

ORDINANCE NO. 25-_____

**AN ORDINANCE
AMENDING SECTION 4 (METHODS OF SOURCE SELECTION),
SECTION 7 (PROCUREMENT OF CONSTRUCTION),
SECTION 8 (COOPERATIVE PURCHASING),
SECTION 9 (SUPPLY MANAGEMENT AND SURPLUS PROPERTY) AND
SECTION 10 (AUTHORITY TO CONTRACT AND FISCAL RESPONSIBILITY)
OF TITLE 1 (ADMINISTRATIVE), CHAPTER 9 (MUNICIPAL FINANCES),
ARTICLE B (PURCHASING POLICIES AND GUIDELINES) OF
THE NAPERVILLE MUNICIPAL CODE**

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL
OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in
exercise of its home rule authority that:**

SECTION 1: Title 1 (Administrative), Chapter 9 (Municipal Finances), Article B
(Purchasing Policies and Guidelines), Section 4 (Methods of Source Selection) of the
Naperville Municipal Code is hereby amended by adding the underlined language and
deleting the stricken language as follows:

TITLE 1 – ADMINISTRATIVE

CHAPTER 9 – MUNICIPAL FINANCES

ARTICLE B. PURCHASING POLICIES AND GUIDELINES

SECTION:

1-9B-4: METHODS OF SOURCE SELECTION:

Unless otherwise authorized by law, all City contracts shall be awarded by one of the
following methods:

1. Competitive Sealed Bidding: Contracts shall be awarded by competitive
sealed bidding except as otherwise provided in this Section.
 - 1.1. Invitation For Bids: through
 - 1.4. Bid Acceptance and Bid Evaluation: * * *
 - 1.5. Correction Or Withdrawal of Bids: Correction or withdrawal of
inadvertently erroneous bids before or after bid opening, or
cancellation of awards or contracts based on such bid mistakes,

may be permitted where appropriate. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Chief Procurement Officer. Mistakes discovered before bid opening may be withdrawn by written or telegraphic notice received in the office designated in the invitation for bids prior to the time set for bid opening. Any modification prior to the bid opening must be submitted as a new sealed bid in a sealed envelope prior to the scheduled opening of the bid. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the City or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake may be permitted to withdraw its bid if:

1.5.1. The mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident; or

1.5.2. The bidder submits evidence that clearly and convincingly demonstrates that a mistake was made.

1.6. Award: through 1.7. Multistep Sealed Bidding: * * *

2. Competitive Sealed Proposals: through

3. Reverse Auctions: * * *

4. Small Purchases: Any purchase ~~not exceeding less than twenty-five thousand dollars (\$25,000.00)~~ thirty-five thousand dollars (\$35,000.00) may be made in accordance with the small purchase procedures authorized in this Section; provided, however, that procurement requirements shall not be artificially divided so as to constitute a small purchase under this Section.

4.1. ~~Small Purchases in Excess of Over Ten Thousand Dollars Five Thousand Dollars but less Than Twenty-Five Thousand Dollars Thirty-Five Thousand Dollars:~~ Insofar as it is practical for small purchases in excess of ~~ten thousand dollars (\$10,000.00)~~ five thousand dollars (\$5,000.00) but less than ~~twenty-five thousand dollars (\$25,000.00)~~ thirty-five thousand dollars (\$35,000.00), no less than three (3) persons shall be solicited to submit written quotations. Award shall be made to the responsive, responsible person offering the lowest acceptable quotation. The names of the persons submitting quotations, and the date and amount of each quotation shall be recorded and maintained as a public record.

~~4.2. Small Purchases Over One Thousand Dollars But Less Than Ten Thousand Dollars: Insofar as is practical for small purchases in excess of one thousand dollars (\$1,000.00) but less than ten thousand dollars (\$10,000.00), no less than three (3) persons shall be solicited to submit oral quotations. Award shall be made to the responsive, responsible person offering the lowest acceptable quotation. The names of the persons submitting quotations, and the date and amount of each quotation shall be recorded and maintained as a public record.~~

4.3.2. Small Purchases less than Under One Thousand Dollars Five Thousand Dollars: The Chief Procurement Officer shall adopt operational procedures for making small purchases of less than ~~one thousand dollars (\$1,000.00)~~ five thousand dollars (\$5,000.00) or less. Such operational procedures shall provide for obtaining adequate and reasonable competition for the supply, service, or construction being purchased.

4.4.3. Delegation To City Departments:

4.43.1. The Chief Procurement Officer may adopt operational procedures allowing City departments to obtain quotations and submit them with the purchase request.

4.43.2. In accordance with Subsection 1-9B-3.5 of this Article, the Chief Procurement Officer may adopt operational procedures allowing City departments to make small purchases less than up to twenty-five thousand dollars (\$25,000.00) thirty-five thousand dollars (\$35,000.00) per transaction, provided said delegated authority is exercised in accordance with the provisions of this Article.

5. Sole Source Procurement: * * *

6. Single Source Procurement: A contract may be awarded without competition when the Chief Procurement Officer determines in writing, after conducting a good faith review, that a single source is in the best interest of the City based on standardization or compatibility with existing equipment/systems, warranty/support requirements, reduced costs or uniqueness of a good or service. The Chief Procurement Officer, or their designee, shall conduct negotiations, as appropriate, as to price, delivery, and terms. A record of single source procurements shall be maintained as a public record and retain a listing of the item(s) procured under each contract, and the identification number of each contract file. When the

contract exceeds the established bid limit, authorization must be received by the City Manager or the City Council, as applicable.

7. Cooperatives/Joint Procurements:

7.1. Cooperative Purchasing: The Chief Procurement Officer 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 an 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 pursuant to the Governmental Joint Purchasing Act, 30 Illinois Compiled Statutes 525/1 et seq., as amended.

7.2. Competition: All cooperative purchasing conducted under this Section shall be through contracts awarded through full and open competition, including use of source selection methods substantially equivalent to those specified in Section 1-9B-4.2 and Section 1-9B-4.3.

6-8. Emergency Procurements: Notwithstanding any other provisions of this Article, the City Manager or Chief Procurement Officer may make, or authorize others to make emergency procurements of supplies, services, or construction items when there exists an immediate threat to public health, welfare, or safety or to prevent or minimize serious disruption of government services; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the item(s) procured under the contract, and the identification number of the contract file. The record of any emergency procurement in excess of ~~twenty-five thousand dollars (\$25,000.00)~~ thirty-five thousand dollars (\$35,000.00) shall be submitted to the City Council at its next regularly scheduled meeting.

4-9. Revenue Generating And Concession Contracts: Revenue generating and concession contracts shall be awarded in accordance with the provision of this Section, except that price shall be evaluated on the basis of the highest bid or offer.

8-10. Responsibility Of Bidders And Offerors: If the lowest responsive bidder is found nonresponsive, a written determination of nonresponsibility, setting forth the basis of the finding, shall be prepared by the Chief Procurement

Officer. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to such bidder or offeror.

9.11. Prequalification Of Suppliers: Prospective suppliers may be prequalified for particular types of supplies, services and construction. The Chief Procurement Officer shall determine the method of submitting prequalification information and the information required in order to be prequalified.

10.12. Bid And Performance Bonds On Supply Or Service Contracts: Bid and performance bonds or other security may be required for supply or service contracts as the Chief Procurement Officer, in consultation with the head of a using department, deems advisable to protect the City's interests. Any such bonding requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of a bidder or offeror's responsibility.

11.13. Cancellation Of Invitations For Bids Or Requests For Proposals: An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation by the Chief Procurement Officer when in the best interests of the City. Notice of cancellation shall be sent to all persons solicited. The reasons therefor shall be made part of the contract file. Each solicitation issued by the City shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part when in the best interests of the City. The reason(s) for rejection shall be provided upon request by unsuccessful bidders or offerors.

SECTION 2: Title 1 (Administrative), Chapter 9 (Municipal Finances), Article B (Purchasing Policies and Guidelines), Section 7 (Procurement of Construction) of the Naperville Municipal Code is hereby amended by adding the underlined language and deleting the stricken language as follows:

TITLE 1 – ADMINISTRATIVE

CHAPTER 9 – MUNICIPAL FINANCES

ARTICLE B. PURCHASING POLICIES AND GUIDELINES

SECTION:

1-9B-7: PROCUREMENT OF CONSTRUCTION:

1. Responsibility For Selection Of Project Delivery Method: The Chief Procurement Officer, in consultation with the appropriate City department or agency, shall have discretion to select the appropriate project delivery method. In determining which method to use, the Chief Procurement Officer shall consider the City's requirements, its resources, and the capabilities of potential contractors.
2. Bidder Submittal Requirements: The following are the minimum requirements for bidders responding to construction procurements.
 - 2.1. The bidder shall hold a Federal Employer Tax Identification Number or Social Security Number (for individuals).
 - 2.2. Apprenticeship Programs: The bidder and all bidder's subcontractors who will perform work on the project must participate in active apprenticeship and training programs approved and registered with the U.S. Department of Labor's Office of Apprenticeship, or its successor organization, for each of the trades of work contemplated under the awarded contract. The bidder may also be requested to provide evidence that any applicable apprenticeship program has graduated at least five (5) apprentices in each of the construction crafts over the past five (5) years that the bidder will perform on the project. Evidence of graduation rates are not required for apprenticeship crafts dedicated exclusively to the transportation of materials and equipment to and from the public works project. The required evidence includes, but is not limited to, a copy of applicable apprenticeship program. Additional evidence of participation and graduation requirements may be requested by the Chief Procurement Officer or his/her designee.
 - 2.3. Bid Security: Bid security shall be required for all construction contracts awarded by competitive sealed bidding, in accordance with applicable law. Bid security may be required for construction contracts awarded by competitive sealed proposals or other methods. Bid security shall be a bond provided by a surety company authorized to do business in the state, or the equivalent in cash, or otherwise supplied in a form satisfactory to the Chief Procurement Officer.
 - 2.3.1. Amount: Bid security shall be in an amount equal to at least ten percent (10%) of the amount of the bid, unless otherwise required by a granting agency.

2.3.2. Rejection Of Bids: When the invitation for bids requires security, noncompliance requires that the bid be rejected unless it is determined that the bid fails to comply only in a nonsubstantial manner with the security requirements.

2.3.3. Withdrawal Of Bids: If a bidder is permitted to withdraw its bid before award as provided in Subsection 1-9B-4.1.5 of this Article, no action shall be taken against the bidder or the bid security.

3. Awarded Contractor Requirements: The following are the minimum requirements for the contractor awarded the construction contract:

3.1. Contract Performance And Payment Bonds:

3.1.1. When Required: When a construction contract is awarded in excess of thirty-five ~~ten~~ thousand dollars (\$~~3540~~3540,000.00), the following bonds or security shall be delivered to the City and shall become binding on the parties upon the execution of the contract:

3.1.1.1. A performance bond satisfactory to the City, executed by a surety company authorized to do business in the State or otherwise secured in a manner satisfactory to the City, in an amount equal to one hundred percent (100%) of the price specified in the contract; and

3.1.1.2. A payment bond satisfactory to the City, executed by a surety company authorized to do business in the State or otherwise secured in a manner satisfactory to the City, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the price specified in the contract.

3.1.2. Authority To Require Additional Bonds: Nothing in this Section shall be construed to limit the authority of the Chief Procurement Officer to require other forms of

security to assure timely, faithful, and uninterrupted performance.

4.3.2. Insurance:

4.3.2.1. Contractor's Insurance: Contractors and subcontractors performing any construction work for the City shall maintain for the duration of the project and any extensions thereof insurance coverages as specified by the Chief Procurement Officer.

4.3.2.2. Errors And Omissions Insurance: The Chief Procurement Officer may require professional services firms to provide appropriate errors and omissions insurance to cover architectural and engineering services.

3.3. Subcontractor List: The Contractor shall disclose the name and address of each subcontractor from whom the contractor has accepted a bid and/or intends to hire on any part of the project prior to the subcontractor commencing work on the project.

3.4. Illinois Prevailing Wage Act: The contractor shall comply with all provisions and exemptions of the Illinois Prevailing Wage Act, including wages, medical and hospitalization insurance and retirement for those trades covered in the Act.

3.4.1. The contractor and all subcontractors are required to turn in certified payrolls as specified in Illinois Public Act 94-0515, and follow all provisions of the Employee Classification Act, 820 ILCS 185/1, et seq.

~~5. — Apprentices And Training Program: Construction require evidence of participation in apprentice and training programs applicable to the work to be performed on the project, which are approved by, and registered with, the United States Department of Labor's Office of Apprenticeship, or its successor organization; and evidence that any applicable apprenticeship program has graduated at least five (5) apprentices in each of the construction crafts over the past five (5) years the bidder will perform on the project. Evidence of graduation rates are not required for apprenticeship crafts dedicated exclusively to the transportation of materials and equipment to and from the public works project. The required evidence includes, but is not limited to, a copy of applicable apprenticeship program certification that it has graduated least five (5) apprentices in each of the past five (5) years for each construction craft the bidder will perform on the project. Additional evidence of participation~~

~~and graduation requirements may be requested by the Chief Procurement Officer or his/her designee.~~

SECTION 3: Title 1 (Administrative), Chapter 9 (Municipal Finances), Article B (Purchasing Policies and Guidelines), Section 8 (Cooperative Purchasing) of the Naperville Municipal Code is hereby amended by adding the underlined language as follows:

TITLE 1 – ADMINISTRATIVE

CHAPTER 9 – MUNICIPAL FINANCES

ARTICLE B. PURCHASING POLICIES AND GUIDELINES

SECTION:

1-9B-8: COOPERATIVE PURCHASING:

[RESERVED]

- ~~1. Authority: When deemed by the Chief Procurement Officer to be in the best interests of the City, supplies, services or construction may be procured pursuant to a cooperative purchasing agreement. The Chief Procurement Officer is authorized to approve and award purchase orders or contracts where the funds for such contracts have been previously budgeted and appropriated by the City Council, and where such contract is pursuant to the Governmental Joint Purchasing Act, 30 Illinois Compiled Statutes 525/1 et seq., as amended.~~
- ~~2. Cooperative Purchasing: The Chief Procurement Officer 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 an agreement entered into by the participants. Such cooperative purchasing may include, but is not limited to, joint or multiparty 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 Section shall be through contracts awarded through full and open competition, including use of source selection methods substantially equivalent to those specified in Section 1-9B-4, "Methods Of Source Selection", of this Article.~~

SECTION 4: Title 1 (Administrative), Chapter 9 (Municipal Finances), Article B (Purchasing Policies and Guidelines), Section 9 (Supply Management and Surplus Property) of the Naperville Municipal Code is hereby amended by adding the underlined language as follows:

TITLE 1 – ADMINISTRATIVE

CHAPTER 9 – MUNICIPAL FINANCES

ARTICLE B. PURCHASING POLICIES AND GUIDELINES

SECTION:

1-9B-9: SUPPLY MANAGEMENT AND SURPLUS PROPERTY:

1. Inventory: through 2. Excess Supplies: * * *
3. Disposal Of Surplus Supplies: The Chief Procurement Officer shall be responsible for the sale or disposition of surplus supplies by a method or methods deemed by the Chief Procurement Officer to be in the best interests of the City, including, but not limited to:
 - 3.1. Request for quotation, pursuant to Subsection 1-9B-4.4 of this Article, when the estimated value of the surplus property is less than ~~twenty-five thousand dollars (\$25,000.00)~~ thirty-five thousand dollars (\$35,000.00), except that award shall be made to the highest responsive, responsible bidder;
 - 3.2. Competitive sealed bidding, pursuant to Subsection 1-9B-4.1 of this Article, when the estimated value of the surplus property is ~~twenty-five thousand dollars (\$25,000.00)~~ thirty-five thousand dollars (\$35,000.00) or more, except that award shall be made to the highest responsive, responsible bidder;
 - 3.3. Public auction;
 - 3.4. Electronic auction;
 - 3.5. Trade in, when the Chief Procurement Officer determines the trade in value is expected to exceed the value estimated to be obtained through the sale of such supplies; or

- 3.6. Disposal, when the Chief Procurement Officer 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.

4. Surplus Real Property: * * *

SECTION 5: Title 1 (Administrative), Chapter 9 (Municipal Finances), Article B (Purchasing Policies and Guidelines), Section 10 (Authority to Contract and Fiscal Responsibility) of the Naperville Municipal Code is hereby amended by adding the underlined language as follows:

TITLE 1 – ADMINISTRATIVE

CHAPTER 9 – MUNICIPAL FINANCES

ARTICLE B. PURCHASING POLICIES AND GUIDELINES

SECTION:

1-9B-10: AUTHORITY TO CONTRACT AND FISCAL RESPONSIBILITY:

1. Contract Award:
 - 1.1. Chief Procurement Officer: Any procurement for supplies or services ~~that does not exceed less than twenty-five thousand dollars (\$25,000.00)~~ thirty-five thousand dollars (\$35,000.00) may be awarded by the Chief Procurement Officer pursuant to the provisions of this Article.
 - 1.2. City Manager: Any procurement for supplies or services that does not exceed one hundred thousand dollars (\$100,000.00) may be awarded by the City Manager, or the City Manager's designee, pursuant to the provisions of this Article.
 - 1.3. City Council: Except as otherwise provided in this Article, all contracts of one hundred thousand dollars (\$100,000.00) or more shall be awarded by the City Council.
2. Approval Of Change Orders And Contract Modifications:
 - 2.1. Chief Procurement Officer: The Chief Procurement Officer may approve:

2.1.1. Any change order or contract modification that is equal to or less than the contract contingency amount established at the time of award of the original contract, and is less than ~~twenty-five thousand dollars (\$25,000.00)~~ thirty-five thousand dollars (\$35,000.00);

2.1.2. Any change order or contract modification on a small purchase as defined in Subsection 1-9B-4.4 of this Article, provided that sufficient budgeted funds are available and the total value of the contract, as amended, does not exceed ~~twenty-five thousand dollars (\$25,000.00)~~ thirty-five thousand dollars (\$35,000.00); or

2.1.3. Any administrative change order necessary to reduce, correct or roll over a budgetary encumbrance, provided said change does not increase the total value of the contract.

2.2. City Manager: The City Manager, or the City Manager's designee, may approve:

2.2.1. Any change order or contract modification that is equal to or less than the contract contingency amount established at the time of award of the original contract;

2.2.2. Any change order or contract modification on a contract less than one hundred thousand dollars (\$100,000.00), provided sufficient budgeted funds are available and the total value of the contract, as amended, does not exceed one hundred thousand dollars (\$100,000.00);

2.2.3. Any change order or contract modification that is less than ten thousand dollars (\$10,000.00), provided sufficient budgeted funds are available; or

2.2.4. Any change order or contract modification that extends the time of completion of a project for less than ~~thirty (30) days~~ ninety (90) days.

2.3. City Council: Except as otherwise provided in Subsections 1-9B-10.2.1 and 1-9B-10.2.2 of this Section, the City Council shall approve all change orders and contract modifications.

3. Assignment Of Contracts: through

5. Commencement Of Work:

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SECTION 6: Savings Clause. If any provisions of this Ordinance or its application to any person or circumstance is held invalid or unenforceable by any court of competent jurisdiction, this invalidity or unenforceability does not affect any other provisions or application of this Ordinance, which can be given effect without the invalid or unenforceable provision or application. To achieve this purpose, the provisions of this Ordinance are declared to be severable.

SECTION 7: Effective date. This Ordinance shall take full force and effect upon its approval and shall be effective as of September 1, 2025.

ADOPTED this _____ day of _____, 2025.

AYES:

NAYS:

ABSENT:

APPROVAL this _____ day of _____, 2025.

Scott A. Wehrli
MAYOR

ATTEST:

Dawn Portner
CITY CLERK