

INTRODUCED BY: ALDERWOMAN PARKER TICE ALDERMAN PLUFKA
ALDERWOMAN SIMS ALDERMAN WEGGE
ALDERMAN GOULD ALDERMAN LOCHMOELLER
ALDERMAN ERGER ALDERWOMAN HARTER

AN ORDINANCE AMENDING CHAPTER 135 OF THE BRENTWOOD CITY CODE RELATING TO PURCHASING.

WHEREAS, the Mayor and Board of Aldermen wish to update the provisions of the City's Purchasing Code as hereinafter provided in order to enhance efficiency while still striking an appropriate balance to assure that the City gets the best price for commodities and provides open, accessible and transparent procedures to assure residents and vendors of a fair process;

NOW, THEREFORE BE IT ORDAINED, by the Board of Aldermen of the City of Brentwood, Missouri, as follows:

SECTION 1: Sections 135.070, and 135.170 of Chapter 135 of the Code of Ordinances of the City of Brentwood, Missouri, are hereby repealed and two new Sections 135.070 and 135.170, are hereby enacted in lieu thereof, to read as follows:

CHAPTER 135 PURCHASING CODE
SECTION 135.070 FORMAL COMPETITIVE BIDDING.

- A. Supplies, materials, equipment, public improvements and contractual services (except for professional services subject to City Code 135.120) shall be procured only after obtaining formal written bids when the value of the proposed procurement is in excess of twenty thousand dollars (\$20,000.00) or when directed by the Board of Aldermen or when required by the laws of the State. The procurement of several items of the same type at substantially the same time is a single purchase for the purpose of this Chapter and the total cost of all such items will determine whether the formal competitive bidding procedure must be followed. No contract or purchase shall be subdivided to avoid competitive bidding procedures. The procurement of professional services subject to City Code Section 135.120 are expressly excluded from the operation of this Section.

- B. Such bids shall be invited through a notice to be published in at least one (1) local newspaper of general circulation in the City, not less than one (1) time if published in a weekly newspaper or not less than two (2) consecutive issues if published in a daily newspaper. The publication shall be at least ten (10) days prior to the date specified for submission of bids. A public notice shall also be posted in a prominent and public place at the City Hall. Such notice shall include a general description of the item or items to be purchased, the conditions of such purchase, the place where specifications and bid forms may be secured, the time and place for submitting such bids and the time and place for acceptance of bids. The purchasing agent may also solicit bids by mailing copies of the specifications and bidding documents to prospective vendors.

- C. Any and all bids for any contract or purchase may be rejected with or without reason and a provision to this effect shall be included in all notices or advertisements.
- D. The purchasing agent may advertise for sealed bids for any item for which an appropriation has been made in the annual budget of the City or upon resolution of a majority of the members of the Board of Aldermen.
- E. All bids shall be sealed, identified as bids on the envelope and submitted within the time and at the place stated in the public notice inviting bids. The time of receipt of each bid shall be entered by the receiving employee on the envelope containing such bid.
- F. All bid documents will include an insurance clause as follows:
 - 1. All bids shall include and cover the cost of Workers' Compensation insurance for all employees of the bidder and for all employees of all subcontractors. It is agreed that the successful contractor shall furnish the City with a certificate of insurance from an insurance company with a Best's rating of at least B+/VII or greater if required by the Board of Aldermen, indicating statutory Workers' Compensation coverage and the minimum coverage amounts stated in Subsection (F)(2) of this Section. The policy of insurance shall have endorsed on it a requirement of at least thirty (30) days' written notice mailed to the City indicating any cancellation or material change in coverage. The Board of Aldermen may increase or decrease the minimum coverage amounts on a per project basis.
 - 2. Minimum coverage amounts.
 - a. General liability.
 - (1) General aggregate: \$2,000,000.00.
 - (2) Product, completed operations aggregate: \$2,000,000.00.
 - (3) Personal injury: \$1,000,000.00.
 - (4) Each occurrence: \$1,000,000.00.
 - (5) Fire legal liability damage: \$100,000.00.
 - (6) Medical expense: \$10,000.00.
 - b. Automobile combined single limit: \$1,000,000.00.
 - c. Excess liability.
 - (1) Each occurrence: \$1,000,000.00.
 - (2) Aggregate: \$2,000,000.00.

- d. Employer's liability.
 - (1) Each accident: \$100,000.00.
 - (2) Disease, policy limit: \$500,000.00.
 - (3) Disease, each employee: \$100,000.00.
 - e. Other liability. Contractual liability limits as indicated in Subsection (F)(2)(a) above.
 - f. Special items. Per project endorsement.
3. The contractor shall indemnify and hold harmless the municipality and its elected and appointed officials and employees from and against all claims, damages, losses and expenses, including attorneys' fees arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense is:
- a. Attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property, other than the work itself, including the loss of use resulting therefrom, and
 - b. Caused in whole or in part by any negligent act or omission of the contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified under this Chapter.

In any and all claims against the municipality or any of its agents or employees by any employee of the contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Subsection shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the contractor or any subcontractor under Worker's Compensation acts, disability benefit acts or other employee benefit acts.

- G. All bids received pursuant to this Section shall be opened and read on the date set for receiving said bids by the City Clerk/Administrator or his/her duly authorized representative in an open public session. The Board of Aldermen will receive tabulated bids at the Board meeting following the time to submit bids has expired. Then the appropriate committee shall in conjunction with purchasing agent and the head of the using agency, prior to the next regular meeting of the Board of Aldermen after the bid time expires, prepare a written summary of all bids, including a review of the facts. All bids received shall be made available for inspection as a public record. Results of the bidding and awarding of contracts shall be posted in a prominent and public place at the City Hall.

- H. After presentation of the available data, the Board of Aldermen, at a regular or special meeting, shall award the contract to the lowest and best, responsible, timely bidder for the goods or services to be procured; provided however, the Board of Aldermen shall have the right and the authority to reject any and all bids. The Board of Aldermen may also confer the right of awarding the bid to the appropriate committee with such committee's action concerning the bid reported back to the full Board at the next regular meeting. The Board of Aldermen shall have authority to give City businesses, having paid taxes for two (2) consecutive years prior to such bid, a preference in its discretion, if the bid of such business is within three percent (3%) of the lowest responsible, timely bidder for the goods or services to be procured.
- I. Subsequent to the award by the Board of Aldermen, the purchasing agent shall, by purchase order or formal contract authorized by ordinance, enter into an agreement with the bidder selected by the Board of Aldermen for procurement of the goods and services to be procured.
- J. When deemed necessary by the purchasing agent, bid deposits may be required. The deposits may be required to be in the form of a certified check or bid bond and may be for an amount of one thousand dollars (\$1,000.00) or ten percent (10%) of the amount of the bid, whichever is greater. Bonds shall be from a bonding company with a Best's rating of at least B+/VII or greater if required by the Board of Aldermen.
- K. The successful bidder may be required to post a performance bond whenever the same is deemed appropriate by the purchasing agent; provided however, such requirement is set forth in the conditions of bidding. The performance bond may be in the form of a specified amount or a percentage of the value of the proposed purchase and shall be from a bonding company with a Best's rating of at least B+/VII or greater if required by the Board of Aldermen. The purchasing agent shall establish, in the conditions of bidding, such terms as may be deemed appropriate to protect the interest of the City.
- L. All bids shall contain a provision substantially in the form that follows:
- "Neither the final payment nor any of the retained percentage shall become due until the contractor shall deliver to the City a complete release of all liens and claims arising out of the contract."

SECITON 135.170 COOPERATIVE PURCHASING.


In lieu of the procedures specified in this Chapter or elsewhere, the purchasing agent, shall have the authority to join with one or more other governmental units in cooperative purchasing, including making purchases under the State of Missouri's state purchasing process, when the purchasing agent determines the purchasing practices of the cooperative process are consistent with the purposes of the city's purchasing policy as set forth in this Chapter and the best interests of the City would be served by such cooperative purchasing.

SECTION 2: This Chapter, Article, Division and/or Section assignments designated in the Ordinance may be revised and altered by the codification company servicing the City’s Code of Ordinances upon supplementation of such code if, in the discretion of the editor, an alternative designation would be more reasonable. In adjusting such designations, the editor may also change other designations, the editor may also change the designations and numerical assignment of code sections to accommodate such changes.

SECTION 3: It is hereby declared to be the intention of the Board of Aldermen that the sections, paragraphs, sentences, clauses, phrases and words of this ordinance are severable, and if any section, paragraph, sentence, clause, phrase or word(s) of this ordinance shall be declared unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, phrases and words or this ordinance since the same would have been enacted by the Board of Aldermen without the incorporation in this ordinance of any such unconstitutional or invalid portion of the ordinance.

SECTION 4: This Ordinance shall be in full force and effect from and after the date of its passage and approval according to law.

PASSED BY THE BOARD OF ALDERMEN THIS 6TH DAY OF JUNE 2024.



David A. Dimmitt, Presiding Officer

ATTEST:




Kelle Silvey, Deputy City Clerk

APPROVED BY THE MAYOR THIS 6TH DAY OF JUNE 2024



David A. Dimmitt, Mayor

ATTEST:



Kelle Silvey, Deputy City Clerk

1st Reading: June 6, 2024
2nd Reading: June 6, 2024

