

**AN ORDINANCE PERTAINING TO PURCHASING DURING A PROCLAIMED EMERGENCY OR DISASTER**

**WHEREAS**, the City of St. Mary, Missouri needs to maximize the response capability of the City and give it the necessary flexibility to make disaster related purchases while maximizing its ability to be reimbursed by FEMA for those disaster related purchases.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ST. MARY, MISSOURI, AS FOLLOWS:**

**§ 1. Purpose:**

This Policy modifies the City's normal purchasing practices to assure that, in exigent circumstances caused by a proclaimed disaster or emergency, the City is able to acquire the goods and services required to address an immediate threat to life, public health, or safety or an immediate threat of significant damage to improved public and private property while still maintaining an effective purchasing process and complying with applicable local and state purchasing laws. Where the City is included in a major disaster or emergency declared by the President of the United States, this Policy also assures that City procurements comply with federal regulations applicable to FEMA disaster grant reimbursement.

**§ 2. Definitions:**

For purposes of this Policy, (a) a "Proclaimed Disaster or Emergency" exists if (i) the Governor has declared a state of emergency for an area which includes the geographic territory of the City; or (ii) the Emergency Management Director or Mayor of the City has declared an emergency in the City. (b) "Exigent Circumstances" are situations in which (i) a disaster or emergency has been proclaimed, and (ii) the public exigency for goods and services required to address an immediate threat to health, safety, or improved property" will not permit competitive solicitation.

**§ 3. Delegations of Purchasing Authority In Exigent Circumstances:**

(a) if the Emergency Management Director determines that goods and services must be procured before the City Council is able to assemble and approve purchases, the Emergency Management Director has authority, subject to the limitations set forth in subparagraphs (a)(i) and (a)(ii), to approve the immediate rental or purchase of any equipment, supplies, services or other items necessary to respond to an immediate threat to health, safety or improved property.

(i) Limits of Single Purchase Authority: The Emergency Management Director shall have the authority to make individual purchases up to \$500.00 on his or her signature alone. The Emergency Management Director shall have the authority to make purchases in excess of \$500.00 up to a maximum of \$1,500.00 when countersigned by the Mayor or in the Mayor's absence countersigned by another council member.

(ii) Limits of Aggregate Purchase Authority: The Emergency Management Director shall have the authority to make aggregate purchases up to \$1,000.00 on his or her signature alone. The Emergency Management Director shall have the authority to make purchases in excess of \$1,000.00 up to a maximum of \$3,000.00 when countersigned by the Mayor or in the Mayor's absence countersigned by another council member.

(b) Sub-delegation to Emergency Management Coordinator: The Emergency Management Coordinator shall be a designee of the Emergency Management Director at any time that the Emergency Management Director or is not available to approve purchases as allowed in this section.

(c) Sub-delegation of Purchasing Authority to Department Heads: If neither the Emergency Management Director nor the Emergency Management Coordinator is available, the Aldermanic Department Head, Police Chief or Fire Chief have authority to rent or purchase from the nearest available source any equipment, supplies, services, or other items necessary for his or her department to respond to an immediate threat to health, safety, or improved property, up to a maximum of \$500.00.

(d) Administrative Procedures: Reporting Requirements. (1) As soon as possible after purchases are made under this section 3, the Emergency Management Director, Emergency Management Coordinator, or Department Head shall submit to the City Clerk a requisition and a notation that the commodity has been ordered on an emergency basis from the vendor designated. (2) The City Clerk will inform the City Council of any individual purchase under this section with a contract amount greater than \$500.00, and also whenever the aggregate of purchases under this section is greater than \$1,000.00. (3) The City Clerk will obtain the Emergency Management Director (or Emergency Management Coordinator or designee) approval prior to any purchase by a Department Head if the amount is \$500.00 or more. (4) If the Emergency Management Director, Emergency Management Coordinator (or designee) is unavailable, and the delay in getting his/her signature would imperil life, safety or improved property, the Police Chief, Fire Chief or Department Head or his/her designee may approve the emergency purchase of up to \$500.00. (5) The City Clerk shall have the authority to approve all disaster related purchases under \$500.00. (6) The City Clerk will expedite the verification of funds available and complete the preparation of the purchase order.

#### **§ 4. Procurement Procedures in Exigent Circumstances:**

Upon receipt of requisitions under Section 3, the City Clerk shall prepare purchase orders for the emergency equipment, supplies, services or other items in accordance with the requirements of this section.

(a) Exempt Purchases: Purchases below \$3,000.00 shall not be required to be formally bid. Purchases greater than \$3,000.00 may be made following the procedures specified in this section. The signature(s) of the Emergency Management Director, City Clerk and or Department Head are still required as provided in Section 3.

(b) Justification of "Sole Source" or "No-bid" Contracts. Where exigent circumstances require immediate procurement from the nearest available source: (i) The City Clerk shall use the "Justification Form For Emergency Sole Source or No-Bid Purchase." (ii) Procurement should be limited to that portion of the work that must be performed immediately, allowing subsequent procurement by competitive proposals of the remainder of the work. (iii) "Sole source" or "no-bid" acquisitions shall be necessary for one of the following reasons: placement of emergency protective measures; procurement of scarce commodities, goods, or services; or acquisition or rental of emergency equipment, emergency consulting services, emergency road clearance or other emergency requirements.

(c) Provision for Alternate Bid Solicitation Procedures. The City's normal requirements for sealed bids shall not apply to acquisitions under Section 3. However, the City Clerk shall conduct telephonic or other electronic bid solicitation from potential vendors or suppliers, in lieu of written and/or sealed bids, in an effort to obtain multiple competitive proposals when and if time allows in light of the exigent circumstances.

(d) Locations of Postings for Requests for Proposals or Solicitation of Bids. The City Clerk may waive normal requirements for public posting of requests for proposals or solicitation of bids. Notices soliciting bids or requests for proposals shall be posted at the Emergency Operations Center or Alternate Emergency Operations Center, if the Primary Emergency Operations Center is not being used.

(e) Length of Time for Posting Requests for Proposals or Solicitation of Bids: The City Clerk may shorten the normal bid period to expedite the award of contracts for emergency equipment, goods, or services. The City Clerk should seek to assure that the shortened bid period allows multiple suppliers to submit bids.

(f) Number of Bids Required: Solicited bids that are non-responsive shall count towards the minimum numbers of bids required when there is a declared emergency or disaster in the City.

#### **§ 5. Notification and Ratification:**

(a) Posting of Contract Awards: Under this section, all contracts awarded that exceed \$3,000.00 shall be presented to the City Council for ratification and thereafter shall be publicly posted within sixty (60) days of the award.

(b) Authority to Cancel Emergency Procurements: As a provision of this ordinance, the City has the absolute authority to rescind a contract for non-performance within 24 hours when a contractor or vendor, once awarded a contract, is unable to perform under the terms of the contract and the resulting delay or nonperformance presents an immediate threat to life, safety or improved property.

(c) Notification Requirement for Emergency Purchases: For any purchase in excess of \$500.00, the City Clerk shall report all such purchases to the City Council within thirty (30) days of the onset of the disaster.

(d) Requirement for Separate Invoicing: All purchases or rentals made during proclaimed emergency or disaster conditions shall require separate invoicing from routine (non-disaster related) purchases. All invoices shall state the goods, services or equipment provided and shall specify where the goods or services were delivered.

(e) Auditing of Invoices for Debris Clearance Prior to Payment: All invoices for debris clearance and removal shall be audited by the City prior to payment to the vendor. Vendors shall be notified of this requirement prior to the awarding of any contract for debris clearance and/or removal. Audits shall be in accordance with procedures for debris removal monitoring specified in FEMA's Publication 325, Debris Management Guide. This provides protection for the city against incorrect or fraudulent invoices from debris removal contractors.

(f) Limitations of Disaster Purchasing Policy: For the purposes of this section, an emergency or disaster shall be deemed to exist when a condition exists that presents an immediate threat to life, public health, or safety or an immediate threat of significant damage to improved public and private property and a local emergency or disaster has been proclaimed. Any purchases that do not meet the standard of being necessary for responding to an immediate threat to health, safety or improved property shall follow the City's regular purchasing provisions.

The City shall comply with all applicable provisions of 44 CFR §13.36 and the applicable provisions of 2 CFR Part §225.

**§ 5. Effective Date:**

This ordinance shall be in full force and effect from and after its passage and approval.


**§ 6. Conflict:**

All ordinance or parts of ordinances in conflict with this ordinance shall be, and the same are hereby repealed insofar as they may be in conflict.

**§ 7. Invalidity:**

The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

Passed and Approved this the 11<sup>th</sup> day of August, 2016.

  
Mayor – Brenda Franklin

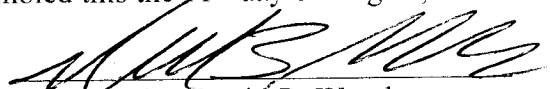
ATTEST:



City Clerk – David B. Woods

<u>ALDERMEN</u>	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
Alderman Clyde Cassouff	X		
Alderman Rose Rosenzweig	X		
Alderman Gloria Bader	X		
Alderman Paul Franklin	X		

I, David B. Woods, Clerk of the City of St. Mary, Missouri do hereby certify that the foregoing ordinance was duly passed and adopted by the Board of Aldermen of the City of St. Mary, Missouri at a regular meeting thereof assembled this the 11<sup>th</sup> day of August, 2016

  
City Clerk – David B. Woods