



CITY COUNCIL AGENDA ITEM

Date: October 19, 2016

To: Brian Kischnick, City Manager

From: Thomas Darling, Director of Financial Services
Lisa Burnham, Accounting Manager
Kurt Bovensiepe, Director of Public Works
MaryBeth Murz, Purchasing Manager
Enna Bachelor, Buyer

Subject: Amendment to City Ordinance Chapter 7 Item 9 "Declared Emergency"

This is for informational purposes only, and absent any City Council objections, it is intended to be brought back as an action item on the next regular City Council meeting.

Issue

The purchasing review team for "Plan of Process & Education" (PPE) reviewed City Ordinance Chapter 7 Item 9. During our review we noted that the Ordinance could be further strengthened by direct tie-in to the City's Emergency Operations Plan and clarification to address emergencies that threaten life, property, or the general public health, safety and welfare.

Code

City Ordinance Chapter 7 Item 9

Interpretation

Charter section 12.1 "Purchase and Sale of Property" paragraph 3 states that all sales or purchases in excess of ten thousand dollars shall be (a) approved by Council and (b) obtain competitive bids. The exception to these requirements is (1) Where Council has determined an emergency exists or (2) Council can waive the competitive bid process if they have determined that the public interest will be best served without obtaining sealed bids.

Paragraph 5 allows the City Manager to make necessary purchases without sealed bid, prior council approval and in amounts in excess of \$10,000 when an emergency is declared because of a natural disaster, civil disturbance or "similar calamity" is officially declared.

Purchases in excess of \$10,000 are further explained in greater detail in City Ordinance Chapter 7.3 along with affirming the "Declared Emergency" purchases by the City Manager in City Ordinance Chapter 7.9



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The City has adopted an “Emergency Operations Plan” that allows for “activation” of the plan in section 4.(a)(i) by the first police or fire supervisor arriving on the scene.

As demonstrated above the City Charter and the current City Ordinance do not address or provide financial guidance upon the activation of the Emergency Operations Plan. However from a practical standpoint, such an emergency may require immediate financial resources.

During our review of Charter Section 12.1 paragraph 5 and comparing it to the current City Ordinance Chapter 7.9 regarding emergency purchases as referenced above, we noted that the City Manager may make necessary purchases when an emergency because of a natural disaster, civil disturbance or “similar calamity” is declared. The team concluded that further clarification of “similar calamity” is required as emergency conditions can occur that threaten life, property, or the general public health, safety and welfare that are outside of a natural disaster or civil disturbance. Examples would include emergency repairs to fire trucks or apparatus, a series of water main breaks or other emergency repairs that need to be addressed prior to the next scheduled Council meeting.

Finally, the ordinance refers to the notification of emergency purchases to City Council at the next regularly scheduled meeting. The team concluded that because this is a timing requirement, the definition of when a “purchase” has occurred should be defined.

Recommendation

The team recommends modification to the City Ordinance Chapter 7 Item 9 as follows:

7.9 Declared Emergency. Upon the activation of the City’s officially approved Emergency Operations Plan, the City Manager or the Designated Resource Officer is permitted to make emergency purchases without sealed bids, prior to Council approval and in excess of \$10,000. For each purchase under the Emergency Operations Plan, the City Manager or Designated Resource Officer shall comply with any Federal or State emergency purchasing mandates and make every effort to secure commercially reasonable prices and retain receipts and any other required documentation to facilitate requests for reimbursement from State or Federal sources. In those instances, and for those purchases exceeding the limitations provided in the Charter, the City Manager or his/her designee shall present the facts and circumstances concerning the purchase, and request that City Council affirm the purchase at the next regularly scheduled meeting following the delivery of the emergency purchase or initial rendering of emergency service.

For all other sales or purchases exceeding \$10,000, advance City Council approval is required. However, City Council has the option of passing a blanket type resolution granting the required advance approval for emergency purchases that do not require the activation of the Emergency Operations Plan, but are necessary because of an urgent and unforeseen situation that threatens life, property, or the general public health, safety and welfare, and immediate delivery or rendering of services is required. If such a blanket resolution is adopted, the resolution shall require that in any



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such case, the City Manager or his/her designee shall present the facts and circumstances concerning the emergency purchase, and request that City Council affirm the purchase at the next regularly scheduled meeting following the delivery of the emergency purchase or initial rendering of emergency service. Any such resolution should be reviewed and revisited any time there is a new member to City Council.

City Attorney's Review as to Form and Legality

Lori Grigg Bluhm, City Attorney

Date

Initials of Author, Preparer and File Location, for example: BK/bt\AGENDA ITEMS\01.14.13 – Memo Name

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 7 - CITY OF TROY ORDINANCE

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 7- City of Troy Ordinance.

Section 2. Amendment

Section 9 shall be amended as follows:

~~9. Declared Emergency. In the event of an officially declared emergency, the City Manager is permitted to make purchases without sealed bids, prior to Council approval and in excess of the limitations provided by the Charter. All purchases in excess of the limitations provided by the Charter, shall be reported to the Council at the next regularly scheduled meeting.~~

9. Declared Emergency. Upon the activation of the City's officially approved Emergency Operations Plan, the City Manager or the Designated Resource Officer is permitted to make emergency purchases without sealed bids, prior to Council approval and in excess of \$10,000. For each purchase under the Emergency Operations Plan, the City Manager or Designated Resource Officer shall comply with any Federal or State emergency purchasing mandates and make every effort to secure commercially reasonable prices and retain receipts and any other required documentation to facilitate requests for reimbursement from State or Federal sources. In those instances, and for those purchases exceeding the limitations provided in the Charter, the City Manager or his/her designee shall present the facts and circumstances concerning the purchase, and request that City Council affirm the purchase at the next regularly scheduled meeting following the delivery of the emergency purchase or initial rendering of emergency service.

For all other sales or purchases exceeding \$10,000, advance City Council approval is required. However, City Council has the option of passing a blanket type resolution granting the required advance approval for emergency purchases that do not require the activation of the Emergency Operations Plan, but are necessary because of an urgent and unforeseen situation that threatens life, property, or the general public health, safety and welfare, and immediate delivery or rendering of services is required. If such a blanket resolution is adopted, the resolution shall require that in any such case, the City Manager or his/her designee shall present the facts and circumstances concerning the emergency purchase, and request that City Council affirm the purchase at the next regularly

scheduled meeting following the delivery of the emergency purchase or initial rendering of emergency service. Any such resolution should be reviewed and revisited any time there is a new member to City Council.

Section 3. Repeal

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 4. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 5. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 6. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a Regular Meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the 24th day of October, 2016.

Dane Slater, Mayor

M. Aileen Bittner, CMC, City Clerk