

## **ORDINANCE 20-40**

### **AN ORDINANCE ESTABLISHING UNIFORM PURCHASING AND PROPERTY DISPOSAL POLICIES IN THE TOWN OF NOLENSVILLE, TENNESSEE**

**WHEREAS**, the Board of Commissioners of the Town of Nolensville desires to establish methods to comply with State law and to provide for a more formal process for the procurement of equipment, services and materials for the operation of municipal government; and

**WHEREAS**, the Town of Nolensville Finance Department and the Town Manager are responsible for establishing purchasing policies under a centralized purchasing system for the procurement of goods, services, and equipment and the provision of fair and equitable treatment of all persons; and

**WHEREAS**, the Town of Nolensville Finance Department will always strive to be a good steward of public funds by using best practices, market knowledge, innovation, and efficiency; and

**WHEREAS**, it is the desire of the Board of Commissioners to ensure that bidding and procurement activities serves the Town's needs while maintaining fair and open competition for all suppliers;

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF NOLENSVILLE, TENNESSEE, AS FOLLOWS:**

**SECTION 1. Purchasing Agent.** In accordance with Tennessee Code Annotated § 6-19-104(a), the Town Manager shall be the Purchasing Agent for the municipality. The Town Manager shall have the ability to delegate this role. The Purchasing Agent shall be responsible for the enforcement of the procedures hereby adopted. Except as otherwise provided in this policy, all supplies, materials, equipment, and services of any nature shall be assigned a purchase order number and verified to see that all requirements for purchase have been completed. Once such requirements have been verified, the purchase may be approved and acquired by the purchasing agent.

**SECTION 2. General Procedures Prior to Bidding.** The following procedures shall be followed by all Town employees when purchasing goods or services on behalf of the Town.

(a) Items Expected to Cost More than \$10,000.00

- (1) The department head of the using department shall deliver to the Purchasing Agent a written purchase request for the item(s) to be purchased. Such request shall include a brief description of the item(s) to be purchased, specifications for the item being purchased, the estimated cost of the items, and shall indicate whether the item(s) have been approved in the annual budget.

- (2) The Purchasing Agent shall review the purchase request for completeness and accuracy as required by this ordinance. The request shall then be forwarded to the Board of Commissioners ("the Board") for final review and approval. The Board shall have the authority to adjust or eliminate various specifications for goods and services, or may disapprove the purchase request, to comply with Town policy, the annual budget, or for any other reason it deems in the public interest.
  - (3) All approved purchase requests shall be signed by the Mayor and returned to the Purchasing Agent who shall proceed with procurement in compliance with this ordinance.
- (b) Items Expected to Cost less than \$10,000.00
  - (1) The department head of the using department shall deliver to the Purchasing Agent a written purchase request for the item(s) to be purchased. Such request shall include a brief description of the item(s) to be purchased, specifications for the item(s) being purchased, the estimated cost of the item(s), and shall indicate whether the item(s) have been approved in the annual budget.
  - (2) The Purchasing Agent shall review the purchase request for completeness and accuracy. Upon determining the matter is routine and has insubstantial long-term consequences, the Purchasing Agent may approve the purchase. Otherwise the Purchasing Agent shall direct the item to the Board for review and approval.
  - (3) All approved purchase requests shall be signed and returned to the Purchasing Agent, who shall proceed with procurement in compliance with this ordinance.

**SECTION 3. Rejection of Bids.** The Purchasing Agent shall have the authority to reject any and all bids, parts of bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby. The Purchasing Agent shall not accept the bid of a vendor or contractor who is in default on the payment of taxes, licenses, fees or other monies of whatever nature that may be due the Town by said vendor or contractor.

**SECTION 4. Conflict of Interest.** All employees who participate in any phase of the purchasing function are to be free of interests or relationships which are actually or potentially hostile or detrimental to the best interests of the Town of Nolensville and shall not engage in or participate in any commercial transaction involving the Town, in which they have a significant interest.

**SECTION 5. Purchasing from Employee.** It shall be the policy of the Town not to

purchase any goods or services from any employee or close relative of any Town employee without the prior approval of the Board of Commissioners.

**SECTION 6. Sealed Bid Requirements \$10,000.00 or Greater.**

(a) On all purchases and contracts estimated to be in excess of ten-thousand dollars (\$10,000.00), except as otherwise provided in this ordinance, formal sealed bids shall be submitted at a specified time and place to the Purchasing Agent. The Purchasing Agent shall submit all such bids for award by the Board of Commissioners at the next regularly scheduled Board meeting or special-called meeting together with the recommendation as to the lowest responsive bidder.

(b) Notice inviting bids shall be published at least once in a newspaper of general circulation, and at least five days preceding the last day to receive bids. The newspaper notice shall contain a general description of the article(s) to be secured, and the date, time, and place for opening bids.

(c) In addition to publication in a newspaper, the Purchasing Agent may take other actions deemed appropriate to notify all prospective bidders of the invitation to bid, including, but not limited to, advertisement in community bulletin boards, metropolitan newspapers, professional journals, and electronic media.

**SECTION 7. Competitive Bidding \$10,000.00 or Greater.**

(a) All purchases of supplies, equipment, services, and contracts estimated to be in excess of ten thousand dollars (\$10,000.00), shall be by competitive bidding and may be awarded to the lowest responsive bidder.

(b) A written record shall be required and available for public inspection showing that competitive bids were obtained by one of the following methods:

- (1) Direct mail advertisement,
- (2) Telephone bids., and/or
- (3) Public notice.

**SECTION 8. Purchases and Contracts Costing Less Than \$10,000.00.** The Department Head is expected to obtain the best prices and services available for purchases and contracts estimated to be less than \$10,000.00, but is exempted from the formal bid requirements specified in Sections 6 and 7 of this ordinance.

**SECTION 9. Record of Bids.** The Purchasing Agent shall keep a record of all open market orders and bids submitted in competition thereon, including a list of the bidders, the amount bid by each, and the method of solicitation and bidding, and such records shall be open to public inspection and maintained in the Finance Department. As a minimum, the bid file shall contain the following information:

(a) Request to start bid procedures,

- (b) A copy of the bid advertisement,
- (c) A copy of the bid specifications,
- (d) A list of bidders and their responses,
- (e) A copy of the purchase order, and
- (f) A copy of the invoice.

**SECTION 10. Considerations in Determining Bid Awards.** Each of the following criteria shall be considered in determining all bid awards:

- (a) The ability of the bidder to perform the contract or provide the material or service required.
- (b) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
- (c) The character, integrity, reputation, judgement, experience, and efficiency of the bidder.
- (d) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
- (e) The quality of performance of previous contracts or services, including the quality of such contracts or services in other municipalities, or performed for private sector contractors.
- (f) The sufficiency of financial resources and the ability of the bidder to perform the contract or provide the service.
- (g) The ability of the bidder to provide future maintenance and service for the use of the supplies or contractual service contracted.
- (h) Compliance with all specifications in the solicitation for bids.
- (i) The ability to deliver and maintain any requisite bid bonds or performance bonds.
- (j) Total cost of the bid, including life expectancy of the commodity, maintenance costs, and performance.

**SECTION 11. Emergency Purchases.** When in the judgement of the Purchasing Agent an emergency exists,, as set forth in Tenn. Code Ann. § 6-56-304(3) or similar situations, the provisions of this ordinance may be waived; provided, however, the Purchasing Agent shall report the purchases and/or contracts to the Board of Commissioners at the next regular Board meeting stating the item(s) purchased, the amount(s) paid, from whom the purchase(s) was made, and the nature of the emergency.

**SECTION 12. Waiver of the Competitive Bidding Process.** Upon the recommendation

of the Town Manager, and the subsequent approval of the Board of Commissioners, that it is clearly to the advantage of the Town not to contract by competitive bidding, the requirements of competitive bidding may be waived provided that any of the following criteria are met and documented in a written report to the Board of Commissioners :

- (a) Single Source of Supply. The availability of only one vendor of a product or service within a reasonable distance of the Town as determined after a complete and thorough search by the using department and the Purchasing Agent.
- (b) State Department of General Services. A thorough effort was made to purchase the product or service through or in conjunction with the State Department of General Services or via a State contract, such effort being unsuccessful.
- (c) Purchase from Other Governmental Entities. A thorough effort was made to purchase the product or service through or in conjunction with other municipalities or from any federal or state agency. These purchases may be made without competitive bidding and public advertisement.
- (d) Purchases from Non-Profit Organizations. A thorough effort was made to purchase the goods or services from any non-profit organization whose sole purpose is to provide goods and services specifically to municipalities.
- (e) Purchases from Tennessee State Industries. A thorough effort was made to purchase the goods or services from Tennessee State Industries (prison industries).
- (f) Purchases from Instrumentalities Created by Two or More Co-operating Governments. An effort was made to purchase the goods or services from a co-op or group of governments which was formed to purchase goods and services for their members.
- (g) Real Property purchases or leases.

**SECTION 13. Goods and Services Exempt from Competitive Bidding.** The following goods and services need not be awarded on the basis of competitive bidding; provided, however, that the Purchasing Agent and/or the Department Head shall make a reasonable effort to assure that such purchases are made efficiently and in the best interest of the Town:

- (a) Certain Insurance. The Town may purchase insurance, pursuant to Tennessee Code Annotated § 29-20-407.
- (b) Certain Investments. The Town may make investments of municipal funds in, or purchases from, the pooled investment fund established pursuant to Tennessee Code Annotated § 9-17-105.
- (c) Motor Fuel, Fuel Products, or Perishable Commodities. Such commodities may be

purchased without competitive bidding.

(d) Professional Service Contracts. Any services of a professional person or firm, including attorneys, accountants, physicians, architects, engineers, and other consultants required by the Town, whose fee is less than \$500.00, may be hired without competitive bidding. In those instances where such professional service fees are expected to exceed \$500.00, a written contract shall be developed and approved by the Board of Commissioners prior to the provision of any goods or services. Contracts for professional services shall not be awarded on the basis of competitive bidding; rather, professional service contracts shall be awarded on the basis of recognized competence and integrity.

**SECTION 14. Purchase Orders Required for Every Purchase.** A purchase order, as defined in this ordinance, shall be completed by the Department Head prior to the ordering of all goods and services to be acquired by the Town of Nolensville, whether or not bidding was required for the purchase. The Department Head shall forward a copy of each such purchase order to the Purchasing Agent for placement in the purchasing file.

**SECTION 15. Property Control.** A physical inventory of the Town's fixed assets shall be taken annually. The goals of the annual inventory shall be as follows:

- (a) To identify unneeded and duplicate assets;
- (b) To provide a basis for insurance claims, if necessary;
- (c) To deter the incidence of theft and negligence;
- (d) To aid in the establishment of replacement schedules for equipment; and
- (e) To note transfers of surplus property.

To be classified as a fixed asset, an item must be tangible, have an expected life longer than the current fiscal year, and have a value of at least \$100.00. Any property or equipment that meets these criteria shall be assigned an asset number (affixed with a property sticker), have a completed property card, and be inventoried annually. Such records shall be controlled and maintained by the applicable Department Head. These records shall be kept in an updated and current condition and subject to periodic audit. Computer print outs with appropriate information shall be acceptable if signed by the Department Head.

## **SECTION 16. Disposal of Surplus Property.**

- a) The Purchasing Agent shall be in charge of the disposal of surplus property. Any member of the Board of Commissioners, the Town Manager, Town Finance Director, or any department head may nominate any Town-owned property for disposal or sale as surplus property. All such nominations shall be made on forms developed by the Town Manager and/or Town Recorder and signed by the person making the nomination. Signed nominations for surplus property with an estimated value in excess of \$10,000 shall be forwarded to the Board of Commissioners for the final decision authorizing the sale. Surplus property with an estimated a value of less than \$10,000 may be sold by the Town Manager.
- b) All such nominations to designate and sale surplus property shall be made on forms developed by the Town Manager and/or Town Recorder, and, after review for completion, forwarded to the Board of Commissioners for the final decision authorizing the sale. The form should include at least the following:
- (1) A brief description of the item proposed for sale, including manufacturer, model number, serial number, age, and condition;
  - (2) The department or office to which the property is assigned;
  - (3) An explanation of why the property is no longer needed by the Town;
  - (4) An estimate of the current in-place value of the property; and
  - (5) The name and signature of the person making the nomination.
- c) Before classifying any property as being surplus, the Bord of Commissioners shall consider the following:
- (1) The age and condition of the property;
  - (2) The cost of replacing the property, if any;
  - (3) The anticipated remaining life of the property;
  - (4) The estimated value of the property;
  - (5) Whether the property might reasonably, safely, and efficiently be used by another City department or office.
- d) It shall be the official policy of the Town of Nolensville that no Town-owned property shall be sold, or offered for sale, as surplus property without prior authorization by the Board of Commissioners. The Board's authorization to sell surplus property shall be in the form of a Resolution.

**SECTION 17. Employee Participation in Disposal of Surplus Property.** No Town employee shall be permitted to bid on surplus property; nor shall any surplus property be sold by or given to a Town employee by the Board of Commissioners, the Purchasing Agent or any Town department head. For the purposes of this ordinance, members of the Board of Commissioners shall be considered Town employees.

**SECTION 18. Surplus Property: Items Estimated to Have Monetary Value.** When disposing of surplus property estimated to have monetary value exceeding \$10,000.00, the Purchasing Agent, in conjunction with the Department Head, shall comply with the following procedures:

- (a) Obtain from the Board of Commissioners a resolution declaring said items to be surplus property and fixing the date, time and location for the Purchasing Agent to receive bids.
- (b) A copy of the resolution shall be posted in at least three locations in the community.
- (c) Such equipment or materials shall be sold to the highest bidder.
- (d) All pertinent information concerning the sale shall be noted in the fixed asset records of the Town.
- (e) The advertisement, bids, and property cards shall be retained for a minimum period of five (5) years.

**SECTION 19. Surplus Property: Town Identification Removed Prior to Sale.** No surplus Town property shall be sold unless and until all decals, emblems, lettering, or coloring which identifies the item as belonging to the Town of Nolensville have been removed or repainted.

**SECTION 20. Sale of Dangerous Property:** It shall be the policy of Nolensville to avoid the sale of surplus property that might reasonably be dangerous or hazardous to the ultimate purchaser. Dangerous or hazardous items shall include, but are not limited to, the following:

- (a) Surplus firearms and other weapons. Such items may only be offered for sale to a public law enforcement agency;
- (b) Explosives;
- (c) Volatile or highly toxic chemicals; and
- (d) Equipment and materials that cannot be operated or used safely due to obsolescence, product defect, lack of maintenance, etc.

**SECTION 21. Additional Forms and Procedures.** The Purchasing Agent is hereby authorized and directed to develop such forms and procedures as are necessary to comply with this ordinance.



**SECTION 22:** Sections 16-21 A copy of this ordinance should be distributed to all employees.


This ordinance shall become effective after its passage and adoption, the public welfare demanding it.

Approved by the Board of Commissioners

12/3/2020  
First Reading

1/7/2021  
Second Reading

Attest:

  
\_\_\_\_\_  
Montique Luster, Town Recorder

  
\_\_\_\_\_  
Derek Adams, Mayor

Approved by:

  
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Gino Marchetti, Jr., Town Attorney