

**AN ORDINANCE REPEALING CHAPTER 135 AND ENACTING A NEW CHAPTER 135 OF THE MUNICIPAL CODE OF THE VILLAGE OF COUNTRY CLUB, MISSOURI REGARDING BIDDING PROCEDURES.**

**BE IT ORDAINED** by the Board of Trustees of the Village of Country Club as follows:

**Section 1.** That Chapter 135, Bidding Procedures, of the Municipal Code of the Village of Country Club, Missouri is hereby repealed in its entirety and replaced with the following:

**Chapter 135. Bidding Procedures and Conflict of Interest**

**Section 135.010. Purpose.**

The purpose of this Purchasing Policy is to obtain the highest quality goods and services for the Village at the lowest possible price, to exercise financial control over the purchasing process, to clearly define authority for the purchasing function, to allow fair and equal opportunity among qualified suppliers, and to provide for increased public confidence in the procedures followed in public purchasing.

**Section 135.020. Affirmative Action and Local Preference.**

- A. Whenever possible, qualified small, minority and women-owned businesses shall be included in the solicitation lists for bids or non-bid purchases.
- B. If the purchase is federally funded in whole or in part, minority and women-owned businesses must be included in the solicitation lists and all other affirmative action requirements outlined in the grant provisions must be followed.
- C. The Village may exercise a preference for local businesses for purchases funded exclusively by the Village but only if such a preference does not result in unreasonable prices or rates due to a lack of competition. For purchases funded in whole or in part with federal funding, the Village may not exercise a preference for local businesses.

## Section 135.030 Code of Conduct.

- A. Employees, officers, and agents of the Village who are involved in the procurement and selection of bids and purchases shall make reasonable efforts to avoid real, apparent, or potential conflicts of interest.
- B. No employee, officer, or agent of the Village shall participate in the selection, award, or administration of a contract if a conflict of interest, real or apparent, would be involved.
- C. Such a conflict would arise when
  1. an employee, officer, or agent of the Village participates in the selection process and a vendor employs or is about to employ, any member of his or her immediate family, his or her partner, or
  2. an employee, officer, or agent of the Village, or a member of his or her immediate family, or his or her partner, stands to receive anything of financial value if a vendor is selected.
- D. No officer or employee of the Village shall transact any business in his official capacity with any business entity of which he is an officer, agent, or member or in which he owns a substantial interest; nor shall he or she make, any personal investments in any enterprise that will create a substantial conflict between his or her private interest and the public interest; nor shall he, she, or any firm or business entity of which he or she is an officer, agent or member, or the owner of substantial interest, sell any goods or services to the Village except where such sale is done by competitive bidding and the officer or employee is the lowest bidder. For the purpose of this section, the term "investments" shall not include any publicly traded stock or other investment vehicle regulated by the Securities and Exchange Commission.
- E. An employee, officer, or agent of the Village who is involved in the procurement and selection of a bid or purchase and has a real or apparent conflict of interest must disclose that conflict of interest to the chairperson or acting chairperson before the bid selection or purchase takes place. Such disclosure must be in writing and shall be retained as part of the official record surrounding the bid or purchase.

F. Officers, employees, and agents of the Village will not solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. For the purposes of this section, a gratuity shall include any amount of cash, or a gift having a value of more than twenty-five dollars. Non-cash gifts made to an entire department or to the Village as a whole with a value of less than one hundred dollars shall not be considered a gratuity.

G. Officers, employees, and agents who fail to follow the above Code of Conduct shall be sanctioned or disciplined, to the extent permitted by law, for violations of the above standards.

H. Same; penalties. Any person who violates the provisions of this Section shall, upon conviction thereof, be punished as provided in the Government Code.

**Section 135.040. Documentation.**

Records documenting the procurement process for any Minor or Major purchases, as those terms are defined below, including the reason for the specific procurement method chosen, the basis for the award and contract pricing (showing evidence that the process was fair and equitable), as well as any other significant decisions that were part of the procurement process shall be maintained for a period of at least three years from the date of the submission to the Federal government of the final expenditure report if the purchase or project was funded with federal grants, or until the completion of any litigation, claim, negotiation, audit, or other action involving the records, whichever is longer. Otherwise, records shall be maintained by the Village in accordance with the Village's retention and disposition schedules.

**Section 135.050. Purchasing Authority.**

A. Purchasing Authority.

The following employees are authorized to make purchases as set forth below:

Position	Level of Authority
Village Clerk or Chairperson	Minor
Village Board of Trustees	Major

B. Authorized Employees.

1. Persons with purchasing authority are designated as Authorized Employees for the Village and are responsible for ensuring that the best possible price and quality are obtained with each purchase. Authorized Employees shall review all proposed procurements to avoid unnecessary or duplicative purchases of equipment, supplies, and services. Authorized Employees shall also ensure that competition is not restricted with limits on the geographic location of vendors, with unreasonable requirements or qualifications placed on vendors, or by allowing vendors to be selected who have engaged in noncompetitive pricing practices. Authorized Employees shall follow all requirements of the Code and the instructions of the Purchasing Agent.
2. Authorized Employees may not split any purchase so as to bring the total purchase within a different level of regulation.

Section 135.060. Purchasing Levels.

- A. There are established two levels of purchases that may be made by Authorized Employees:
  1. Minor Purchases (\$3,000 or less).
  2. Major Purchases (more than \$3,000).
- B. Minor Purchases require the Authorized Employee making the purchase to compare prices from at least three sources. Price comparisons may be made by telephone solicitations, emailed solicitations, faxed solicitations, or by comparison of advertised prices. The sources compared and the price offered must be documented. Minor Purchases must be approved by the Village Chairperson.
- C. Major Purchases require competitive sealed bids. Major Purchases must be approved by the Board of Trustees prior to beginning the bidding process. The Board of Trustees shall also ensure that competition is not restricted with limits on the geographic location of vendors, with unreasonable requirements or qualifications placed on vendors or bidders,

or by allowing vendors to be selected who have engaged in noncompetitive pricing practices.

## Section 135.070. Purchases Using Federal Funds.

A. The requirements of this 0 shall apply to all purchases using Federal Funds.

### B. Informal Purchases

1. **Small Purchases.** For purchases below \$250,000 (or the Simplified Acquisition Threshold as defined by FAR at 48 CFR part 2, subpart 2.1, whichever is less) but greater than \$10,000 (\$2,000 in the case of construction projects subject to Davis Bacon requirements) price or rate quotes must be obtained from two or more qualified sources following the affirmative action provision of this policy and all provisions regarding fair and unrestricted competition, provided, however, that if the Village Purchasing limits set forth above require a more rigorous process, the Village process shall be followed.
2. **Micro Purchases.** For purchases below \$10,000, the purchasing employee shall follow the Village policy.

C. Large purchases with a value of \$ \$250,000 or more must follow a sealed bid process as outlined herein.

D. Purchases at or exceeding \$250,000 or construction projects of any value that are funded with federal dollars must follow a sealed bid process as outlined below and also follow any procurement guidance as outlined in the grant agreement. In addition, a pricing analysis must be completed by the purchasing agent or a qualified consultant prior to issuing the request for proposal to ensure that there is a reasonable estimate against which to compare bid proposal pricing.

E. For purchases that use Federal Funding, no local or State purchasing preference shall be applied.

### F. Internal Controls

1. The Village will maintain effective internal control over the Federal award providing reasonable assurance that the Village is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award.
2. The Village will take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
3. The Village will take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive.

#### G. Certification

1. To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the Village, which reads as follows: "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise."

#### H. Advance Payments and Reimbursements

1. Payment methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the Village whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means.
2. Advanced payments must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the Village to carry out the purpose of the approved program or project. Any advanced payments must be

consolidated to cover anticipated cash needs.

3. The Village shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs

#### Section 135.080. Sealed Bid Process.

- A. Competitive Bidding Required—All purchases of any contracts for supplies and contractual services and all sales of personal property which have become obsolete and unusable shall, except as specifically provided herein, be based on wherever possible on competitive bids.
  
- B. Formal Contract Procedure—All supplies and contractual services except as otherwise provided in this Chapter, when the estimated cost thereof shall exceed three thousand (\$3,000.00), shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting proposals. All sales of personal property which has become obsolete and unusable, when the estimated value shall exceed three thousand dollars (\$3,000.00), shall be sold by formal written contract to the highest responsible bidder, after due notice inviting proposals. This Section authorizes the Village of Country Club Chairperson to approve emergency purchases in the amount not to exceed three thousand dollars (\$3,000.00).
  
- C. Bid Specifications

A list of bid specifications shall be prepared for each purchase using the sealed bid process. Bid specifications shall include at a minimum, the following:

1. Bid name.
2. Bid submission deadline.
3. Date, location, and time of bid opening.
4. Specifications for the project or services including quantity, design, and performance features.

5. Bond and/or insurance requirements.
6. A copy of the proposed contract.
7. Any special requirements unique to the project or purchase.
8. Delivery or completion date.
9. For construction projects, language that sets a requirement for a bid guarantee or bid bond in the amount of 5% of the bid price from all bidders, as well as performance and payment bonds in the amount of 100% of the contract price from the contractor awarded the bid. If federally funded, the bidders must also include costs for Davis Bacon compliance if that is a requirement of the federal agency providing the funding.
10. If the project involves the construction or repair of Village property and the amount is \$75,000 or more, the specifications shall indicate that prevailing wage requirements must be met.
11. If the purchase is for more than \$5000, the specifications shall indicate that compliance with §285.530 RSMo.
12. The specifications shall require compliance with § 208.009 RSMo.
13. For construction projects over \$2,000 using Federal Funds, a statement that contractors will be provided with a copy of the most current wage determination (from the DOL website at <http://www.wdol.gov/dba.aspx>) and must comply with the Davis Bacon Act.
14. A statement that the Village reserves the right at its sole discretion to reject any and all bids, wholly or in part, to waive any informalities or any irregularities therein, to accept any bid even though it may not be the lowest bid, to call for rebids, to negotiate with any bidder, and to make an award which in its sole and absolute judgment will best serve the Village's interest. The Village reserves the right to investigate the financial condition of any bidder to determine his or her ability to assure service throughout the term of the contract.



D. Contracts shall be awarded to the lowest responsible bidder. Bids shall not be accepted from, nor contracts awarded to, a contractor who is in default on the payment of taxes, licenses or other monies to the Village. In determining the "lowest responsible bidder" in addition to the price, the following shall be considered:

1. The ability, capacity and skill of the bidder to perform the contract or to provide the service required;
2. Contract provisions that are acceptable to the Village;
3. Whether the bidder can perform the contract or provide the service promptly or within the time specified without delay or interference;
4. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
5. The quality of the performance of previous contracts or services;
6. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
7. Bidder's availability to provide future service, maintenance, and support.
8. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
9. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
10. The ability of the bidder to provide future maintenance and serve for the use of the subject of the contract; and
11. The number and scope of conditions attached to the bid.
12. Any other factors that the Board of Trustees determines are relevant and appropriate in connection with a given project or service.

- E. The sealed bid process shall be initiated by the issuance of a Request for Bids prepared by the Board of Trustees or its designee. Notice of the Request for Bids shall be made by letters to known providers soliciting bid responses, advertisements posted in three public locations within the Village, and by publication with advertisements placed in a newspaper of general circulation in the region.
- F. Notice defined. The notice required by the preceding section shall consist of the following:
1. Notice inviting bids shall be published once in at least one official newspaper of the Village at least five days preceding the last day set for the receipt of proposals. The newspaper notice required herein shall include a general description of the articles to be purchased or sold, shall state where bid blanks and specifications may be secured, and the time and place for opening bids.
  2. The purchasing agent also shall solicit sealed bids from all responsible prospective suppliers who have requested their names be added to a "Bidders' List," which the purchasing agent shall maintain, by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase or sale. In any case, invitations sent to the vendors on the bidders' list shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which the invitations are sent.
  3. The Village Clerk also shall advertise all pending purchases or sales by a notice posted on the public bulletin board in the Village Hall.
  4. The Village Clerk shall also solicit sealed bids by direct mail request to prospective vendors and by telephone.
- G. Once a Request for Bids has been issued, the bid specifications will be available for inspection at the Village Hall.
- H. Bid Submission.
1. All bids must be submitted in sealed envelopes, addressed to the Village in care of the

Village Clerk, and plainly marked with the name of the bid and the time of the bid opening. Bid proposals will be date stamped on the outside of the envelope immediately upon receipt. Any bid may be withdrawn in writing prior to the scheduled time for the opening of bids. Any bids received after the time and date specified shall not be considered and shall be returned to the bidder unopened.

2. Bidders shall bid to the specifications and any exceptions must be noted by the bidder. A bidder submitting a bid thereby certifies that the bid is made in good faith without fraud, collusion, or connection of any kind with any other bidder for the same work and that the bidder is competing solely on his/her behalf without connection with or obligation to any undisclosed person or firm.

#### I. Tie Bids

1. If all bids received or the lowest bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the lowest bidder.
2. Where there is no low bidder, the award shall be made on the basis of the drawing of lots to be held in public.

#### J. Bid Opening

1. Every bid received prior to the bid submission deadline will be publicly opened and read aloud by the Village Clerk or his/her designee. The bid opening will include the name and address of bidder; for lump-sum contracts, the lump sum base bid and the bid for each alternate; for unit price contracts, the unit price for each item and the total, if stated; and the nature and the amount of security furnished with the bid if required.
2. When possible, the bid opening shall be held prior to the selection of the successful bidder. The Village Clerk shall tabulate the bids for presentation to the Board of Trustees.

#### K. Change Orders

If specification changes are made prior to the close of the bid process, the Request for Bids will be amended and notice shall be sent to any bidder who already submitted a bid and a new bid process will be initiated. Once a bid has been accepted, if changes to the specifications become necessary, the Board of Trustees will prepare a change order specifying the scope of the change. Once approved, the contractor and an authorized agent of the Village must sign the change order.

L. Justification of Award.

When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be entered into the journal of the board.

M. Exceptions. The following exceptions may apply when Competitive Bidding would otherwise be required, however, there must be written documentation created and maintained that outlines the process and rationale for such exceptions:

1. Competitive Proposals. If time does not permit the use of sealed bids, or the award will be made on the basis of non-price related factors, a competitive proposal process shall be initiated by the issuance of a Request for Proposals (RFP) or Request for Qualifications (RFQ) prepared by the Board of Trustees or its designee that includes the factors that will be used to evaluate and compare the proposals. Bids or qualifications shall be obtained from an adequate number of qualified sources (at least two vendors) to ensure that the Village has received a fair and reasonable price and all notification and record-keeping requirements of the sealed bid process shall be followed.
2. For the procurement of architectural, engineering, or land surveying services the Village will use the Request for Qualifications process as set forth in Sections 8.285 to 8.291 RSMo.
3. Sole Source Purchases. If the Board of Trustees determines that there is only one possible source for a proposed purchase, it may waive the bid process and authorize the purchase from the sole source.
4. Recurring Purchases. If the total value of a recurring purchase of a good or service is

anticipated to exceed \$3,000 during any fiscal year, the bid process shall be utilized and shall specify the recurring nature of the purchase. Once a bid has been accepted, all future purchases shall be made from that bidder without the necessity of additional bids, until such time as the Board of Trustees votes to initiate a new bid process.

5. **Emergency Purchases.** The Board of Trustees, or such other persons who have been given such authority by the Board of Trustees, may award contracts and make purchases for the purpose of meeting the public emergency without complying with the bid process. A full explanation of the circumstances of the emergency purchase shall be recorded in the journal of the Board of Trustees.
6. **Cooperative Purchases.** The purchasing agent is authorized to participate in cooperative purchasing programs with the United States or any agency of the United States; with the State of Missouri or any agency, municipality, or political subdivision of the State of Missouri; with other states or any agency, municipality or political subdivision of any other state; or with any association of municipalities or political subdivisions; provided, that the cooperative purchasing program follows a competitive bidding process.
7. **Professional Services.** The bid process shall not apply to the selection of providers for services that are characterized by a high degree of professional judgment and discretion including legal, financial, and auditing.
8. **Federally funded non-competitive purchases for \$250,000 or more** require a cost analysis to determine the reasonableness of the proposed pricing and should be completed in accordance with the requirements of the federal or state agency issuing the grant funding.

#### **Section 135.090. Purchasing Agent Designated.**

- A. The purchasing agent for the Village of Country Club is the Village Clerk. The Village Clerk will work with staff and the Board of Trustees to procure for the Village the bids for all supplies and contractual services needed by the Village in accordance with the procedures prescribed by this ordinance or required by law.

B. Duties generally. In addition to the purchasing authority conferred in the preceding section, and in addition to any other powers and duties conferred by this or other ordinance, the purchasing agent shall:

1. act to procure for the Village the highest quality in supplies and contractual services at the least expense to the Village;
2. prepare and adopt written specifications for all supplies and services;
3. discourage uniform bidding and endeavor to obtain a full and open competition as possible on all purchases and sales;
4. keep informed of current developments in the field of purchasing, prices, market conditions, and new products, and secure for the Village the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations, and by private businesses and organizations;
5. prescribe and maintain such forms necessary for the operation of the purchasing function;
6. prepare, adopt and maintain a vendors' catalog file. The said catalog shall be filed according to materials and shall contain descriptions of vendors' commodities, prices, and discounts;
7. explore the possibilities of buying "in bulk" so as to take full advantage of discounts;
8. act to procure for the Village all federal and state tax exemptions to which it is entitled;
9. have the authority to declare vendors who default on their quotations irresponsible bidders and to disqualify them from receiving any business from the municipality for a stated period of time;
10. inspect or supervise the inspection of all deliveries with regard to quantity, quality, and conformance to specifications; and

11. pursue all appropriate claims against the supplier, shipper or carrier.

## Section 135.100. Credit Card Purchases.

- A. Use of P-Cards The purpose of the Village credit card program (P-Card) is to establish a more efficient and cost-effective method of purchasing Village supplies and equipment. The program will help to expedite purchases as well as reduce the number of purchase orders, invoices, and checks. This program compliments the existing procurement processes and procedures. For the P-Card to have its most beneficial effect on how the Village conducts its purchasing and payment processes, the purchasing authority is designated to be "up front." Essentially, the cardholder is delegated the authority to purchase certain supplies and equipment within specified dollar amounts for business related purposes for the Village. The Purchasing Agent shall formulate a Village Issued Credit Cards Policy which outlines the administrative procedures and requirement for the application, use, and reporting of P-Card transactions, and shall be strictly followed by all cardholders.
- B. Allowable Transaction Types The following types of purchase can be purchased with the P-Card:
1. Membership dues and subscriptions
  2. Registration for conferences and training
  3. Reservation for approved travel/lodging
  4. Supplies, materials, and small equipment (subject to per transaction limit)
- C. Single Transaction Limit Single transaction limit for all P-Cards is currently set at \$ 500. Transaction exceeding that amount may be approved by the Board of Trustees on a case-by-case basis. Pre-approval is mandatory. The established single transaction limit should never be circumvented by splitting charges into multiple transactions, or multiple cards.
- D. Prohibited Purchases The following types of purchase are prohibited to be purchased with

the P-Card:

1. Services are not to be acquired on a credit card due to the lack of insurance and indemnification language associated with these purchases.
2. Any purchases or transactions requiring a separate agreement to be signed.
3. Cash advances.
4. Personal expenses, including but not limited to automobile, food, gifts, and entertainment expenses.

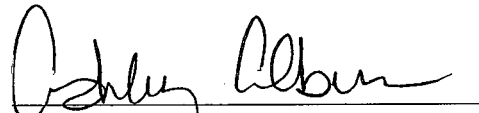
**Section 2.** That this Ordinance shall take effect from the time of its passage and approval as provided.

Passed and approved this 14<sup>th</sup> day of December, 2021.

First Reading: 7:21

Second Reading: 7:23

Third Reading: \_\_\_\_\_

  
\_\_\_\_\_  
Ashley Albers  
Chairman of the Board

Attest:  
  
\_\_\_\_\_  
Kerri Krumme, Village Clerk