

**BILL NO. 11-10**

**ORDINANCE NO. 1553**

**AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, DELETING ARTICLE V OF CHAPTER 130 OF THE MUNICIPAL CODE IN ITS ENTIRETY; ENACTING A NEW ARTICLE V OF CHAPTER 130; AND PROVIDING FOR A POLICY APPLICABLE TO ALL PURCHASING FOR THE CITY OF DARDENNE PRAIRIE**

**WHEREAS**, the Board of Aldermen desires to establish a purchasing policy to ensure that needed goods and services are obtained in a timely manner, at the lowest prices possible, consistent with acceptable quality standards, and within the requirements of public purchasing laws;

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, AS FOLLOWS:**

**SECTION 1.** That the Municipal Code of the City of Dardenne Prairie, Missouri, be and is hereby amended by deleting Article V of Chapter 130 in its entirety, and enacting, in lieu thereof, a new Article V of Chapter 130, which shall read as follows:

**ARTICLE V. PURCHASING POLICY**

**SECTION 130.140: DEFINITIONS.**

As used in this Article, the following terms shall have these prescribed meanings:

*SUPERVISORY PERSONNEL* shall be deemed to mean the Mayor, Board of Aldermen, City Administrator or such other person, office or position as may be so designated by the City Administrator.

*NEGOTIATION* means the process of selecting a contractor by the competitive methods described in this chapter, whereby the commissioner of administration can establish any and all terms and conditions of a procurement contract by discussion with one or more prospective contractors.

*PURCHASE* shall include the rental or leasing of any equipment, articles or things.

**SECTION 130.145: AUTHORITY OF CITY ADMINISTRATOR**

The City Administrator is hereby empowered to prescribe and maintain such forms and procedures as he/she finds necessary to accomplish his/her function.

The City Administrator and the Mayor are authorized to reject any and all bids 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.

**SECTION 130.150: GENERAL PURCHASING PROCEDURE**

A. No individual has the authority to enter purchase agreements or contracts on behalf of the City unless specifically authorized to do so.

B. All purchases or contracts for services of any kind or description, payment for which is to be made from funds of the City shall be in the following manner:

1. *Purchases under one thousand five hundred dollars (\$1,500.00).*

a. Purchases or contracts for services for the sum of one thousand five hundred dollars (\$1,500.00) or less may be made with the approval of supervisory personnel without competitive bidding on each item, and pursuant to procedures established by the City Administrator.

b. Periodic telephone checks should be made to be certain the purchases are secured from a local source at the lowest cost for the quality needed.

2. *Purchases from one thousand five hundred dollars (\$1,500.00) to three thousand dollars (\$3,000.00).*

a. Purchases or contracts for services for the sum of one thousand five hundred dollars (\$1,500.00) to three thousand dollars (\$3,000.00) may be made with the approval of supervisory personnel and after solicitation of at least three (3) bids for the item or items or services for which solicitation may be obtained orally. Bid award in this category may be made with approval of supervisory personnel only if it is a budgeted item. If not a budgeted item, bid award shall be made by the Board of Aldermen at a regular or special meeting of the Board of Aldermen along with the expenditure authorization.

b. The execution of the bid requirement should be documented and submitted to the City Treasurer.

c. The purchase or contract for services may then be awarded to the lowest responsible bidder who submits a responsive bid which is most advantageous to the City. If the recommended bid is not the lowest, a detailed explanation should be provided. The City shall retain the right to reject any and all bids.

3. *Purchases from three thousand dollars and one cent (\$3,000.01) to ten thousand dollars (\$10,000.00).*

a. Purchases or contracts for services for the sum of three thousand dollars and one cent (\$3,000.01) to ten thousand dollars (\$10,000.00), may be secured only after solicitation of at least three (3) written bids for the item or items or services.

b. When seeking such written bids, all bids must be tabulated in detail and forwarded to the Mayor or the City Administrator.

c. The purchase or contract of services shall be awarded to the lowest responsible bidder. If the recommended bid is not the lowest, a detailed explanation must accompany the bid's submission to the Mayor or the City Administrator. The City shall retain the right to reject any and all bids.

d. Bid award in this category may be made by the Mayor or the City Administrator if it is a budgeted item. If not a budgeted item, bid award shall be made by the Board of Aldermen at a regular or special meeting of the Board of Aldermen along with the expenditure authorization.

4. *Purchases over ten thousand dollars (\$10,000.00).*

a. Purchases or contracts for services for a sum in excess of ten thousand dollars (\$10,000.00), shall be secured only after advertising for bids by either: (1) advertising in at least one (1) issue of a newspaper of general circulation in the City; (2) advertising in at least one electronic medium available to the general public; or (3) such other methods of advertisement as may be adopted by the City Administrator, including but not necessarily limited to trade magazines, when such other methods are deemed more advantageous.

b. The responsibility for the advertising of bids will be that of the City Administrator. It will be the responsibility of supervisory personnel in each department of the city to provide the City Administrator with any specifications or advertisement notices to be used in this bidding process. Said notices shall be published at least ten (10) days prior to date set for the receipt of the bids. 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.

c. The City Administrator shall be given sufficient notice by the supervisory personnel in order that deadlines for the purchase of any items or services by bid may be met.

d. In addition advertising for bid, the City Administrator may authorize mailing to suppliers of the items to be purchased or services performed, a copy of the notice inserted in the newspaper as herein before required.

e. Award of items in this category will be made by the Board of Aldermen based upon recommendation by City staff. Award shall typically go to the lowest responsible bidder unless otherwise specified by State or federal law. The City shall retain the right to reject any and all bids.

**SECTION 130.055: AUTHORITY OF CITY ADMINISTRATOR TO APPLY MORE FORMAL PROCEDURES -- CRITERIA FOR SELECTION OF LOWEST RESPONSIBLE BIDDER**

A. The City Administrator shall not be precluded from applying more formal procedures in a particular situation than those called for under the prescribed requirements.

B. 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.

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 130.060: EXCEPTIONS TO BID PROCEDURE**

Notwithstanding the provision of Section 130.045 of this Chapter, purchase of items or services pursuant to this Chapter may be made which are not in conformity with Section 130.045 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 City Administrator may authorize the procurement of such service or commodity without bidding. The particular facts which make the item a single-source purchase shall be documented, and submitted to the City Administrator who must approve the purchase.

2. *Emergency purchases.* Where an emergency situation requires immediate purchase of supplies or services and time is of the essence, the City Administrator shall be authorized to procure the supplies or services needed without bidding. The City Administrator shall maintain a written record of the circumstances surrounding emergency purchases.

3. *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 City Administrator may waive the requirements of the conventional bidding process. Such purchases shall be documented and submitted to the City Administrator. Such purchases must be approved by the City Administrator or the Mayor. 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.

4. *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.

## **SECTION 130.065: BLANKET PURCHASE ORDERS**

Blanket purchase orders may be authorized by the Mayor or City Administrator to facilitate purchasing items on credit from businesses.

## **SECTION 130.070: RULES AND REGULATIONS**

The City Administrator is hereby authorized to promulgate rules and regulations to carry out the purposes of this Chapter.

## **SECTION 130.075: 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 130.080: PROFESSIONAL CONSULTING SERVICE --  
SELECTION POLICY**

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 architecture, engineering, or land surveying in the State of Missouri, or to provide professional services as described herein.

*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. The term "*professional services*" may also encompass the services provided by planning consultants, accountants, other person or firms providing consulting services; and attorneys at law, providing legal services to the City, City Officials and City employees, both temporary and permanent.

B. Present provisions of law notwithstanding, in the procurement of professional services, the City Administrator 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 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:

1. The specialized experience and technical competence of the firm with respect to the type of services required;
2. 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;
3. 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;
4. The firm's proximity to and familiarity with the area in which the project is located.

C. *General Procedures And Responsibilities.*

1. *Project initiation.* When a department of the City identifies a project for which professional services will be necessary, the department will draft a request for proposal, including specifications required to satisfactorily complete the project. The City Administrator shall have the final authority to approve initiation of the project.

2. *Selection and Negotiation.* The department head shall list and rank at least three highly qualified firms, and submit said list, in writing to the City Administrator. The City Administrator and the department head shall select the firm considered best qualified and capable of performing the desired work and negotiate a contract for the project with the firm selected.

2. *Scope of Services.* For a basis for negotiations the department head shall prepare a written description of the scope of the proposed services.

3. *Continued Negotiations.* 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 the next most qualified firm identified. 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.

4. 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 the provisions of this Section.

The provisions of Section 34.073, RSMo., which requires that preference be given to Missouri corporations, shall be complied with when selecting a firm.

5. *Exceptions.* 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 by the City Administrator and approved by the Mayor, in writing.

D. *Compensation Or Fee.* This amount 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. *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 2. Effective Date:** This Ordinance shall be in full force and take effect from and after its final passage and approval.

**SECTION 3. Savings Clause:** Nothing contained herein 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 any manner connected with the subject matter hereof, unless expressly set forth herein.

**SECTION 4. Severability Clause:** 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 16<sup>th</sup> day of March, 2011.



As Presiding Officer and as Mayor

Attest:

Kim Clark  
City Clerk

Approved this 16<sup>th</sup> day of March, 2011.



Mayor

Attest: Kim Clark  
City Clerk