

# **Eastover Code of Ordinances**

## **Article 4: Municipal Taxation and Fiscal Matters**

# **Ordinance 4-1001 & Amendments**

AN ORDINANCE CREATING THE POSITION OF PURCHASING AGENT AND  
ESTABLISHING PURCHASING PROCEDURES FOR THE TOWN OF EASTOVER.

Ordinance No. 4-1001

BE IT ENACTED by the Town Council of the Town of Eastover:

SECTION 1

Purchasing Agent, Specified Duties: The Mayor, or officer of the Town designated by the Mayor shall be the purchasing agent for the Town. He/she shall be responsible for:

- (a) The purchase of supplies, materials and equipment and contractual services required by any office, department or agency of the Town government.
- (b) The storage and distribution of all supplies, materials and equipment required by any office, department or agency of the Town government.
- (c) Establishing written specifications, whenever practicable, for supplies, materials and equipment required by any office, department or agency of the Town government. Such specifications shall be definite and certain and shall permit competition.
- (d) Maintaining, whenever practicable, a perpetual inventory record of all materials, supplies or equipment stored in store-rooms or warehouses.
- (e) Soliciting and maintaining an up-to-date list of qualified suppliers who have requested their names to be added to a "bidders' list." The purchasing agent shall have authority to remove temporarily the names of vendors who have defaulted on their quotations, attempted to defraud the city or who have failed to meet established specifications or delivery dates.
- (f) Obtaining as full and open competition as possible on all purchases, contracts and sales.

SECTION 2

Formal Contract Procedures: All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$10,000, shall be purchased by formal written contract from the lowest responsible bidder, after due notice by written proposal. No contract or purchase shall be subdivided to avoid the

requirements of this section. All sales of personal property which has become obsolete or unusable, when the estimated value shall exceed \$5,000, shall be sold by formal written contract or at a public auction to the highest responsible bidder, after due notice inviting proposals and bidders. All supplies or service contracts of \$10,000.00 or less but more than \$1,000.00 will require the Purchasing agent to seek at least three bids or proposals but require no newspaper notice. All purchases of \$1,000.00, may but does not require, the purchasing agent to get a bid or proposal before entering the contract but a resolution approving purchase and amount must be past by council. All sales by the town of personal property of less than \$5,000.00 requires no formal bid or proposal nor must the property be advertised for sale however a resolution approving the sale and sales price must be past by Council before transfer of towns personal property.

## SECTION 2.1

Competitive Bidding – Required Exception: Before any purchase or contracts for supplies, materials, equipment or services exceeding \$10,000.00 are made, the purchasing agent shall give ample opportunity for competitive bidding or request for proposals (RFPs). All bids or proposals shall be in writing, a refusal to bid or make a proposal is considered a bid or proposal for the requirement to seek bids. Competitive bidding shall be encouraged for all contracts, purchases or sales in excess of \$1,000.00, however, in the event of an emergency affecting the public welfare, health or safety, the provisions of this section shall not apply. A full report of the circumstances of an emergency purchase shall be filed by the purchasing agent with the Town Council and shall be entered in the minutes of the Council.

## SECTION 2.2

Award to Lowest Bidder – Advertising, When Required: All contracts for Town improvements, materials, equipment, or services costing more than \$10,000 shall be awarded to the lowest responsible bidder after publication in a newspaper of general circulation in the Town at least five days before the last day set for receipt of proposals; provided, however, that in case of professional services, this section shall not apply. The newspaper notice required herein shall include a general description of the articles or services to be purchased, shall state where bid blanks and specifications may be secured and the time and place for opening bids or RFPs.

## SECTION 2.3

Bid Deposits: When deemed necessary by the purchasing agent, bid deposits shall be prescribed in the public notices inviting bids. Upon entering into a contract, bidders shall be entitled to return of bid deposit where the purchasing agent has required such. A successful bidder shall forfeit any bid deposit required by the purchasing agent

upon failure on his part to enter into a contract within ten days after the award; provided, however, that the Town, in its uncontrolled discretion, may waive this forfeiture.

## SECTION 2.4

Sealed Bid Procedures: Procedure for sealed bids shall be as follows:

(A) Sealing. Bid shall be submitted to the purchasing agent securely sealed in an envelope, and shall be identified on the envelope in accordance with bid instructions.

(B) Opening. Bid shall be opened in public at the time and place stated in the public notices.

(C) Tabulation. A tabulation of all bids received shall be available for public inspection.

(D) Rejection of Bids. The purchasing agent shall have the authority to reject all bids, parts of all bids, or all bids for any one or more suppliers or contractual services included in the proposed contract, when the public interest will be served thereby.

(E) Bidders in Default to Town. The purchasing agent shall not accept the bid of a vendor or contractor who is delinquent in the payment of taxes, license, or other monies due the Town.

(F) Award of Contract.

1. Authority of Agent: the purchasing agent shall have the authority to award contracts within the purview of this article; provided, however, that contracts in excess of one thousand dollars shall not be awarded without prior approval of Town Council.

2. Lowest Responsible Bidder: contracts shall be awarded to the lowest responsible bidder. In determining "lowest responsible bidder", in addition to price, the purchasing agent shall consider:

- (a) The ability, capacity, and skill of the bidder to perform the contract or provide the 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, judgment, experience and efficiency of the bidder;
- (d) The quality of performance or previous contracts or services;

- (e) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
- (f) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
- (g) The quality, availability and adaptability of the supplies or contractual services to the particular use required;
- (h) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
- (i) The number and scope of conditions attached to the bid.

(G) Award to Other than Low Bidder. 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 prepared by the purchasing agent and filed with the papers relating to the transaction and held for a period of no less than 12 months.

(H) Tie Bids.

1. Local Vendors: If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the local bidder. If two or more of such bids are submitted by local bidders, the purchasing agent shall award the contract to one of the local tie bidders by drawing lots in public. If local bidders are not involved in the tie bids, the purchasing agent shall award the contract to one of the outside tie bidders by drawing lots in public. The purchasing agent, local bidders, and vendors should bear in mind, however, that to award a contract to a local vendor where he is not the lowest responsible bidder, or where price, quality, and service are not equal, is to give preference to one minute segment of the citizenry against the best interests of the community as a whole.

(I) Performance Bonds. The purchasing agent shall have the authority to require a performance bond, before entering into a contract, in such form and amount, as he/she shall find reasonably necessary to protect the best interest of the Town.

(J) Payment Bond/Labor and Material Bond. The purchasing agent may require a payment bond and a labor and material bond before entering into a contract; in such form and amount as he/she deem necessary to protect the best interests of the Town.

## SECTION 2.5

Requests for Proposals: A request for proposals shall be treated as a competitive sealed bid and selection shall be as proscribed in Section 2.4.

## SECTION 2.6

Materials Testing: The purchasing agent shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, the purchasing agent shall have the authority to make

use of laboratory facilities of any agency of the Town government or any outside laboratory.

### SECTION 3

Financial Interest of Town Officials and Employees Prohibited: No member of the Town Council or any officer or employee of the Town shall have a financial interest in any contract or in the sale to the town or to a contractor supplying the town of any land or rights or interests in any land, material, supplies or services; except who a majority of the Town Council determines such exception in the best interest of the Town, provided that no councilmen whose interest is involved shall vote on the question. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the Town found guilty thereof shall thereby forfeit his/her office or position. Any violation of this section with the knowledge express or implied of the person or corporation contracting with the Town shall render the contract voidable by the Mayor or the Town Council.

### SECTION 4

Records of Open Market Orders and Bids: The purchasing agent shall keep a record of all open market orders and the bids submitted in competition thereon, and such records shall also be open to public inspection.

### SECTION 5

Stock Resorts: All offices, departments or agencies of the Town government shall submit to the purchasing agent, at such times and in such form as he/she shall prescribe, reports showing stocks of all supplies which are no longer used which have become obsolete, worn-out or scrapped.

### SECTION 6

Surplus Stock: The purchasing agent shall have the authority to transfer surplus stock to other offices, departments or agencies of the Town government.

### SECTION 7

Supplies Unsuitable for Public Use, Sale or Exchange: The purchasing agent shall have the authority to sell all supplies which have become unsuitable for public use, or to the exchange the same for, or trade-in the same on, new supplies. Such sales shall be made to the highest bidder, and in conformance with Section 2. All monies received from such sales shall be paid into the appropriate fund of the Town.

### SECTION 8

Gifts and Rebates: The purchasing agent and every officer and employee of the Town are expressly prohibited for accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is or might be awarded, any rebate, gift, money, or anything of value whatsoever, except where given for the use and benefit of the Town.

## SECTION 9

Cooperative Purchasing: The purchasing agent shall have the authority to join with other units of government in cooperative purchasing plans when the best interests of the Town would be served thereby; provided that the purchasing agent of the Town is given the authority to make purchases of supplies and equipment through the property division of the State Budget and Control Board, without the formality of publication and receiving competitive bids.

Done in Council this 2<sup>nd</sup> day of August, 1999.

MAYOR: \_\_\_\_\_

ATTESTED: \_\_\_\_\_  
Town Clerk

TOWN ATTORNEY: \_\_\_\_\_  
(approved as to form)

1<sup>st</sup> Reading: 6-14-1999

2<sup>nd</sup> Reading: 7-06-1999

3<sup>rd</sup> Reading: 8-02-1999



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Town Clerk

TOWN ATTORNEY: \_\_\_\_\_  
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1st Reading: 6-14-1999

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