within the proposed schedule for completion;

- (iii) The capacity of the bidder to perform the contract or provide the service promptly, or within the time specified, without delay or interference;
  - (iv) The character, integrity, reputation, judgment, experience and efficiency of the bidder including but not limited to past performance record; default under previous contracts, whether or not such contracts were with the city; competency; and failure to pay or satisfactorily settle all bills due for labor and material on former contracts;
  - (v) The quality of performance of previous contracts or services;
  - (vi) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
  - (vii) The sufficiency of the financial resources and financial ability of the bidder to perform the contract or service;
  - (viii) The quality, availability and adaptability of the supplies, machinery, plant or other equipment or contractual services to the particular use required;
  - (ix) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract, including guarantees;
  - (x) Whether the bidder is entitled to local preference as set forth in this Ordinance.
- (c) When the award is not recommended to be given to the lowest bidder, a statement of the reasons for such award recommendation shall be prepared.
  - (d) Nothing set forth herein shall prohibit the city from negotiating a lower price than the lowest responsible bidder.

Section 10. Rejection of bids. The city may reject any and all bids received, may waive any procedural informality in the bidding process if determined to be in the best interest of the city or, if no bids are received, may:

- (a) Abandon the project;
- (b) Re-advertise for new bids; or
- (c) Provide for the contract to be negotiated in the open market.

Section 11. Advance disclosures. Any disclosure of information contained in any submitted bid documents in advance of the opening of bids, made or permitted by a city officer or employee or representative thereof, shall operate to void the bid in its entirety as to all bidders.

Section 12. Documents required for purchase or contract. The following requirements shall be met in the manners indicated below:

(a) Bid Security.

- (i) Public works or construction contracts over twenty thousand dollars. When the estimate for any public works or construction contract is over twenty thousand dollars, all bidders shall submit a bid bond secured by a cashier's check or certified check or by an insurance company licensed to do business within the state, attached to the bid documents in an amount equal to at least five percent of the bid or such other reasonable amount as determined by the city manager. The security will be held to ensure good faith on the part of the bidder and to be applied as liquidated damages should the successful bidder fail to execute and submit all required contract documents within the time required by Section 13 or attempt to withdraw the bid prior to the beginning date of the contract.
- (ii) Other Purchases or Contracts. For any purchase or contract other than as set forth in section (a) or if the bid award is computed from a bid not based on a fixed total contract sum, the city manager is empowered to fix a reasonable bid security amount to ensure good faith on the part of the bidder and to be applied as liquidated damages should the successful bidder fail to execute and submit all required contract documents within the time required by Section 13 or attempt to withdraw the bid prior to the beginning date of the contract. If the city manager determines that the requirement of a bid bond may result in a lack of competitive bids or quotes or is otherwise not warranted, the city manager may waive the requirement of a bid bond.
- (iii) Return of Bid Security. All bid security, other than that submitted by the successful bidder, shall be returned to the respective bidders within a reasonable period of time after award of a contract or rejection of the bid. The bond of the successful bidder shall be held by the city manager until all required contract documents have been fully executed.

- (b) Affidavits of Compliance. Each bidder shall submit, with other required contract bidding documents, the following affidavits:
- (i) An affidavit that the bidder is familiar with and will comply with all applicable state, local and federal laws, including, as applicable, but not limited to, the Prevailing Wage Act and the Davis-Bacon Act.
  - (ii) An affidavit indicating the following ownership status of the bidder:
    - (A) If a Corporation. The name of the state in which the corporation is chartered; the name, address and telephone number of the local registered agent and office;
    - (B) If a Partnership. The name of all partners and the address and telephone number of the business office;
    - (C) Sole Proprietorship. The name of the owner and the address and telephone number of the business office;
  - (iii) An affidavit that the bidder has not colluded with any person in the bid for the contract;
  - (iv) An affidavit that the bidder does not and will not engage in discriminatory practices and does not and will not engage in discrimination because of race, sex, religion, national origin, age or sensory, mental or physical handicap in hiring or firing, and is in fact an equal opportunity employer.
- (c) Insurance, all construction and public works contracts.
- (i) The successful bidder in all construction or public works contracts shall submit with other required contract documents a certificate of general liability insurance, issued by an insurance company licensed to do business within the state, indicating the bidder as the insured and naming the city as an additional insured for the duration of the contract, in at least the following amounts:
    - (A) Commercial General Liability. One million dollars combined single limit per occurrence for bodily injury, personal injury, and property damage. The minimum general aggregate shall be no less than a project/contract specific aggregate of one million dollars;

- (B) Business Automobile Liability. One million dollars; combined single limit per accident for bodily injury and property damage;
  - (C) Worker's compensation insurance, amount as required by state statute.
  - (D) Any self-insured retentions must be declared to and approved by the city. This certificate shall be submitted with the other required documents.
- (ii) The successful bidder shall require the same amounts and coverages as in subsection (a) of this section from all subcontractors.
- (d) Labor and Performance Bonds.
- (i) Labor and Performance Bond. Construction and public works contracts over twenty thousand dollars. The successful bidder in all construction and public works contracts whose estimated contract price exceeds twenty thousand dollars shall submit a labor and materials bond and a performance bond written for the duration of the contract issued by an insurance company licensed to do business within the state. The labor and materials bond shall be conditioned upon the full and complete payment for all materials and labor used to complete the contract, in the amount of one hundred percent of the contract price. The performance bond shall be conditioned on the full completion of the contract according to its terms, in the amount of one hundred percent on the contract price. Any person may submit in lieu of the performance bond required in this section, cash in escrow with an escrow agreement approved as to form by the city attorney. The amount deposited in escrow shall be in the amount of one hundred percent of the contract price. Notice of intent to make such an escrow deposit shall accompany the bid proposal. No withdrawal of the escrow deposit by the bidder shall be allowed until the completion of the project as approved by the city manager. The successful bidder shall execute the performance bond on a form provided by the city or its equivalent and submit the bond with other required contract documents.
  - (ii) The city manager may require a labor and materials bond or a performance bond for any other contract to be entered into by the city.

- (iii) All bidders on any contract which is funded from the state motor fuel tax in whole or in part shall submit to the city manager when required by the state, a current certificate of eligibility indicating prequalification in at least the amount of the bid and areas of expertise required and issued by the state at or prior to the time and date set for bid opening.

Section 13. Submittal of required documents.

- (a) Within fifteen calendar days after award of the contract by the city and prior to commencing work, the successful bidder shall submit the following required contract documents fully executed and bound, to the city manager:
  - (i) All documents as required by Section 12;
  - (ii) Signed contract form provided by the city.

Failure to tender the above documents as required shall permit the city to terminate the contract award and draw upon the full amount of the bidder's bid bond as liquidated damages.

- (b) The submission of a document required by this Ordinance which is in whole or in part false or misleading in any material statement shall be considered a default under the contract. The city manager is hereby empowered to immediately inform the successful bidder of the default pursuant to the provisions set out in the contract documents. He or she shall immediately take steps to institute the city's remedies available under the contract and at law, which shall include, but not be limited to, entering into a contract with the next lowest responsible bidder or re-advertising for bids.

Section 14. Exceptions to written specifications and bidding requirements for purchases or contracts in excess of five thousand dollars. The following purchases or contracts whose estimated cost is in excess of five thousand dollars shall not require written specifications or competitive bidding **provided that:**

- (a) the following purchases or contracts shall be submitted to the mayor and city council for approval prior to purchase or contract:
  - (i) Purchases which may only be made from a single source;
  - (ii) Purchases for additions to and repairs and maintenance of personal property owned by the city which may be more efficiently added to, repaired or maintained by a specific person;

- (iii) Purchases of personal property which are compatible with the existing equipment or systems owned by the city;
  - (iv) Contracts for the services of individuals possessing a high degree of professional skill;
  - (v) Purchases, which because of the unique characteristics of the personal property or the needs of the city are not susceptible to competitive bidding;
  - (vi) Contracts with options to renew for additional periods of time at a fixed price.
- (b) the city manager shall inform the mayor and city council by a full written account of the contracts entered into or purchases made pursuant to this subsection:
- (i) Purchases which can be made at a public auction, close-out sale, bankruptcy sale or other similar sale at a cost below the market cost in the community;
  - (ii) Purchases where an emergency immediately affects the public health, safety or welfare if authorized by the city manager. Upon cessation of the emergency, the city manager shall inform the city council by a full written account of the contracts entered into or purchases made pursuant to this subsection;
  - (iii) Contracts for the printing of bonds, tax warrants and other evidences of indebtedness;

Section 15. Change orders. Change orders shall be executed in the following manner:

- (a) The city manager is hereby empowered to execute the following change orders:
  - (i) Change orders which do not alter the scope or cost of the project; and
  - (ii) Change orders which result in a reduction in cost, but do not alter the scope or quality of the project.
- (b) The city manager is hereby empowered to execute the following change orders without prior approval by the city council, provided, however, he/she shall report such change orders to the city council:

- (i) Change orders which result from emergency situations, defined as:
  - (A) Any clear and present danger or hazard to health, safety or welfare; or
  - (B) Condition which would require the cessation of work on the project, if not immediately executed.
- (ii) Change orders which result in an additional project cost, if the accrued costs of all change orders to date relative to the contract do not exceed the lesser of two thousand five hundred dollars or ten percent of the original project cost.
- (iii) All change orders not included in subsection (A) or (B) of this section shall be effective only after prior approval of the city council. If such approval is given, the city manager is hereby authorized to execute such change orders.
- (iv) All change orders necessitating an increase or decrease in the cost of a contract by a total of ten thousand dollars or more or the time of completion by a total of thirty days or more shall be effective only after prior approval of the city council and a finding that: the circumstances said to necessitate the change in performance were not reasonably foreseeable at the time the contract was made; or, the change is germane to the original contract as signed; or the change is in the best interests of the city and authorized by law.

Section 16. Exclusions. This Ordinance shall not apply to:

- (a) Any collective bargaining agreement or employment contracts to which the city is a party;
- (b) Any purchase, sale or lease of real property to which the city is a party; or
- (c) Contracts with or purchases from another governmental entity.
- (d) Contracts or purchases made at prices determined through a bid process conducted by a local, regional, or state governmental entity or agency.

Section 17. Severability; Paragraph Headings. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be part of this Ordinance.

Section 18. Repealer. All other ordinances or portions of ordinances inconsistent with this Ordinance are hereby repealed.

Section 19. Publication. Within fifteen (15) days of its adoption, this Ordinance or a notice of adoption summarizing this Ordinance, as required by law, shall be published by the City Clerk in a newspaper of general circulation in the City.

Section 20. Effective Date. This Ordinance shall become effective twenty (20) days after the date of publication.

Ordinance Offered by: Councilperson Harvath

Ordinance Supported by: Councilperson Sapita

Ayes: Greenwood, Harvath, Hoexter, Sapita, Smith, Urquhart, Waddell

Nays: None

Abstain: None

Absent: None

**ORDINANCE DECLARED ADOPTED**

R. Waddell  
Renee Waddell, Mayor

06.08.10  
Date

Jean E. Neve  
Jean E. Neve, City Clerk

6-8-10  
Date

Ordinance Adoption Date: June 7, 2010.

Ordinance Effective Date: July 10, 2010 (20 days after adoption and publication).

**CERTIFICATE**

I hereby certify that the foregoing Ordinance was adopted by the City Council of the City of the Village of Douglas at a regular meeting held on June 7, 2010 and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the City Charter and the Open Meetings Act, Public Act 267 of 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

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Jean E. Neve, City Clerk