



CITY COUNCIL AGENDA ITEM

Date: November 9, 2016

To: Honorable Mayor and City Council

From: Brian Kischnick, City Manager
Lori Grigg Bluhm, City Attorney
Thomas Darling, Director of Financial Services
Lisa Burnham, Accounting Manager
Kurt Bovensiep, Director of Public Works
MaryBeth Murz, Purchasing Manager
Enna Bachelor, Buyer

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

Issue

The purchasing review team for "Plan of Process & Education" (PPE) reviewed City Ordinance Chapter 7 Section 9. During this 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.

Interpretation

Paragraph three of the Troy City Charter, section 12.1 requires that all City sales or purchases over ten thousand dollars shall be (a) approved by Council and (b) subject to the competitive bid process. The competitive bid requirement can be waived only if Council has determined an emergency exists or Council has determined that the public interest will be best served without obtaining sealed bids.

The fifth paragraph of Troy Charter Provision 12.1 addresses emergency purchases, and provides the City Manager with the ability to purchase items over \$10,000 without obtaining competitive bids or prior City Council approval when: "a natural disaster, civil disturbance or similar calamity is officially declared." This proposed ordinance amendment would clarify that City Council has "officially declared" an emergency when the City's officially approved Emergency Operations Plan is activated, and this would allow for the City Manager or his/her designee to make necessary emergency purchases, which would then be affirmed by City Council at the next regular City Council meeting.

There are also situations where the City's Emergency Operations Plan is not activated, but quick action is required. For example, if there is an engine failure in one of the City's fire trucks, immediate repair or replacement is desired so that the truck is readily available. The proposed ordinance revision allows for City Council to pass a blanket resolution authorizing the City Manager to make emergency purchases over \$10,000 without competitive bids and without prior approval of City Council if immediate action is required due to "an urgent and unforeseen situation that threatens life,



CITY COUNCIL AGENDA ITEM

property, or the general public health, safety and welfare.” In any such case, the details of the required emergency purchase must be presented to City Council for affirmation at the next regularly scheduled City Council meeting. A proposed blanket resolution authorizing this type of emergency purchase is proposed for your consideration. As set forth in the proposed ordinance amendment, this blanket resolution can be modified or rescinded at any time, but it must be revisited any time there is a change in the City Council composition.

Recommendation

City Administration recommends the amendment of City Ordinance Chapter 7, paragraph 9, as set forth in the attached document. City Administration also recommends the passage of a blanket resolution, giving the City Manager authority to make necessary emergency purchases that are urgent and unforeseen.

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