

VILLAGE OF LAKE ORION
COUNTY OF OAKLAND
STATE OF MICHIGAN

ORDINANCE

AN ORDINANCE TO ADD A NEW CHAPTER 34 TITLED “PURCHASING” TO TITLE III: ADMINISTRATION OF THE VILLAGE OF LAKE ORION CODE OF ORDINANCES TO PROVIDE FOR THE ORDINARY PURCHASING PROCEDURE, RULES, REGULATIONS, AND EXCEPTIONS AS REQUIRED BY SECTION 11.2 OF THE VILLAGE CHARTER.

THE VILLAGE OF LAKE ORION ORDAINS:

Section 1. Amendment to Village of Lake Orion Code of Ordinances.

The Village of Lake Orion Code of Ordinances is hereby amended to add a new Chapter 34 titled “Purchasing” to Title III: Administration as follows:

TITLE III: ADMINISTRATION

CHAPTER 34: PURCHASING

§34.01 –GUIDELINES.

These guidelines have been prepared to provide standardized policies and procedures for the purchase of supplies and contractual services by the Village. The guidelines also define the responsibilities of the Purchasing Agent and the operating departments regarding the purchase and/or sale of goods. These guidelines are to be followed for the purchase of supplies and contractual services.

§34.02 – DEFINITIONS.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Contract means all types of Village agreements, regardless of what they might be called, for the procurement of supplies, equipment or contractual services, except that the term shall not include collective bargaining agreements.

Contractual services means and includes the rental, repair or maintenance of equipment, machinery and other Village-owned property. The term shall not include professional, insurance and personal services or other contractual services which are in their nature unique.

Department head means the individual in charge of a using agency or that individual's designate.

Invitation for bids means the complete assembly of related documents, whether attached or incorporated by reference, furnished prospective bidders for the purpose of soliciting sealed bids.

Purchasing Agent means the Village Manager shall act as purchasing agent of the Village unless another officer or employee shall be designated to act as purchasing agent by the Village Manager in writing filed with the Village Clerk. The purchasing agent, with the approval of the Village Manager, shall adopt any necessary rules respecting requisitions and purchase orders.

Purchasing guidelines means those guidelines established by the Village Manager and approved by resolution of the Village Council.

Responsible bidder means a person who has the capability in all respects to perform fully the contract requirements.

Responsive bidder means a person who has submitted a bid which conforms in all material respects to the invitation for bids.

Supplies means and includes all supplies, materials and equipment, but excluding land or any interest in land.

Using agency means any department, agency, commission or other unit in the Village government using supplies or procuring contractual services as provided in this division.

§34.03 – GENERAL POLICIES.

All Village Officials shall:

- A. Comply with the Village of Lake Orion Charter and the Village Code as it pertains to purchasing and disposal of assets. Specific references are in Chapter 11.1 and 11.2.
- B. Obtain from responsible vendors sufficiently high-quality goods for the lowest possible price.
- C. Implement purchasing procedures which will facilitate the purchase of and payment for goods yet will provide sufficient internal controls.
- D. Provide departments with timely financial reports for purposes of budgetary controls and order goods only if funds have been appropriated by the Village Council.
- E. Purchase in quantity when practical in order to obtain discounts and minimize paper flow throughout the year.
- F. Purchase materials or equipment that are sustainable when practical.
- G. Encourage competitive bidding among vendors; however, the Village reserves the right

to reject any or all bids or quotes and need not purchase from the lowest bidder.

- H. Assure orders shall not be artificially subdivided in order to avoid complying with the bidding requirements.
- I. Assure all Village officials and employees involved in the purchase process will adhere to the requirements in Chapter 34 of the Village Code of Ordinances and the Charter, Chapter 11.

§34.04 - RESPONSIBILITIES OF THE PURCHASING AGENT.

- A. Oversee the entire purchasing operation.
- B. Monitor the purchase of supplies and contracted services as well as the disposal of obsolete or surplus fixed assets.
- C. Assist departments with their purchasing needs and ensure that proper purchasing procedures are being followed.
- D. Examine each requisition for purchase order and each requisition for payment to ensure that requests have been properly documented and authorized, that budgeted funds are available and that the account number classification is correct.
- E. Ensure that all vendors with an expected annual payment of \$600 or greater have a valid W-9 on record.

§34.05 - RESPONSIBILITIES OF OPERATING DEPARTMENTS.

- A. Be familiar with and abide by the legal requirements for purchasing as specified in General Policies.
- B. Follow the purchasing methods outlined in this ordinance.
- C. Prepare a requisition request for a purchase order as required below.
- D. If a vendor is expected to be paid over \$600 in a year, then a W-9 must be obtained from the vendor and forwarded to the Purchasing Agent.

§34.06 - PURCHASING METHODS.

- A. The purchasing method to be used is based on the dollar amount of the purchase. To determine the dollar amount, departments should aggregate the amount of annual

reoccurring purchases to be made from the vendor or the aggregate of the contract amounts under an agreement including any extensions.

B. Petty Cash (\$100 or less):

1. Legal Requirements -- The petty cash fund maintained by the Finance Director/Treasurer is to be used for the purchase of incidentals and may be authorized by Department Heads.
2. Village Policy -- Petty cash is to be used for non-repetitive items not exceeding \$100.
3. Procedures
 - a. Any cash removed from the fund must be replaced by a petty cash voucher accompanied by a receipt or invoice from the supplier of the item or service purchased.
 - b. The receipt or invoice must detail the type and amount of the expenditure. The petty cash voucher must indicate the appropriate account number to which the purchase should be charged, and indicate the department head's approval.
 - c. Each department that has a petty cash fund must designate one person to have custody and responsibility for the fund. This responsibility includes balancing the fund periodically; requesting reimbursement of the fund; and insuring the funds are at all times in a locked and safe location.
 - d. To insure accountability for each petty cash fund, the fund must be balanced periodically based on use. Therefore, the sum of all unused cash and petty cash vouchers should equal the total of the respective department's petty cash total. If the actual balance is ever different from the amount that should be in the fund, the Finance Director/Treasurer should be contacted immediately.
 - e. When requesting reimbursement of petty cash funds, the appropriate petty cash vouchers, along with supporting receipt, etc., must be submitted to the Finance Director/Treasurer's Office. This should be done at regular intervals to avoid running the fund too low. No reimbursements will be made without the required supporting documentation.

C. Purchases less than \$1,000.00:

1. Purchases may be made from any responsive vendor.
2. Informal price quotes from 3 vendors is recommended.

3. A purchase order is required for all purchases except those purchased with petty cash.
4. Agreements (if applicable) need to be reviewed by the Village Attorney prior to purchase.
5. Department Head is authorized to approve purchase.

D. Purchases from \$1,000.00 to \$25,000.00:

1. Formal price quotes from 3 vendors is required or use of an approved cooperative purchasing organization or unit of government.
2. Purchase order is required.
3. Documentation of price quotes and vendor selection along with any signed agreement needs to be electronically attached to the purchase requisition in the system.
4. Standard Village contract or a mutually agreeable contract approved by the Village Attorney may be required at the Village Manager's discretion.
5. Department Head is authorized to approve purchases up to \$10,000 if budgeted. Purchases of over \$10,000 or non-budgeted purchases need to be approved by the Department Head and Village Manager.
6. Any sole source purchasing needs to be explained and approved by the Village Manager.

E. Purchases over \$25,001.00 to \$50,000.00:

1. Formal specifications and price quotes from 3 vendors is required or use of an approved cooperative purchasing organization or unit of government.
2. Purchase order is required.
3. Documentation of price quotes and vendor selection and signed contract needs to be electronically attached to the purchase requisition in the system.
4. Standard Village contract or a mutually agreeable contract approved by the Village Attorney must be used. Contract must be signed and approved by the Village Attorney and Village Manager.
5. If this is a non-budgeted purchase or if the purchase will require a budget amendment, then the purchase must be approved by the Village Council.

6. Any sole source purchasing needs to be explained and approved by the Village Manager.
- F. Purchases of \$50,000.00 or greater:
1. Formal competitive bidding is required as outlined in the Village Charter or use of an approved cooperative purchasing organization or unit of government.
 2. Purchase must be approved by the Village Council.
 3. Purchase order is required.
 4. Documentation of formal bids and vendor selection and signed contract needs to be electronically attached to the purchase requisition in the system.
 5. Standard Village contract or a mutually agreeable contract approved by the Village Attorney must be used. Contract must be signed by the Village Attorney, Village Manager, and Village Clerk.

§34.07 - COMPETITIVE BIDDING REQUIREMENTS.

- A. Except as provided in subsection (c) of this section, all supplies and contractual services, when the estimated cost thereof shall equal or exceed \$50,000.00 shall be purchased by formal written contract from the lowest responsible and responsive bidder after due notice inviting competitive sealed bids. All such contracts shall be awarded by the Village Council.
1. The Purchasing Agent or department head shall provide for the procurement of competitive sealed bids as follows:
 - a. Prepare the invitation for bids describing the requirements of the using agency.
 - b. Publicize the invitation for bids by public advertisement, such as through Bidnet or suitable trade publications, no less than five days preceding the last day set for the receipt of competitive sealed bids. The public advertisement required by this section shall include a general description of the supplies or contractual services to be purchased or sold and in addition, shall state where bid forms and specifications may be obtained, the date, time and place for the filing and opening of bids, whether bid, performance and payment bonds are required and if required, the amounts thereof and anything else deemed necessary.

- c. Bids submitted in response to the invitation for bids shall be submitted sealed and in addition, shall be identified as bids on the outside of the envelopes and accompanied by any bid security required.
- d. Bids shall be opened publicly at the time, place and date designated in the invitation for bids. Each bid, together with the name of the bidder shall be recorded and a tabulation of all bids received shall be available for public inspection in the requesting department.
- e. An invitation for bids may be cancelled or any or all bids or proposals may be rejected in whole or in part as specified in the invitation for bids when it is determined by the Village Council to be in the best interests of the Village.
- f. The Purchasing Agent or department head shall not knowingly accept the bid of a person who is in default in the payment of any taxes, licenses, fees, permits or any other monies due the Village or who shall in any other respects be disqualified according to any federal or state law or ordinance provision. A contract with a person who is discovered to have been in default or disqualified at the time of the awarding of the contract shall be voidable.
- g. The Purchasing Agent or department head shall determine and recommend in writing to the Village Council the name of the lowest responsible and responsive bidder. In reaching a determination as to who the lowest responsible bidder is, the following shall be considered:
 1. The ability, capacity and skill of the bidder to provide the service or supplies required;
 2. Whether the bidder can provide the service or supplies promptly or within the time specified without delay or interference;
 3. The character, integrity, reputation, judgment, experience and efficiency of the bidder in business;
 4. The quality of performance and time of completion by the bidder of previous contracts or services;
 5. The previous and existing compliance by the bidder with laws and ordinances relating to contract performance;
 6. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
 7. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
 8. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract; and

9. The number and scope of any additional, limiting or qualifying conditions attached to the bid by the bidder.
- B. The Village shall not be obligated to purchase from the lowest bidder.
 - C. The Village Council, by an affirmative vote of five-sevenths of its members, may dispense with the requirement for competitive bidding when the estimated cost of the contract does not exceed \$50,000.00.
 - D. A contract may be awarded by the Village Council for the purchase of supplies and/or contractual services without submitting the purchase through the competitive bidding process as set forth herein when there is only a sole-source for the purchase and the requesting department head has provided reasonable justification to the Village Manager in writing that circumstances exist that preclude obtaining competition.
 - E. No contract or purchase shall be artificially divided to avoid the requirements of this section.

§34.08 - SMALL PURCHASES; OPEN MARKET PROCEDURE.

All purchases of supplies or contractual services having a cost of less than \$1,000.00 may be made in the open market, without advertisement, and may be awarded by either the Village Manager, Purchasing Agent or department head in conformance with purchasing guidelines, provided that funds have been previously appropriated by the Village Council.

§34.09 - EMERGENCY PURCHASES.

Legal Requirements -- Normal purchasing procedures may be circumvented only in the case of an emergency; that is, when there is "an apparent threat to the public safety, health or welfare of the Village or its citizens."

§34.10 - EXCEPTIONS TO COMPETITIVE BIDDING.

Subject to prior approval of the council, competitive bidding shall not be required in the following cases:

- A. Where the product or material contracted for is not competitive in nature, and the purchasing agent so certifies to the council in writing;
- B. In the engagement of professional services. "Professional services" is defined as those services provided by a person, firm, or corporation which require specific technical

training, expertise, certification, or licensure to perform, including but not limited to architectural, engineering, accountancy, consulting, appraising, auditing, risk assessment, urban planning, legal, and information technology services;

- C. Where the council shall determine that the public interest will be best served by joint purchase with, or purchase from, another unit of government, or in the utilization of another governmental unit's competitive bid process.

§34.11 - DISPOSAL OF OBSOLETE, WORN OR SURPLUS SUPPLIES.

Items determined to be of surplus nature, i.e., those items deemed of no further use to the Village and/or which are obsolete or worn out, shall be subject to disposal in the following manner:

- A. An item with an original value of less than \$2,500 shall be disposed of by the best and most efficient means in the judgment of the using department and the Finance Director/Treasurer, taking into account such factors as storage and handling costs and advertising.
- B. An item with an original value of \$2,500 to \$75,000 shall be disposed of in one of the following methods:
 - 1. Sale after obtaining informal quotes.
 - 2. Auction.
 - 3. Manufacturer trade in.
 - 4. By the best and most efficient means in the judgment of the using department and the Village Manager, taking into account such factors as storage and handling costs and advertising, with the approval of the Village Manager.
- C. An item with an original value in excess of \$75,000 shall be disposed of in one of the following methods:
 - 1. Sale after obtaining formal quotes and going through the bid procedure.
 - 2. Auction.
 - 3. Manufacturer trade in.
 - 4. By the best and most efficient means in the judgment of the using department and the Village Manager taking into account such factors as storage and handling costs and advertising, with the approval of the Village Council.

§34.12 - SALE OF REAL PROPERTY.

The purchase, acquisition, or sale of real property shall comply with Sections 6.10 and 6.12(b) of the Village of Lake Orion Charter.

§34.13 - PROCUREMENT FOR FEDERALLY FUNDED PROJECTS.

Village Policy – Purchases using federal grants shall conform to 2 CFR (Code of Federal Regulations) sections 200.318 through 200.327.

§34.14 - GIFTS, REBATES PROHIBITED; CONFLICT OF INTEREST PROHIBITED

- A. All officials and employees of the Village are prohibited from soliciting, demanding, accepting or agreeing to accept directly or indirectly, from any person to which a contract might be awarded or is awarded any gift, offer of employment, rebate, money or anything of material value whatsoever, except where given for the sole use and benefit of the Village.
- B. The Village will not enter into a contract to furnish supplies or contractual services to the Village from any Village official, his or her spouse, child or parent, from any corporation, association or partnership in which any Village official, his or her spouse, child or parent, has any direct or indirect interest. Ownership of less than one percent (1%) of the stock or other equity interest in a corporation or unincorporated business shall not be deemed to be a disqualifying interest. Employment by a business entity shall be deemed to be a disqualifying interest only if such employment is in an administrative, managerial or executive capacity in which the employee could in any way influence the decisions of the business entity with regard to contract proposals or other transactions contemplated by this section.
- C. Every written contract entered into by the Village shall contain a provision to the effect that if subsequent to entering into the contract a Village official or her spouse, child or parent has or shall become directly or indirectly interested in the contract, the Village shall have the right to terminate the contract without further liability if the disqualification has not been removed with thirty (30) days after the Village has given notification of the disqualifying interest.

§34.15 - REQUISITIONS AND ESTIMATES.

- A. All using agencies, either by or with the authorization of the department head under which the using agency operates, shall file with the Purchasing Agent detailed requisitions or estimates of their requirements for supplies and contractual services in such a manner and at such times as the purchasing guidelines shall establish.

- B. The Purchasing Agent shall examine each requisition or estimate and may revise it as to quantity, quality or estimated cost, with the concurrence of the using agency. The Purchasing Agent shall also verify that proper purchasing procedures have been followed, and that the budgeted funds are available based on the most current financial records. The Purchasing Agent may change the account to be charged, if appropriate, with departmental approval.

§34.16 - COOPERATIVE PURCHASING.

The Village shall have the authority to join with other units of government in cooperative purchasing plans when the best interests of the Village would be served thereby.

§34.17 - BID DEPOSITS; PERFORMANCE AND PAYMENT BONDS.

Bid deposits shall be required in all instances in which the Purchasing Agent or department head determines such security to be in the best interests of the Village. The Purchasing Agent, department head or the Village Council may require a performance bond, payment bond or other similar security before awarding a contract, in such amount as is reasonably necessary to protect the best interests of the Village. A successful bidder shall forfeit any bid deposit required upon failure of the successful bidder to enter into a contract within the time specified after the award.

§34.18 - PAYMENT OF MONEYS.

All moneys belonging to the Village shall be paid out upon presentation of a valid warrant approved and signed by the Village Clerk and Village Manager and issued in accordance with the Charter, by checks drawn by the Finance Director/Treasurer or his Deputy and countersigned by signatories duly approved by the Village Council.

§34.19 - APPROVAL OF LEGAL DOCUMENTS.

The Village Manager shall approve as to substance and sign, the Village Clerk shall attest to, and the Village Attorney shall approve as to form all contracts and agreements requiring the assent of the Village, unless otherwise provided for by law, the Charter, ordinance or the provisions of this Code. Any contract or agreement by which the Village incurs any financial obligation shall first be approved by the Finance Director/Treasurer in accordance with Chapter VII, Section 3, of the Charter.

Section 2. Severability.

If any portion or section of this ordinance or its application to any person or circumstance shall be found to be invalid by a court, such invalidity shall not affect the validity of the remaining portions or applications of this ordinance.

Section 3. Effective date of ordinance.

This ordinance shall take effect upon its publication.

Amended only as specified above and in this Section, the Code of Lake Orion shall remain in full force and effect.

A synopsis of this Ordinance shall be published in accordance with the Charter of the Village of Lake Orion and this Ordinance shall become effective immediately upon the publication of the synopsis. If any provision of this Ordinance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision.

VILLAGE OF LAKE ORION

By: _____
Jerry Narsh, President

By: _____
Susan Galeczka, Clerk

CERTIFICATION

I, Susan Galeczka, Clerk of the Village of Lake Orion, Michigan, do hereby certify that the foregoing Ordinance No.24.09, was adopted at a Regular Meeting of the Village Council of the Village of Lake Orion held on June 26, 2023, and that a synopsis thereof was published in accordance with the provisions of the Charter of the Village of Lake Orion in *The Lake Orion Review*, a newspaper circulated in the Village of Lake Orion, on _____, 2023, said publication having been made within fifteen (15) days after adoption of this Ordinance.

Date: _____, 2023

Susan Galeczka, Clerk