

**CITY OF MEADVILLE. MISSOURI**

**Bill No.** \_\_\_\_\_

**Ordinance No.** 2021-02

**An Ordinance Establishing Procedures for Purchases and Sales, Repealing All Inconsistent Laws including Repealing Ordinance Adopted April 12, 2010, and Establishing an Effective Date.**

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF MEADVILLE,  
MISSOURI AS FOLLOWS:

**Section 1. Purchasing Agent.**

A. Establishment. The purchasing agent shall be appointed with the approval of the City of Meadville.

B. Scope of Purchasing Authority: Duties.

The Purchasing Agent is authorized to purchase or contract for goods and contractual services needed by the City in accordance with purchasing procedures in this Ordinance or as otherwise authorized by the Board, and under other such rules and regulations as prescribed by the Board of Aldermen. The Mayor may delegate some or all of the duties of Purchasing Agent to another City employee. The delegation may be limited to a specific period of time or project.

C. Unauthorized Purchases.

Except as provided in this ordinance, City officers or employees are not to purchase goods or contractual services other than through the Purchasing Agent and in accordance with this Ordinance, and any purchase contrary to the provisions of this Ordinance is not binding on the City.

D. Other Powers and Duties.

In addition to the purchasing authority conferred above and in addition to other powers conferred by this policy, the Purchasing Agent shall:

1. Act to procure for the City the highest quality items with the least expense to the City.
2. Endeavor to obtain as full and open competition as possible on purchases or sales.
3. Maintain such forms as he or she shall find reasonable and necessary to effectively implement this policy.
4. Explore the possibilities of buying in bulk to take full advantage of discounts available.
5. Have the authority to declare vendors who default on their bids as irresponsible bidders and to disqualify them from bidding in the future.

## **Section 2. Purchase and Sale Terms and Conditions**

No purchases or sales of goods or services the payment for which is to be made from the funds of the City shall be made by the Purchasing Agent or any officer or employee except pursuant to the following terms and conditions.

### **A. Purchases under \$500**

Purchase of items in this category shall be in the most expedient manner with due regard for competitive prices and quality. No purchase order is required if there are adequate monies in the budget to accommodate the purchase.

### **B. Purchases over \$500 under \$2,500**

For purchases in this category, purchases must be approved by the Board of Aldermen.

### **C. Purchases over \$2,500.00 and under \$10,000.00**

Bid for purchases in this category are to be solicited by mail, electronic communication, personal communication, or telephone request, from prospective vendors. Bids may be solicited by the Mayor, Mayor's designee, or the City Clerk. A record of the bids solicited will be maintained. Purchases in this category shall be approved by the Mayor without prior Board approval so long as such purchase was included within the approved budget. Reasonable efforts should be made to solicit at least three (3) bids. The bid requirements of this section may be waived when the Mayor determines that following this section's provisions would cause excessive delay, public inconvenience or injury, or a significant cost penalty.

### **D. Purchases over \$10,000.00.**

Except for emergency purchases as authorized in this or other ordinances, purchases in this category require bids be procured pursuant to Section 3 procedures. Except for emergency purchases, these purchases require approval of the Board before solicitation of bids. These purchases require Board acceptance of the bid. Reasonable efforts should be made to solicit at least three (3) sealed bids.

### **E. Sales of Property**

All sales of property of an expected value of less than \$250.00 shall be made only after a notice is posted in City Hall and at the local post office.

All sales of property of an expected value of \$250.00 or greater require either: (i) sealed bids be procured after notice as set forth in Section 3, (ii) the property be sold by public auction,

including an on-line auction, or (iii) if real estate by listing of the real estate with a realtor who is selected by the Board.

E. Contracts for Professional Services.

Contracts for professional services shall be solicited as required by applicable state law such as qualification bidding for architects, engineers, and land surveying services, or for other services pursuant to procedures adopted by the Board.

### **Section 3. Bidding Procedures.**

The procedure for bids required to be obtained by formal bid procedures is as follows:

A. A notice inviting bids is to be published at least once (i) in a local newspaper of the City at least five days preceding the last day set for the receipt of bids, (ii) on the City's website, or (iii) on a public entity procurement website. The notice will include a general description of the goods or services to be purchased, state how bid forms and specifications may be secured, state the time and place for opening bids, and other pertinent information. Additionally, the purchasing officer may solicit sealed bids by direct mail, electronic communication, personal communication, or by telephone.

B. Bid Record. A record of bids received should be maintained in the City's records.

C. Notice to Vendor/Purchaser List. The purchasing agent may maintain a list of prospective bidders and, if there is such a list, will solicit bids from all responsible prospective vendors for the type of product or service to be purchased by notice of the proposed purchase. Invitations sent to the vendors or purchasers on the bidders list shall be limited to goods that are similar in character and ordinarily handled by the vendor or purchaser to which the invitations are sent.

D. Bid Opening Procedure. Bids shall be submitted sealed to the City Clerk and shall be identified as bids on the envelope, with no fax bids to be accepted on purchases or sales in excess of \$10,000.00. The bids shall be opened in public at the time and place stated in the bid notice.

E. Tabulation. A tabulation of all bids received shall be posted for public inspection and a tabulation report delivered to the Board.

F. Right to Reject Bids. The City shall retain the right to reject any and all bids or parts of bids and may readvertise or resolicit bids whenever it is deemed to be in the best interest of the City.

### **Section 4. Determining the Lowest Responsible Bidder**

The Purchasing Agent will review all bids received and make a recommendation to the Board regarding acceptance of the lowest responsible bidder. In determining the lowest responsible bidder, the following non-exclusive factors will be considered:



- A. Price and payment terms.
- B. Capacity and skill of the bidder to provide the supplies, provide the services, or perform the contract.
- C. Financial resources of the bidder to provide the supplies, provide the services, or perform the contract.
- D. Ability of the bidder to meet the time requirements required by the City or listed in the bid specifications.
- E. Character, integrity, reputation, judgment, experience, and efficiency of the bidder.
- F. Performance by the bidder during prior business transactions with the City.
- G. Quality, availability, and adaptability of the supplies or services to the particular use required for those supplies or services.
- H. The ability of the bidder to provide future maintenance and service for the goods or services.
- I. Any conditions to the bid.
- J. Specialized experience and technical competence of the bidder with respect to the type of goods or services.
- K. Capacity and capability of the bidder to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project.
- L. Past record of performance of the bidder with respect to such factors as control of costs, quality of work, and ability to meet schedules.
- M. The bidder's proximity to and familiarity with the area in which the project is located.
- N. Whether the bidder has a business location within the City and whether local personnel will be employed or local subcontractors used.
- O. The previous and existing compliance by the bidder with the laws and ordinances of the City.

## **Section 5. Miscellaneous Purchasing Requirements**

- A. Exclusive Vendor

In the event that there is only one firm or company capable of providing a service or product and an equivalent or compatible service or product cannot be secured from other vendors, then the bidding

requirements contained above shall not be applicable and the Purchasing Agent is authorized to proceed with the purchase after Board approval.

B. Emergency Purchases

In case of an emergency which requires immediate purchase of products or services and time is of the essence, the Mayor shall be empowered to authorize the purchase without complying with the procedures as set forth in this policy. This subsection shall also apply to any natural disaster or civil emergency requiring an immediate response on the part of the City. A report of the circumstances requiring an emergency purchase shall be filed by the Purchasing Agent with the Board.

C. Local Preference

(a) If a local bidder is within three percent of the lowest bid from a non-local bidder on a construction or other formally bid project from \$5,000.00 up to \$5,000,000.00, then the local bidder may be awarded the bid unless otherwise provided in this Section.

(b) The local purchasing preference policy shall not apply in the following instances:

(1) When purchases and/or contracts are funded in whole or in part by federal funds;

(2) When purchases are less than \$5,000.00 or more than \$5,000,000.00;

(3) When purchases are not required to be formally bid, such as sole source procurements, emergency procurements and any other such procurements as defined in the city procurement policy or the city emergency management policy;

(4) When professional services are procured through the issuance of requests for qualifications and/or requests for proposals, including design-build contracts; or,

(5) When such preference conflicts with any applicable state or federal laws, rules or regulations.

(c) The local purchasing preference policy shall not apply to private construction projects financed with public assistance, including, but not limited to, tax increment financing, Chapter 100 bonds, Chapter 353 redevelopment projects, and enterprise zone redevelopment.

(d) "Local" is defined as a business operating within the corporate limits of the City of Meadville, with a significant portion of its primary business operations, including, but not necessarily limited to, production, operation, purchasing, billing, marketing, management, administration and ownership, occurring within the city limits. "Local" shall not include the following:

(1) Those businesses with only a local Meadville post office box; or

- (2) Those businesses with a sales presence in the City, but no physical business location within the City limits; or
- (3) Home based businesses that merely take orders for products shipped from out-of-town to their customers.

Exceptions will be considered on a case-by-case basis when a written request is submitted to the Board.

(e) Notwithstanding the foregoing, the local bidder must otherwise meet all qualifications and procurement policy requirements of the City, including, but not limited to, the “best bid” requirements, in order to be awarded a bid under this section.

#### D. Bid Protest Procedures.

a. Right to protest. Any actual or prospective bidder who is aggrieved in connection with the solicitation or award of a contract may protest to the Mayor. The protest shall be submitted in writing within 48 business hours after such aggrieved bidder knows or should have known of the basis of the appeal. The protest shall identify specific issues that are being protested and the facts that the protestor believes supports their claim (it is the protestor's responsibility to establish their case).

b. Review of protest. The Mayor shall have the authority to resolve a protest of an aggrieved bidder concerning the solicitation or award of a contract. This authority shall be exercised in accordance with the city's bid procedures.

c. Decision. The Mayor shall issue a decision in writing within five business days of receipt of the protest. The decision shall state the reasons for the action taken.

d. Notice of decision. A copy of the decision under (c) of this section shall be mailed or otherwise furnished to the protestor and any other party intervening.

e. Appeal. A protestor may appeal the decision of the Mayor by submitting a written appeal to the City Clerk within five business days of the date of the Mayor's decision under (c) of this section. The written appeal shall state with specificity the facts supporting the protestor's position. The appeal shall be reviewed by the Board President, who will issue a decision in writing within five business days of receipt of the protestor's timely filed written appeal.

f. Finality of decision. A decision under (c) of this section shall be considered final and is not subject to appeal or further consideration unless a timely appeal is filed under e). In the event of a timely appeal under (e) the decision of the Mayor, or his designee, shall be considered final and not subject to appeal or further consideration.

g. Stay of procurement during protests. In the event of a timely protest under (a) of this section, the City shall not proceed further with the solicitation or with the award of the contract until the Mayor issues a decision under (c) (or until the Board President renders a decision on appeal pursuant to (e) of



this section), or until the Mayor makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the City.

h. The procedure provided by this subsection for bid protests is intended solely as an attempt to provide bidders with the opportunity to communicate perceived issues to the City. It is not intended to create any legal right, cause of action, property interest or independent means of redress that does not otherwise exist under Missouri Law. Bid protests shall not serve to abrogate or effect the City's exclusive right to determine the lowest and most responsible bidder in any particular bid situation.

#### **Section 6. Conflicts of interest.**

A. Any purchase in which any official or employee of the City is financially interested, must be bid pursuant to the procedure in Section 3 and, to be accepted, the bid must be the lowest bid.

B. No official, agent or employee of the City shall directly or indirectly received any gift or money or commodities under any circumstances in which it could reasonably be expected to influence the performance of their duties or intended as a reward for any action on their part. Gifts received for placing orders and gifts received for swaying official actions are strictly prohibited.

C. No officer or employee of the City shall enter into any private business transaction with any person or entity that has a matter pending or to be pending upon which the officer or employee is or will be called upon to render a decision or pass judgment. If any officer or employee already is engaged in the business transaction at the time a matter arises, he shall be disqualified from rendering any decision or passing any judgment upon the same.

**Section 7. Cooperative procurement.** The Purchasing Agent shall have the authority to join with other units of government in cooperative purchasing plans when the best interest of the City would be served and after approval of the Board and purchase through the State of Missouri or other governmental cooperative purchase programs without the necessity of following the procedures of this ordinance.

#### **Section 8. Severable.**

The portions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid, unless the court finds the valid portions of this Ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the Board would have enacted the valid portions without the invalid one, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

**Section 9. Repeals Inconsistent Ordinances.**

This ordinance repeals any prior ordinance or parts of any prior ordinance that might be in conflict herewith, including the Ordinance adopted April 12, 2010.

**Section 10. Effective Date.**

This ordinance shall be in full force and effect from and after the date of its passage and approval.

A copy of this Ordinance has been made available for public inspection prior to its adoption by the Board and this bill was read by title in the open meeting two times prior to its final passage.

PASSED AND APPROVED THIS 11<sup>TH</sup> DAY OF JANUARY, 2021.



CITY OF MEADVILLE, MISSOURI

*Ruth Munsterman, Mayor*  
\_\_\_\_\_  
Ruth Munsterman, Mayor

ATTEST:

*Bobbi Meneely*  
\_\_\_\_\_  
Bobbi Meneely, City Clerk