

VILLAGE OF CHAPIN

ORDINANCE NO. 2018-2

AN ORDINANCE ESTABLISHING PROCEDURES AND REGULATIONS  
GOVERNING PROCUREMENT PROCEDURES INVOLVING FEDERAL FUNDS FOR  
THE VILLAGE OF CHAPIN, MORGAN COUNTY, ILLINOIS

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ADOPTED BY THE

PRESIDENT AND BOARD OF TRUSTEES

OF THE

VILLAGE OF CHAPIN, MORGAN COUNTY, ILLINOIS

THIS 10 DAY OF January, 2018

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GOVERNING PROCUREMENT PROCEDURES INVOLVING FEDERAL FUNDS FOR  
THE VILLAGE OF CHAPIN, MORGAN COUNTY, ILLINOIS**

**WHEREAS**, on or about September 12, 2007 the corporate authorities adopted and approved Ordinance No. 2007-6 entitled *An Ordinance Relating to the Letting of Public Improvement Contracts and Contracts for Supplies and Materials*;

**WHEREAS**, the Village of Chapin, Illinois, is currently applying for a State of Illinois Department of Commerce and Economic Opportunity-Community Development Block Grant (CDBG) to help defray the cost of the construction of a new aeration system at the present wastewater treatment facilities;

**WHEREAS**, the current estimated total project cost is \$553,100.00;

**WHEREAS**, the grant of federal monies distributed by the State of Illinois requires the Village of Chapin to establish certain policies consistent with federal and state laws, regulations and grantee requirements;

**WHEREAS**, it is necessary for the Village of Chapin to enact certain regulations governing the procurement of goods and services using federal monies and the banning of elected and appointed officials from having direct or indirect interests in contracts; and

**WHEREAS**, in light of the foregoing, the corporate authorities find it is necessary to adopt a procurement policy in accordance with the federal regulations set forth in 2 C.F.R. 200.317-326.

**NOW, THEREFORE**, be it ordained by the President and Board of Trustees of the Village of Chapin, Morgan County, Illinois, as follows:

Section 1. The foregoing recitals are hereby incorporated into and made a part of this ordinance as if fully restated verbatim.

Section 2. This ordinance shall be known and hereafter referred to as the *Procurement Standards Governing Expenditures of Federal Funds for the Village of Chapin, Illinois*.

### Section 3. Procurement.

#### A. Methods of Procurement.

Supplemental to the procedures set forth in Village Ordinance No. 2007-6, procurement under federal grants shall be made by one of the following methods, as described herein: (a) small purchase procedures, (b) sealed bids (formal advertising), (c) competitive proposals, or (d) noncompetitive proposals.

##### 1. Small purchase procedures.

Small purchase procedures are simple and informal procurement methods that are sound and appropriate for the procurement of services, supplies or other property, costing in aggregate not more than \$150,000.00. If small purchase procedures are used for procurement under a grant, price or rate quotations shall be obtained from an adequate number of qualified sources.

##### 2. Sealed bids (formal advertising).

In sealed bids (formal advertising), sealed bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all of the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction services.

a. In order for formal advertising to be feasible, appropriate conditions must be present, including, at a minimum, the following:

i. A complete, adequate and realistic specification or purchase description is available;

ii. Two or more responsible bidders are willing and able to compete effectively for the Village's business; and

iii. The procurement lends itself to a firm fixed-price contract, and the selection of the successful bidder can be made principally on the basis of price.

b. When sealed bids are used for procurement under a grant, the following requirements shall apply:

i. A sufficient time prior to the date set for opening of bids, bids shall be solicited (publicly advertised) from an adequate number of known suppliers;

ii. The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation for bids;

iii. All bids shall be opened publicly at the time and place stated in the invitation for bids;

iv. A firm fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of the Village indicates that such discounts are generally taken; and

v. Any or all bids may be rejected if there is a sound, documented reason.

### 3. Competitive proposals.

Procurement by competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. Competitive proposals are generally used when conditions are not appropriate for the use of sealed bids. If the competitive proposals method is used for procurement under a grant, the following requirements apply:

a. RFPs shall be publicized and identify all evaluation factors and their relative importance. Any response to publicized RFPs shall be honored to the maximum extent practical.

b. RFPs shall be solicited from an adequate number of qualified sources.

c. The provisions of Village Ordinance No. 2007-6 addressing determination of the "lowest responsible bidder" shall serve as the Village's method and criteria for conducting evaluations of proposals received and for selecting awardees, with pricing factors excluded therefrom. Unsuccessful proposers will be promptly notified in writing.

d. The Village may use competitive proposal procedures for qualification-based procurement of architectural/engineering professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can *only* be used in the procurement of architectural/engineering professional services and cannot be used to procure other types of services (e.g. administration professional services, even though architectural/engineering firms are a potential source to perform the proposed effort).

### 4. Non-competitive proposals.

Non-competitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation from a number of sources, competition is

determined inadequate. Non-competitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids (formal advertising), or competitive proposals. Circumstances under which a contract may be awarded by non-competitive proposals are limited to the following:

- a. The item is available from only a single source;
- b. After solicitation of a number of sources, competition is determined to be inadequate;
- c. A public exigency or emergency exists when the urgency for the requirement will not permit a delay incident to competitive solicitation; and
- d. When the Illinois Department of Commerce and Economic Opportunity (DCEO) authorizes non-competitive proposals.

**B. Consideration of Certain Entities.**

The Village will provide, to the greatest extent possible, that contracts be awarded to qualified small and minority firms, women business enterprises, and labor-surplus area firms whenever they are potential sources.

**C. Contract Pricing.**

1. The cost plus a percentage of cost and percentage of construction cost method of contracting shall not be used.
2. The Village shall perform some form of cost/price analysis for every procurement action, including modifications, amendments or change orders.

**D. Procurement Records.**

The Village shall maintain records sufficient to detail the significant history of procurement, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

**E. Solicitation Requirements.**

1. All solicitations shall incorporate a clear and accurate description of the technical requirements for the material, product or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of

procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

2. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

**F. Prohibited Interest in Contracts.**

1. Prohibited interest in contracts supported by federal grant funds.

No officer, employee or agent of the Village shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. For purposes of this Subsection, such a conflict would arise when any of the following individuals/entity has a financial or other interest in the firm selected for award of the contract.

- i. The officer, employee or agent;
- ii. Any member of the officer's, employee's or agent's immediate family;
- iii. The officer's, employee's or agent's partner; or
- iv. An organization which employs, or is about to employ, any of the above.

2. Prohibition on municipal officer interest in contracts.

i. No elected or appointed Village officer, other than a person serving on an advisory panel or commission whose duties do not include evaluating, recommending, approving or voting on the contract, work or business, may be financially interested, directly in his or her own name or indirectly in the name of any other person, association, trust or corporation, in any contract, work or business of the Village for which such officer may be called upon to act or vote. No such officer may represent, either as agent or otherwise, any person, association, trust or corporation, with respect to any application or bid for any contract or work in regard to which such officer may be called upon to vote. Any contract made and procured in violation of this Subsection is void.

ii. No elected or appointed Village officer may be financially interested, directly in his or her own name or indirectly in the name of any other person, association, trust or corporation, in the purchase of any property that belongs to the Village, is sold for taxes or assessments, or is sold by virtue of legal process resulting from a Village-initiated lawsuit.

iii. A Village officer shall not be deemed "interested" within the meaning of this Subsection if:

a. The officer (i) owns or holds an interest, not in the officer's individual name or through a mutual fund or exchange-traded fund, of one percent (1%) or less in a company; (ii) that company is involved in the transaction of business with the Village; and (iii) that company's stock is traded on a nationally recognized securities market; or

b. The officer is an employee of a company or owns or holds an interest in the officer's individual name of one percent (1%) or less in a company; (i) that company is involved in the transaction of business with the Village; and (ii) that company's stock is traded on a nationally recognized securities market, so long as the Village official publicly discloses the fact that he or she is an employee or holds an interest of one percent (1%) or less in a company before deliberations regarding the proposed award of the contract are underway, and the official both abstains from voting on the award of the contract and also refrains from participating in any manner in the negotiation, approving or awarding of the contract work or business.

4. Subsection (B)(1) notwithstanding, any elected or appointed officer of the Village may provide materials, merchandise, property, services or labor to the Village.

a. IF

i. The contract is with the person, firm, partnership, association, corporation or cooperative association in which the Village officer has less than a seven and one-half percent (7.5%) share in ownership;

ii. The interested Village officer publicly discloses the nature and extent of his or her interest prior to or during deliberations concerning the proposed award of the contract;

iii. The interested Village officer abstains from voting on the award of the contract, though he or she shall be considered present for the purposes of establishing a quorum;

iv. The contract is approved by a majority vote of all corporate authorities presently holding office;

v. The contract is awarded to the lowest responsible bidder after sealed bids if the amount of the contract exceeds \$1,500.00 or is awarded without competitive bidding if the amount of the contract is less than \$1,500.00; and

vi. The award of the contract does not cause the aggregate amount of all such contracts awarded to the same person, firm, association, partnership, corporation or cooperative association in the same fiscal year to exceed \$25,000.00.

b. OR IF

i. The award of the contract is approved by a majority vote of the corporate authorities, provided that the interested Village official shall abstain from voting;

ii. The amount of the contract does not exceed \$2,000.00;

iii. The award of the contract would not cause the aggregate amount of all such contracts so awarded to the same person, firm, association, partnership, corporation or cooperative association in the same fiscal year to exceed \$4,000.00;

iv. The interested Village official publicly discloses the nature and extent of his interest prior to or during deliberations concerning the proposed award of the contract;

v. The interested Village official abstains from voting on the award of the contract, though he or she shall be considered present for the purposes of establishing a quorum.

c. OR IF

i. The contract is with a person, firm, partnership, association, corporation or cooperative association in which the interested Village official has less than a one percent (1%) share in the ownership;

ii. The award of the contract is approved by a majority of the corporate authorities, provided that any such interested official shall abstain from voting;

iii. Such interested Village official publicly discloses the nature and extent of his interest before or during deliberations concerning the proposed award of the contract; and

iv. The interested Village official abstains from voting on the award of the contract, though he or she is considered present for the purposes of establishing a quorum.

5. This Subsection (B) shall not be construed to effect the consideration or awarding of a contract for public utility services by the Village, so long as no elected or appointed Village officials own or hold an ownership interest exceeding seven and one-half percent (7.5%) of the public utility company.

6. Any elected or appointed Village officer who violates this Subsection 2.88.055(B) shall be guilty of a Class 4 felony. Any Village officer convicted for a violation of this Subsection 2.88.055(B) shall have his or her office declared vacant upon conviction.



**G. Incorporation of Clauses into Contracts.**

The Village will incorporate into any contract for construction work, or modification thereof, subject to the relevant rules, regulations and orders of the Secretary of Labor or of any prior authority that remains in effect, all of the applicable provisions described in Appendix 11 to part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

Section 4. This ordinance shall be in full force and effect upon its passage and approval as provided by law.

PASSED this 10 day of January, 2018.

Rosanne Hamel

Village Clerk

APPROVED this 10 day of January, 2018.

Robert L. Lillard

Village President

ATTEST:

Rosanne Hamel

Village Clerk

(seal)



STATE OF ILLINOIS     )  
                                          )     SS  
COUNTY OF MORGAN    )

I, Rosanne Hamilton, Village Clerk of the Village of Chapin, Morgan County, Illinois, do hereby certify that the foregoing and attached copy of Ordinance No. 2018-2 is a true and correct copy of an Ordinance passed by the President and Board of Trustees of the Village of Chapin at a regular meeting of said Board of Trustees held on the 10 day of January, 2018, all as the original of the same remains on file in the records of my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Village of Chapin, this 10 day of January, 2018.

Rosanne Hamilton  
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Village Clerk

(SEAL)