

AN ORDINANCE OF THE UNITED CITY OF YORKVILLE, KENDALL COUNTY, ILLINOIS, AMENDING THE YORKVILLE CITY CODE, TITLE 1, CHAPTER 7, SECTION 3: CONTRACTS AND PURCHASES

WHEREAS, the United City of Yorkville, Kendall County, Illinois (the “*City*”) is a duly organized and validly existing non home-rule municipality created in accordance with the Constitution of the State of Illinois of 1970 and the laws of the State; and,

WHEREAS, Title 1, Chapter 7, Section 1-7-3 of the Yorkville City Code, establishes procedures for all purchases and contracts to be accepted by the City; and,

WHEREAS, the Mayor and the City Council (the “*Corporate Authorities*”) have reviewed the procedures for contracts and purchases and have determined that it is in the best interest of the City and its residents to amend Title 1, Chapter 7, Section 1-7-3 of the Yorkville City Code to provide for procurement of all goods and services required by the City.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the United City of Yorkville, Kendall County, Illinois, as follows:

Section 1. That Section 1-7-3 of the Yorkville City Code, be and is hereby deleted in its entirety and the following added in its stead:

“1-7-3: CONTRACTS AND PURCHASES:

- A. Definitions: The expression "lowest responsible bidder", as used in this section and in the City's bidding documents, shall be deemed to mean the lowest bidder whose offer best represents in quality, fitness and capacity the requirements of the proposed work or usage.
- B. Bids For All Contracts For Services Of Materials Over Twenty Five Thousand Dollars:
 - 1. Advertising For Bids: Except as otherwise provided herein, all contracts of whatever nature for labor, services or work, and for the purchase or lease of materials or supplies involving amounts in excess of twenty five thousand dollars (\$25,000.00) made by or on behalf of the City shall be let to the lowest responsible bidder following notice as required in the following subsections:

- a. Notice shall be published in a newspaper of general circulation throughout the City at least once which publication shall be at least fifteen (15) days prior to the time designated for opening bids. The notice shall include a general description of the article or service desired, shall state the time, date and place of bid opening, and shall designate where bidding documents may be obtained.
- b. All purchases or contracts to be let shall be noticed by posting on the public bulletin board in the City Hall.

2. Bidding Procedures:

- a. Bidder's Security: All bids must be sealed and, in the case of contracts for construction of Municipal buildings or facilities or for labor, shall be accompanied by security, either cash, cashier's check, certified check or surety bond, in a sum equal to ten percent (10%) of the total aggregate of the bid. The successful bidder shall forfeit his bid security upon such bidder's failure or refusal to execute the contract within the time designated in the bid documents. The City Council, in such event, may award the contract to the new lowest responsible bidder.
- b. Other Bond Requirements: A faithful performance bond, labor and material bond and other bonds may be required by the City Council in amounts reasonably necessary to protect the City's interests in obtaining the services or work involved. If bonds are required, the form and amount thereof shall be designated in the notice inviting bids.
- c. Bid Opening Procedures: All bids shall be submitted to the City Clerk, who shall safeguard them in a sealed condition until the time noticed for public bid opening. At the time and place stated in the public notices, the City Clerk or designee shall publicly open all bids. The tabulation of all bids or copies of bids received shall be available for public inspection in the Clerk's Office for a period of not less than thirteen (13) days after the bid opening.
- d. Award Of Contracts:
 - i. Lowest Responsible Bidder: The City Council may make an award of contract to the lowest responsible bidder. If considered to be in the best interest of the City, selected portions of the lowest responsible bid may be accepted and award made accordingly. In the alternative, the City Council may either reject all bids and readvertise or authorize the City itself to perform the work and directly acquire the items desired in accordance with the immediately following provision.
 - ii. Direct Method: After bids are rejected or if no bids are received, the City Council, by resolution and act of majority vote of the Council, including the Mayor, may authorize the work done by City personnel and equipment

or may authorize the purchase of the material and equipment for services involved on the open market without complying with the requirements of this section, provided that the City Council reserves competent information or data that the City itself is capable of completing the project involved in a more satisfactory or economical manner or that the materials, equipment or services may be purchased more economically on the open market.

- e. Tie Bids: If two (2) or more bids are received which are in all respects equal, the contract shall be awarded to the bidder maintaining a place of business in the City. However, if all or none of said bidders maintain a place of business in the City, then the contract shall be awarded by drawing lots.

3. Exemptions From Bidding Requirements:

- a. Notwithstanding any provisions of this section to the contrary, the competitive bidding procedures and requirements may be dispensed within any of the following instances:
 - i. When a commodity being purchased is standardized in a manner to be compatible with equipment or articles in existing City use and in order to obtain more function or economic use from such existing equipment or articles, together with such commodity.
 - ii. When in public session, the City Council has received competent information, data and sworn testimony supporting the facts that the product or service desired is provided only by one person or firm.
 - iii. The City Council may authorize the purchase of materials, supplies, equipment and services or may order work performed by the City upon a finding of support by competent information or data that such purchase or work is urgent and immediately necessary for the preservation of life, health and property. The term "urgent and immediately" as used herein shall be deemed to mean threatening to happen at once, such as an impending danger or calamity.
 - iv. When an agreement involves acquisition of services, equipment or any agreement entered into with another governmental entity.
 - v. The City may award a renewal or extension of an existing contract or agreement with any supplier or vendor of services, equipment, materials or work performed by or on behalf of the City in the event that the City is satisfied with the past performance of the entity providing said service, equipment or work. In the event the City Council wishes to make a renewal or extension of an existing agreement with the City, no competitive bidding shall be required by the City Council by a vote of the

majority of the Aldermen then holding office. Nothing contained herein shall be interpreted to restrict the power of the City to amend the terms of any existing agreement upon renewal or extension thereof so long as the City Council passes a resolution approving the terms of any amendment or modification of an existing agreement.

- vi. The City may award any contract or approve any purchase of materials without advertising for bids if authorized by two-thirds (2/3) of the Aldermen then holding office.

C. Cooperative Procurement:

1. Authority:

When deemed in the best interest of the city by the city administrator, supplies, services or construction may be procured pursuant to a cooperative purchasing agreement in accordance to the Governmental Joint Purchasing Act, 30 Illinois Compiled Statutes 525/1 et seq., as amended.

2. Cooperative Purchasing:

The city may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies, services, or construction with one or more governmental units in accordance with a formal agreement entered into by the participants. Such cooperative purchasing may include but is not limited to, joint or multi-party contracts between public procurement units and open-ended public procurement unit contracts that are made available to other governmental units.

3. Competition:

All cooperative purchasing conducted under this subsection shall be through contracts awarded through full and open competition, including use of source selection methods substantially equivalent to those specified in Subsection 1-7-3(B) of this Code.

D. Surplus Property:

1. Real Property:

In the City has either (1) adopted an ordinance to sell surplus real estate pursuant to Section 11-76-4.2 of the Illinois Municipal Code, 65 ILCS 5/1-1-1 et. seq. (the "Illinois Municipal Code") and has received no bid; or, (2) adopted a resolution to sell surplus real estate under Section 11-76-4.1 of the Illinois Municipal Code and has received no acceptable offer within six (6) months after adoption of the resolution, then that parcel of surplus real estate may be sold in the following manner.

If the City has an unemployment rate higher than the national average for at least one (1) month during the six (6) months preceding an ordinance adopted to sell surplus real estate

and the City has not received an acceptable offer within six (6) months of the date of the resolution authorizing the sale, then the City Council may, by resolution, authorize the sale of surplus public real estate in any of the following manners:

- a. by the staff of the municipality;
- b. by listing with local licensed real estate agencies; or
- c. by public auction.

The terms of the sale, the compensation of the agent, if any, the time and the place of the auction, if applicable, a legal description of the property and its size, use and zoning shall be included in the resolution. The resolution shall be published once each week for three (3) successive weeks in a daily or weekly newspaper published in the municipality or, if none, in a newspaper published in the county in which the municipality is located. No sale may be conducted until at least thirty (30) days after the first publication. The corporate authorities may accept any offer or bid determined by them to be in the best interest of the municipality by a vote of three-fourths (3/4) of the corporate authorities then holding office.

2. Personal Property:

Pursuant to Section 11-76-4 of the Illinois Municipal Code, whenever the City owns any personal property which is no longer necessary or useful to or in the best interests of the City to retain with a residual value of less than \$5,000, the City Administrator is authorized to sell or dispose of such property by any method the City Administrator deems to be in the best interests of the City, including not limited to:

- a. Competitive sealed bidding;
- b. Donation;
- c. Recycling Company;
- d. Public auction;
- e. Trade-in, when the City Administrator or his or her designee determines the trade-in value is expected to exceed the value estimated to be obtained through the sale of such supplies; or
- f. Disposal, when the City Administrator or his or her designee determines that surplus supplies have no resale value, or that the cost of transportation, storage, and sale of said supplies will exceed the anticipated sale value.

Any personal property which has a residual value in excess of \$5,000 shall be sold or disposed of pursuant to any one of the methods set forth above as recommended by the City Administrator and approved by the City Council.

Surplus property shall not be made available to any elected or appointed official or employee of the City, unless through a public auction or competitive sealed bidding process.”

Section 2. Resolution 2005-05 adopted January 25, 2005 regarding surplus property is hereby repealed.

Section 3. This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Passed by the City Council of the United City of Yorkville, Kendall County, Illinois, this 26th day of May, A.D. 2020

City Clerk

KEN KOCH	<u>AYE</u>	DAN TRANSIER	<u>AYE</u>
JACKIE MILSCHEWSKI	<u>AYE</u>	ARDEN JOE PLOCHER	<u>AYE</u>
CHRIS FUNKHOUSER	<u>AYE</u>	JOEL FRIEDERS	<u>AYE</u>
SEAVAR TARULIS	<u>AYE</u>	JASON PETERSON	<u>AYE</u>

APPROVED by me, as Mayor of the United City of Yorkville, Kendall County, Illinois, this 8th day of June, A.D. 2020.

Mayor

Attest:

City Clerk