

AN ORDINANCE AMENDING THE ORLAND PARK VILLAGE CODE TITLE 1 BY
CREATING A NEW CHAPTER 16 (PROCUREMENT)

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WHEREAS, the corporate authorities of the Village of Orland Park deem it in the best interests of the Village and its residents to amend the Orland Park Village Code with regard to the procurement of goods and services

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois, as follows:

SECTION 1

That Title 1 of Orland Park Village Code shall be and hereby is amended to add the following in its entirety:

“CHAPTER 16 PROCUREMENT

1-16-1: General provisions.

- A. Short title. This Chapter shall be known as the "Orland Park Procurement Code."
- B. Purpose. The purpose of this chapter is to provide for fair and equitable standards and processes for purchasing by the Village, to maximize the value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.
- C. Application. This chapter applies to contracts for the procurement of supplies, services, and construction. It shall apply to all expenditures of public funds within the scope of this chapter irrespective of the source of the funds. When the procurement involves an expenditure regulated by Illinois law, by federal regulations, or by another regulatory agency with jurisdiction over the expenditure, the procurement shall be conducted as required by applicable laws and regulations. Nothing in this chapter shall be construed to prohibit the Village from complying with the terms of a grant or gift.
- D. Public access to procurement information. Procurement information shall be a public record to the extent provided in the Freedom of Information Act and shall be available to the public as provided in such statute.

1-16-2: Procurement Officer.

- A. Establishment of position. There is hereby established the position of Procurement Officer.
- B. Authority. Except as otherwise provided in this chapter, the Procurement Officer shall serve as the principal public purchasing official for the Village and shall be responsible for the procurement of supplies, services, and construction in accordance with this chapter.
- C. Appointment; service; removal. The Village Manager shall be responsible for the appointment of the Procurement Officer. The Procurement Officer shall serve "at will." The

Village Manager shall be responsible for the removal of the Procurement Officer.

D. Duties. In accordance with this chapter, and subject to the supervision of the Village Manager, the duties of the Procurement Officer are:

- (1) To procure or supervise the procurement of all supplies, services, and construction needed by the Village.
- (2) To seek the highest quality in supplies and contractual services at the least expense to the Village.
- (3) To manage the procurement process.
- (4) To enforce written specifications describing the standards established in conformity with this chapter.
- (5) To keep informed of current developments in the field of purchasing, prices, market conditions, and new products, and to secure for the Village the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition, and by private businesses and organizations.
- (6) To prescribe and maintain such forms as are necessary to the operation of this chapter.
- (7) To prepare and adopt a standard purchasing nomenclature for using agencies and suppliers.
- (8) To engage in consolidated purchases when available and appropriate, for the purpose of maximizing the value of Village expenditures.
- (9) To preserve the integrity of the procurement system.
- (10) To establish and maintain programs for specifications development and contract administration, inspection, and acceptance, in cooperation with other public agencies using the supplies, services, and construction.
- (11) To investigate all possibilities of cooperating in a joint purchasing program with other governmental units in order to obtain lower prices through bulk purchases.
- (12) To confer regularly with the Village Manager about the matters being undertaken by the Procurement Officer.

E. Operational procedures. Consistent with this chapter, and with the approval of the Village Manager, the Procurement Officer must adopt operational procedures relating to this chapter.

F. Delegation to other Village officials. The Village Manager may delegate authority to purchase certain supplies, services, or construction items to other Village officials, if the

Village Manager determines that the delegation is necessary for the effective procurement of those items.

16-1-3: Authorization and methods for procurements.

The Village Manager and Director of Finance are authorized to enter into contracts on behalf of the Village as provided in this section as well as Chapter 1-10-7. Village Board approval is required for contracts that are not within the approval authority of the Village Manager or Director of Finance. Unless provided otherwise by this Code or specially authorized by law, the methods set forth in Subsections A (Competitive bidding), B (Competitive proposals), C (Small purchases), D (Sole-source procurement), E (Emergency procurements) of this section shall apply to contracts.

- A. Competitive bidding. Contracts shall be awarded by competitive bidding except as otherwise provided in this chapter.
- (1) Invitation for bids. An invitation for bids shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement.
 - (2) Public notice. Public notice of the invitation for bids shall be given within a reasonable time, not less than 10 calendar days prior to the date set forth therein for the opening of bids. The Procurement Officer shall designate a means of distribution of information to interested parties using methods that are reasonably available. Such methods may include publication in newspapers of general circulation, electronic or paper mailing lists, and web sites designated and maintained for that purpose. The notice shall state the place, date, and time of bid opening.
 - (3) Sealed bids. Bids must be submitted in sealed envelopes, for opening only at the time and place designated in the invitation for bids.
 - (4) Bid opening. The sealed bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, other information the Procurement Officer deems relevant and appropriate, and the name of each bidder shall be announced and recorded. The record shall be open to public inspection.
 - (5) Bid evaluation and acceptance. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as expertise, experience, management skills, staffing, references, inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used.
 - (6) Correction or withdrawal of bids.
 - (a) A bid may be withdrawn at any time before the bid opening by written or electronic 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 in a sealed envelope prior to the scheduled opening of the bid.

- (b) The correction or withdrawal of inadvertent errors in a bid after the bid opening, or the cancellation of an award or contract based on an error in a bid, may be permitted only when the Village has determined that it is appropriate. After the bid opening, no change in a bid price or other provision of a bid will be permitted if the Village determines that the change would be prejudicial to the interest of the Village or to fair competition. In lieu of a bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:
 - [1] The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - [2] The bidder submits evidence that clearly and convincingly demonstrates that a mistake was made.
- (c) All decisions to permit the correction or withdrawal of bids, or to cancel awards of contracts based on bid mistakes, shall be supported by a written determination made by the Procurement Officer.
- (7) Award. The contract shall be awarded with reasonable promptness by appropriate written notice to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids and is determined to be in the best interests of the Village (the "most responsible bid"). In the event the most responsible bid exceeds available funds, the Procurement Officer is authorized, when time, economic considerations, or other exigencies preclude re-solicitation of work of a reduced scope, to negotiate an adjustment of the most responsible bid in order to bring the bid within the amount of available funds.
- (8) Two-step competitive bidding. When it is considered impractical to prepare initially a purchase description to support an award based on price, a two-step bidding process may be used. Two-step competitive sealed bidding is a combination of competitive procedures designed to obtain the benefits of sealed bidding when adequate specifications are not available. The objective of two-step sealed bidding is to permit the development of a sufficiently descriptive and not unduly restrictive statement of the Village's requirements, including adequate technical requirements, so that subsequent acquisitions may be made by conventional sealed bidding. This method is especially useful in acquisitions requiring technical proposals. The two-step competitive sealed bidding procurement method is designed to obtain the benefits of competitive sealed bidding by award of a contract to the lowest responsive, responsible bidder while also obtaining the benefits of the competitive sealed negotiation procedure through solicitation of technical offers and the conduct of discussions to arrive at technical offers. The Village may request additional information from bidders to clarify material contained in their technical proposals. Such requests for additional information should always occur before the priced bids are considered.

- (9) 65 ILCS 5/8-9-1 provides a mechanism for the waiver of public bidding. Notwithstanding the foregoing requirements of this chapter, any such contract may be entered into by the proper officers without advertising for bids, if authorized by a vote of two-thirds of all Board members then holding office.

B. Competitive proposals. Solicitation of competitive proposals is a procurement option allowing the award to be based on an evaluation process using stated criteria to arrive at a contract that will be the most advantageous to the Village.

- (1) Competitive proposals, typically solicited through a request for proposals (RFP), may be practical when the Procurement Officer determines that the use of a competitive bidding process either is not practicable or otherwise is not advantageous to the Village, and one or more of the following conditions, or similar conditions, exist:
- (a) The contract needs to be other than a fixed-price type.
 - (b) Oral or written discussions may need to be conducted with proposers concerning technical and price aspects of their proposals.
 - (c) The work is highly specialized or otherwise requires extraordinary, defined skills or experience in a particular area not generally available.
 - (d) Proposers may need to be afforded the opportunity to revise their proposals, including prices.
 - (e) Award may need to be based upon a comparative evaluation, as stated in the RFP, of differing price, quality, and contractual factors in order for the Village to determine the most advantageous proposal. Quality factors may include technical and performance capability and the content of the technical proposal.
 - (f) Important criteria other than price will be considered in determining an award.
- (2) General RFP process. Proposals generally shall be solicited through an RFP as follows:
- (a) Public notice of the request for proposals shall be given at least 10 calendar days before the proposals are due.
 - (b) Submission of proposals. Proposals must be submitted in sealed envelopes. All proposals shall be handled so that the identity of the proposers and the contents of the proposals remain confidential during the process of negotiation. A register of proposals shall be prepared containing the name of each proposer, the number of modifications to a proposal received, if any, and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after the conclusion of negotiations and award of a contract.
 - (c) Evaluation factors. The request for proposals shall state the relative importance of price and other evaluation factors.

- (d) Discussion with responsible proposers and revisions to proposals. As provided in the request for proposals, discussions may be conducted with responsible proposers who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of the identity of competing proposers or of any information derived from proposals submitted by competing proposers.
 - (e) Award. Award shall be made to the responsible proposer whose proposal is determined to be the most advantageous to the Village, taking into consideration price and the evaluation factors set forth in the request for proposals. The contract file shall contain the basis on which the award is made.
- C. Small purchases. A "small purchase" is defined as a single, complete purchase, the price of which is less than \$25,000. Any purchase or contract for purchase for which the total price is \$25,000 or more is not a small purchase and may not be classified as a small purchase merely by making the purchase in installments or by otherwise dividing the purchase. A small purchase may be made in accordance with the small purchase procedures authorized in this subsection.
- (1) Purchases greater than \$15,000 but less than \$25,000. Insofar as it is practical, the Village shall allow three business days for the submission of written quotations by vendors for purchases greater than \$15,000 but less than \$25,000. The Village Manager and Director of Finance shall approve the purchase from the vendor with the lowest responsive, responsible quotation that is in the best interest of the Village. Quotations shall be in writing and authenticated by an appropriate officer of the vendor. A quotation shall include, at a minimum, the name of the vendor, the date, the description of the items offered, and the total amount of the quotation. The quotation shall be made part of the purchase record.
 - (2) Purchases greater than \$5,000 but not more than \$15,000. Insofar as it is practical, the Village shall allow three business days for the submission of written quotations by vendors for purchases greater than \$5,000 but not more than \$15,000. The Village Manager and Director of Finance shall approve the purchase from the vendor with the lowest responsive, responsible quotation that is in the best interest of the Village. Quotations shall be in writing. A quotation shall include, at a minimum, the name of the vendor, the date, the description of the items offered, and the total amount of the quotation. The quotation shall be made part of the purchase record.
 - (3) Purchases not more than \$5,000. The Village Manager, with the advice of the Procurement Officer, shall adopt operational procedures for making purchases of \$5,000 or less. Those operational procedures shall provide for obtaining adequate and reasonable competition for the supply, service, or construction being purchased.

- D. Sole-source procurement. A contract which would otherwise require competitive bidding under this chapter or this Code may be awarded without competitive bidding when the Procurement Officer determines in writing submitted to the Village Manager, after conducting a good faith review of available sources, that one source for the required supply, service, or construction item is in the best interest of the Village. The Procurement Officer, or his/her designee, shall conduct negotiations as appropriate as to price, delivery, and terms. A record of sole-source procurements shall be maintained as a public record and shall list each contractor's name, the amount and type of each contract, a listing of the item(s) procured under each contract, and the identification number of each contract file. If a contract exceeds the established expenditure limit, then the Village Board must authorize the contract.
- E. Emergency procurements. Notwithstanding any other provisions of this chapter or this Code, the Village Manager may make, or authorize the Procurement Officer and others to make, emergency procurements of supplies, services, or construction items when there exists an immediate threat to public health, welfare, or safety. An emergency procurement must be made with as much 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, including the contractor's name, the amount and type of the contract, a listing of the items procured under the contract, and the identification number of the contract file.
- F. Pass-Through Contracts are contracts that are entered into by the Village, where Village obligations for payment pursuant to such contracts are paid entirely by other entities or persons. Except as may be required pursuant to the provisions of 65 ILCS 5/8-9-1, the Village Manager, or his/her designee, may award and execute all Pass-Through contracts, regardless of price, for supplies, equipment, services or construction which are funded entirely by non-Village entities or persons without the expenditure of Village funds or commitment to future Village funds, provided that prior to the execution of the a commitment for payment from the funding source is obtained through a funding agreement or a deposit and reimbursement agreement.
- G. Responsibility of bidders and proposers. If a bidder or proposer that otherwise would have been awarded a contract is found unresponsive or irresponsible (collectively "unqualified"), then the determination of "unqualified" shall be made in writing by the Procurement Officer, setting forth the basis for the finding. The failure of a bidder or proposer to supply information promptly in connection with an inquiry from the Village with respect to responsibility may be grounds for a determination of unqualified. The determination shall be made part of the contract file and be made a public record.
- H. Bid and performance bonds on supply or service contracts. Bid bonds, labor and materials payment bonds, and performance bonds or other security may be requested for supply contracts or service contracts as the Procurement Officer, in consultation with the appropriate department head or Village Manager, deems advisable to protect the Village's interests. All bonding requirements should be established in the bid or solicitation documents. Bid bonds, labor and materials payment bonds, and performance bonds or other

security may not be used as a substitute for a determination of a bidder or proposer's responsibility.

- I. Cancellation of invitations for bids or requests for proposals. The Village may cancel an invitation for bids, a request for proposals, or any other solicitation and may reject any or all bids or proposals in whole or in part, when that cancellation or rejection is in the best interests of the Village. The reasons for cancellation or rejection shall be made part of the contract file. Each bid issued or solicitation made by the Village should state that the bid or solicitation may be cancelled and that any bid or proposal may be rejected in whole or in part. The Village shall attempt to send notice of cancellation to all potential bidders or proposers. The Village shall provide the reason or reasons for cancellation or rejection at the request of an unsuccessful bidder or proposer.

1-16-4. Types of contracts and contract administration.

The Village may use any form or type of contract that is, in the Village's judgment, appropriate for the procurement and that will promote the best interests of the Village. Contracts are subject to the following conditions and limitations.

A. Multi-term contracts.

- (1) Specified term. Unless otherwise provided by law, a contract for supplies or services may be for any stated term determined by the Village. The term, and any renewal or extension options and the conditions of those options, must be included in the bid or solicitation documents. Funds for the term or any renewal or extension must be available prior to the commencement of the term, renewal, or extension.
- (2) Cancellation due to unavailability of funds. When funds have not been appropriated or otherwise made available to pay the costs of performance for any term, renewal, or extension, then the contract must be allowed to expire or be cancelled.

- B. Multiple-source contracting. Multiple-source contract awards shall not be made when a single award will meet the Village's needs without sacrifice of economy or service. Multiple-source contracts shall not be made for the purpose of dividing the work or business, or for creating the opportunity for contract awards based on criteria not directly related to utility, economy, or the Village's best interests, or to avoid the resolution of tie bids. Any multiple-source contract awards that are made shall be limited to the least number of contractors necessary to meet the valid requirements.

- C. Right to inspect premises. The Village, at reasonable times, may inspect that part of the vendor's place of business or a contractor's or subcontractor's workplace that is pertinent to the supply of goods or performance of services or work for the Village under any contract, subcontract, or supply agreement.

- D. Reporting of anticompetitive practices. When for any reason the Village suspects the existence of collusion or other anticompetitive practice among any bidders or proposers, the Village shall notify the Office of the Illinois Attorney General and any other appropriate legal officer that would have jurisdiction over the matter.

E. Village procurement records.

- (1) Contract file. All determinations and other written records pertaining to the solicitation, award, or performance of a contract shall be maintained in a contract file.
- (2) Retention of procurement records. All procurement records shall be retained and disposed of by the Village in accordance with records retention guidelines and schedules approved by the State of Illinois.

1-16-5. Specifications generally.

All specifications shall be drafted so as to promote maximum value at the lowest cost, to promote overall economy for the purposes intended, and to encourage competition in satisfying the Village's needs. Specifications must not be unduly or unnecessarily restrictive. The standards stated in this section apply to all specifications, including without limitation specifications prepared on behalf of the Village by architects, engineers, designers, and draftsmen.

1-16-6. Brand name or equal specifications.

A. Brand name or equal specifications. Brand name or equal specifications may be used when the Procurement Officer determines that:

- (1) No other design or performance specification or qualified products list is available;
- (2) Time does not permit the preparation of another form of purchase description not including a brand name specification;
- (3) The nature of the product or the nature of the Village's requirements makes use of a brand name or equal specification suitable for the procurement; or
- (4) Use of a brand name or equal specification is in the Village's best interests.

B. Designation of several brand names. Brand name or equal specifications shall seek to designate as many different brands as are practicable, but at least three if possible, as "or equal" references and shall further state that substantially equivalent products to those designated will be considered for award.

C. Required characteristics. Unless the Procurement Officer determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, the brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics that are required.

D. Nonrestrictive use of brand name or equal specifications. When a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

1-16-7. Construction bidding and contracts.

A. Definition. For purposes of this chapter, "construction" means the process of building, altering, repairing, improving, or demolishing any public infrastructure facility, including

without limitation any public structure, building, or other improvement of any kind to real property. Construction does not include routine operation, routine repair, or routine maintenance of an existing infrastructure facility.

- B. Method of construction contract management. The Procurement Officer, in consultation with the appropriate department head and the Village Manager, as appropriate, shall have discretion to select the appropriate method of construction contract management for a particular project. In determining which method to use, the Procurement Officer shall consider the Village's requirements, its resources, and the potential contractor's capabilities.
- C. Bid security. A bid security shall be required for all competitively bid construction contracts, in accordance with applicable state law. The 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 Village. The bid bond must meet the following standards:
 - (1) Amount. The bid bond shall be in an amount adequate to provide guarantee, that the winning bidder will undertake the contract under the terms at which they bid..
 - (2) Payment on bond. The bidding documents must provide the circumstances under which the Village may take action against the bond due to material noncompliance of the bidder with the bid requirements.
 - (3) Withdrawal of bid. When a bidder withdraws its bid before award as provided in this Code, no action will be taken against the bidder or the bid bond.
 - (4) Performance and labor and materials payment bonds. When a construction contract is awarded in excess of \$25,000, the following bonds or security shall be delivered to the Village and shall become binding on the parties upon the execution of the contract:
 - (a) A letter of credit or performance bond in a form provided by or otherwise satisfactory to the Village, executed by a surety company authorized to do business in the state or otherwise secured in a manner satisfactory to the Village, in an amount equal to 100% of the price specified in the contract; and
 - (b) A letter of credit or labor and materials payment bond in a form provided by or otherwise satisfactory to the Village, executed by a surety company authorized to do business in the state or otherwise secured in manner satisfactory to the Village, for the protection of all persons supplying labor and materials 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 100% of the price specified in the contract.
 - (5) Authority to require additional bonds. Nothing in this section shall be construed to limit the authority of the Procurement Officer to require a performance bond or other security in addition to the bonds stated in this subsection, or in circumstances other than those specified in this section.
 - (6) Copies of letter of credit and bond forms. Any person may request and obtain from the

Village a certified copy of a letter of credit or bond upon payment of the cost of reproduction of the letter of credit or bond and postage, if any. A certified copy of a letter of credit or bond shall be prima facie evidence of the contents, execution, and delivery of the original.

- (7) Suits on labor and materials payment bonds. Unless otherwise provided by law, any person who has furnished labor or materials to a contractor or subcontractor for the work provided in the contract, for which a bond is furnished under this section, and who has not been paid in full within 90 days after the date on which that person performed the last of the labor or supplied the material, shall have the right to sue on the bond for any amount unpaid at the time the suit is instituted and to prosecute the action for the amount due that person. However, any person having a contract with a subcontractor of the contractor, but no express or implied contract with the contractor furnishing the bond, shall have a right of action upon the payment bond upon giving written notice to the contractor within 90 days after the date on which that person performed the last of the labor or supplied the material. That person shall state in the notice the amount claimed and the name of the party to whom the material was supplied or for whom the labor was performed. The notice shall be served personally or by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts business.

1-16-8. Procurement of architect, engineer, and land surveying services.

As a Home Rule unit, the Village is not required to adhere to the requirements of the Illinois Local Government Professional Services Selection Act (50 ILCS 510) when hiring an architect, engineer, or land surveyor. Nevertheless, the Village generally will apply the standards of that Act, except that the Village always will consider cost as a selection factor, unless otherwise required by law, and the Village may choose not to use a formal selection process for architectural, engineering, or land surveying services less than \$25,000. When the Village does solicit such services, then the Village must solicit proposals and adhere to the following requirements:

- A. Public notice; The Village must place an advertisement in a daily newspaper of general circulation throughout the Village, requesting a statement of interest in the specific project and further requesting statements of qualifications. Such advertisement shall state the day, hour and place the statement of interest and the statements of qualifications and performance data shall be due.
- B. Selection procedure. The Village then must evaluate the firms submitting letters of interest, taking into account qualifications, ability of professional personnel, past record and experience, performance data on file, willingness to meet time and budget requirements, location, workload of the firm, and such other factors as the Village may determine in writing are applicable. The Village may conduct discussions with and require presentations by firms deemed to be the most qualified regarding their qualifications, approach to the project and ability to furnish the required services.
- C. Selection. On the basis of evaluations, discussions and presentations, the Village shall select no fewer than three firms which it determines to be the most qualified to provide services

for the project and rank them in order of qualifications to provide services regarding the specific project. The Village shall then contact the firm ranked most preferred and attempt to negotiate a contract at a fair and reasonable compensation, taking into account the estimated value, scope, complexity, and professional nature of the services to be rendered. If fewer than three firms submit letters of interest and the Village determines that one or both of those firms are so qualified, the Village may proceed to negotiate a contract.

D. Contract negotiation.

- (1) The Village shall prepare a written description of the scope of the proposed services to be used as a basis for negotiations and shall negotiate a contract with the highest qualified firm at compensation the Village determines in writing to be fair and reasonable. In making this decision, the Village shall take into account the estimated value, scope, complexity, and professional nature of the services to be rendered.
- (2) If the Village is unable to negotiate a contract with the preferred firm, negotiations with that firm shall be terminated. The Village shall then begin negotiations with the firm that is next preferred. If the Village is unable to negotiate a contract with that firm, negotiations with that firm shall be terminated. The Village shall then begin negotiations with the firm that is next preferred.
- (3) If the Village is unable to negotiate a satisfactory contract with any of the selected firms, it shall reevaluate the architectural, engineering, or land surveying services requested, including the estimated value, scope, and complexity and fee requirements. The Village shall then compile a second list of not less than three qualified firms and proceed in accordance with these procedures.

E. Federally funded projects. As part of the process for consultant selection for federally funded projects, the Village will follow all applicable federal requirements.

1-16-9. Legal services.

The following procedures and requirements shall apply to any contracts for legal services.

- A. Only the Village Manager is authorized to secure legal services. Any department head that desires such legal services shall submit a request to the Procurement Officer for those legal services.
- B. The Procurement Officer will make a recommendation to the Village Manager, who may determine to enter into an agreement for legal services so long as funding is available in the current fiscal year budget.

1-16-10. Cooperative purchasing.

- A. Authorization. The Village shall endeavor to use joint or cooperative purchasing whenever favorable prices can be obtained for required goods and services. The Village Manager and Director of Finance are authorized to issue a purchase order or contract when the funds for that purchase order or contract have been previously budgeted and appropriated by the Village Board, using the applicable process and standards set forth in this chapter.

- C. Intergovernmental agreements. The Procurement Officer may participate in, sponsor, conduct, or administer cooperative purchasing of supplies, services, or construction with one or more units of local government in accordance with an agreement entered into by the participants. Such cooperative purchasing may include, without limitation, joint or multi-party contracts between public procurement units and open-ended public procurement unit contracts that are made available to other units of local government.

1-16-11. Contract funding.

Neither the Village Manager nor the Director of Finance may approve or enter into any purchase order, contract, or other obligation unless sufficient funds have been budgeted and allocated to that purchase order, contract, or other obligation in an amount sufficient to pay all required amounts.

1-16-12. Assignment of contracts.

No purchase order, contract, or other obligation between the Village and a vendor, services provider, or contractor shall be assignable or transferable in any manner by the vendor, services provider, or contractor without the written consent of the Village Manager.

1-16-13. Use of electronic transmissions.

The Village Manager, Director of Finance, and Procurement Officer, and their designees, may use e-mail and other electronic media in the procurement processes authorized in this chapter, including without limitation for electronic signatures, consistent with applicable law and subject to the condition that the Village Manager shall establish a standard protocol for use of electronic media, including such matters as:

- A. Appropriate security to protect against unauthorized access to information or processes; and
- B. The prompt provision of original documents when appropriate, such as signature pages, insurance documents, performance security, and similar matters.

1-16-14. Claims relating to solicitations.

- A. Claims. Any bidder, proposer, or vendor (claimant) that has a protest, dispute, or other claim (collectively a "claim") about a matter related to a Village bidding process, Village RFP process, or other form of Village solicitation may file a written notice of claim with the Procurement Officer within 10 days after the claimant knows or should have known of the facts giving rise to the claim. That notice of claim must (1) identify the particular transaction or process at issue, (2) include a detailed statement of the claim, and (3) provide all relevant facts and circumstances related to the claim, including without limitation dates, entities and persons involved, communications, and documents. The notice of claim must state whether the claimant desires to meet with the Procurement Officer regarding the claim.
- B. Meeting with Procurement Officer. If the claimant requests a meeting with the Procurement Officer regarding the claim, then the Procurement Officer shall promptly schedule and conduct that meeting.
- C. Procurement officer report and recommendation. If no meeting is requested or if the claim is not resolved during the requested meeting between the claimant and Procurement Officer,

then within 10 days after the filing of the claim or after the conclusion of the requested meeting, whichever is later, the Procurement Officer shall prepare a written report and recommendation regarding the claim for review and decision of the Village Manager.

- D. Decision by Village Manager. The Village Manager shall issue a written decision on a claim within 10 days after receipt of the Procurement Officer's report and recommendation. The Village Manager may accept the Procurement Officer's recommendation or make any other decision on the claim as the Village Manager determines is proper. The decision of the Village Manager will be final.

1-16-15. Suspensions.

- A. Authority to suspend. The Procurement Officer, with the approval of the Village Manager, may suspend a vendor, services provider, contractor, or other person (collectively, "contractor") for cause from eligibility to receive a purchase order, contract, or other order or agreement from the Village for any period of time up to three years. Prior to making a decision to suspend, the Procurement Officer must give reasonable notice to the contractor and a reasonable opportunity for the contractor to be heard by the Procurement Officer. The Procurement Officer's decision shall be in writing and shall include the causes for the suspension, the time period of the suspension, and other relevant matters. The Procurement Officer shall promptly provide a copy of the decision to the contractor.
- B. Causes. The causes for suspension include the following:
- (1) Conviction of the contractor for commission of a criminal offense related to obtaining or attempting to obtain any contract or subcontract, whether public or private, or relating to the performance of a contract or subcontract.
 - (2) Conviction of the contractor under any state or federal statute of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty.
 - (3) Conviction of the contractor under any state or federal antitrust statute arising out of the submission of bids or proposals.
 - (4) One or more contractor violations of contract provisions of a character that are regarded by the Procurement Officer or Village Manager to be so serious as to justify suspension. Examples of such violations are, but are not limited to:
 - (a) A deliberate failure to perform in accordance with the terms or specifications provided in the contract.
 - (b) Repeated failures to perform, or repeated instances of unsatisfactory performance, without satisfactory excuse or mitigating circumstances.
 - (5) Suspension or debarment by another governmental agency.
 - (6) Any other cause the Procurement Officer or Village Manager determines to be so serious and compelling as to affect responsibility as a contractor.

(7) Violation by the contractor of an ethical standard related to contracts, contracting, or construction.

C. Appeal. A contractor may appeal a suspension by filing a written notice of appeal in the office of the Village Clerk within five days. The notice of appeal must state each position and reason of the contractor in support of the appeal. The Village Board shall consider the appeal and, considering all of the facts, circumstances, and decision of the Procurement Officer, shall deny the appeal, grant the appeal, or grant such other relief as the Village Board determines is appropriate. The Village Board, as part of its decision, may decrease or increase the length of any suspension. The Village Board shall memorialize its decision in writing and promptly provide a copy of its decision to the contractor. The decision of the Village Board is final.

1-16-16. Ethical standards.

A. General standards of ethical conduct.

- (1) General ethical standard for employees. Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of a Village employee's duties is a violation of this code.
- (2) General ethical standard for nonemployees. Any effort to influence any Village employee to breach the standards of ethical conduct set forth in this code is a violation of this code.

B. Employee conflict of interest.

- (1) Conflict of interest. It is a violation of this Code for any employee to participate directly or indirectly in procurement when the employee has an ownership, employment, prospective employment, or family interest pertaining to the procurement.
- (2) Disclosure by employees. On discovery of an actual or potential conflict of interest, an employee shall promptly file a written disclosure with the Procurement Officer and shall withdraw from further participation in the transaction involved.
- (3) Disclosure by public official. On discovery of an actual or potential conflict of interest, a public official shall promptly disclose the conflict and shall withdraw from participation in the decision-making process.

C. Gratuities. It shall be violation of this chapter for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory role in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- D. Kickbacks. It shall be a violation of this chapter for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.
- E. Influence peddling. It shall be a violation of this chapter for a person to be retained, or to retain a person, to solicit or secure a Village contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business, which relationship shall be disclosed in any attempt to solicit or secure a Village contract.
- F. Use of confidential information. It shall be a violation of this article for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.
- G. Remedies against employees. In addition to existing remedies for breach by an employee of the ethical standards of this Code, the Village may impose any one or more of the following:
 - (1) Oral or written warnings or reprimands;
 - (2) Suspension with or without pay for specified periods of time; and
 - (3) Termination of employment.
- H. Remedies against nonemployees. In addition to existing remedies for violations of this article by a nonemployee, the Village may impose any one or more of the following:
 - (1) Written warnings or reprimands;
 - (2) Termination of transactions; and
 - (3) A suspension under this chapter.
- I. Recovery of value transferred or received in violation of this chapter.
 - (1) General provisions. The value of anything transferred or received in violation of this chapter by an employee or a nonemployee may be recovered from both the employee and nonemployee.
 - (2) Recovery of kickbacks. Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the Village and will be recoverable by the Village from the recipient. In addition, the amount may separately be recovered from the subcontractor making the kickback. The Village's recovery from one offending party shall not preclude the Village from recovery

from other offending parties.”

SECTION 2:

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 3:

This Ordinance shall be in full force and effect from and after its adoption and publication in pamphlet form as provided by law.

SECTION 4:

The Village Clerk be and hereby is authorized and directed to publish this Ordinance in pamphlet form.