

**KOCHVILLE TOWNSHIP
DOWNTOWN DEVELOPMENT AUTHORITY
PURCHASING POLICIES AND PROCEDURES MANUAL**

Introduction

The Kochville Township Downtown Development Authority intends to buy goods and services of high quality consistent with the expected use at reasonable cost. The Kochville Township Downtown Development Authority also intends that all purchasing actions are fair and impartial with no impropriety or appearance of impropriety, that all qualified buyers and sellers have access to Kochville Township Downtown Development Authority business and that no offeror is arbitrarily or capriciously excluded, and that there is a reasonable amount of competition.

Forward

This *Purchasing Policies and Procedures Manual* is intended to help the reader understand the system, responsibilities and duties of the Kochville Township Downtown Development Authority Director and Kochville Township Downtown Development Authority Board. This *Purchasing Policies and Procedures Manual* is organized to present the policies first and then the procedures, which contain instructional statements relating to the purchasing process. The policies are designed to provide a governing principle or course of action which will rarely change. The procedures, on the other hand, are more flexible in nature and offer the method to the course of action.

Principles of Purchasing

1. To consider the best interests of the Kochville Township Downtown Development Authority in all transactions and to carry out its established policies.
2. To be receptive to competent counsel from colleagues and to be guided by such counsel without impairing the dignity and responsibility of the Kochville Township Downtown Development Authority.
3. To purchase without prejudice, seeking to obtain the maximum value for each dollar of expenditure in accordance with established Kochville Township Downtown Development Authority quality standards.

4. To strive consistently for knowledge of the materials and supplies required for use of the Kochville Township Downtown Development Authority and to establish practical methods of obtaining same.
5. To subscribe to and work for honesty and truth in buying and to denounce all forms of conflict of interest.
6. To avoid all unethical practices and the appearance of same.
7. To cooperate with all organizations and individuals engaged in activities designed to enhance the development and standing of public purchasing.

Business Relations with Suppliers

It is essential to develop and maintain goodwill between the Kochville Township Downtown Development Authority and its suppliers. The reputation of the Kochville Township Downtown Development Authority can be promoted by:

1. Giving all salesperson a full, fair, prompt, and courteous hearing.
2. Keeping competition open and fair.
3. Keeping specifications fair, accurate and clear.
4. Having consistent buying policies and principles.
5. Observing strict truthfulness in all transactions and in correspondence.
6. Respecting the confidence of the salesperson or the company as to confidential information.
7. Keeping free from any obligation to any vendor.

The relationship between the purchaser and the seller is intended to be one of mutual understanding. Fundamentally, no contract that provides unsatisfactory to the vendor can be satisfactory to the buyer. It is the responsibility of all everyone in the purchasing function to establish a relationship of mutual confidence and satisfaction between the DDA and its suppliers within the confines of applicable law and policy.

Definitions

For purposes of this manual, the following terms, phrases, words and their derivation shall have the meanings given herein, unless the content requires otherwise.

- Words used in the present tense include the future, or
 - Words used in the plural number include the singular number and words used in the singular include the plural number.
1. **Act** means Act 197 of the Michigan Public Acts of 1975, as amended.
 2. **Business** means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity seeking to conduct business with the DDA.
 3. **Change Order** means all changes made to the scope of a contract as well as unexpected items, extensions, etc.
 4. **Construction** means the process of building, altering, repairing, improving or demolishing any public structure or building, or other public improvements of any kind to public real property, but excluding emergency work or work performed by employees of Kochville Township or a utility company.
 5. **Contract** means all types of DDA agreements, regardless of what they may be called, for the procurement or disposal of supplies, services, or construction.
 6. **Contractor** means any business having a contract with the DDA.
 7. **Cooperative Purchasing** is the procurement conducted by, or on behalf of, more than one governmental body.
 8. **DDA** means the Kochville Township Downtown Development Authority located in Kochville Township, Saginaw County, Michigan, which was established pursuant to the Act.
 9. **DDA Board** means the legislative board of the DDA which is established pursuant to Section 4 of the Act.

10. **DDA Director** means the individual appointed to act as the director of the DDA pursuant to Section 5 of Act. In the absence of a DDA Director, the DDA Chairman or his/her designee shall fulfill the obligations of the DDA Director as set forth in this *Purchasing Policies and Procedures Manual*.
11. **Designee** means a duly authorized representative of a person holding a superior position.
12. **Employee** means an individual drawing a salary from the DDA, whether elected or not and any non-compensated individual performing personal services for the DDA.
13. **Life Cycle Cost** means the expected total cost of ownership during the life of a product.
14. **May** denotes the permissive.
15. **Procurement** means buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration.
16. **Professional Services** means those services within the scope of architecture, engineering, legal, accounting, and other services as established by the DDA Board, DDA Director, or the Act.
17. **Public Improvement** means any building or construction work to be paid in whole or in part by the use of DDA funds regardless of sources. The determination as to whether a project is a Public Improvement project shall be made by the DDA Board. The determination by the DDA Board as to whether a project is a Public Improvement shall be final and not subject to appeal.
18. **Purchasing Agent** means any person duly authorized by the DDA Board to enter into and administer contracts and make written determinations with respect thereto. The term also includes an authorized representative acting within the limits of authority.

19. **Responsible Bidder or Offeror** means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.
20. **Responsive Bidder** means a person who has submitted a bid which conforms in all material respects to the Invitation for Bids.
21. **Services** mean the furnishing of labor, time, or effort by a contractor, not involving the delivery of specific end product(s) other than reports which are merely incidental to the required performance. This term shall not include employment agreements.
22. **Shall** denotes the imperative.
23. **Specification** means any description of the physical or functional characteristics, or the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.
24. **Supplies** mean all property, including, but not limited to, equipment, materials, printing, insurance, and leases of real property, excluding land or a permanent interest in land.

PART I
PURCHASING POLICIES

Section 1 - Establishment of Purchasing Function

1.1 Purpose

The DDA Director shall:

- (a) simplify, clarify, and modernize the procedures governing procurement by the DDA;
- (b) continue the development of procurement policies and practices;
- (c) make the procurement regulations of the DDA as consistent as possible;
- (d) provide for increased public confidence in the procedures followed in public procurement;
- (e) ensure the fair and equitable treatment of all persons who deal with the procurement system of the DDA;
- (f) provide increased economy in DDA procurement activities and maximize to the fullest extent practicable the purchasing value of public funds of the DDA;
- (g) foster effective broad-based competition within the free enterprise system;
- (h) provide safeguards for the maintenance of a procurement system of quality and integrity;
- (i) prepare and adopt a standard purchasing nomenclature for using agencies and suppliers;
- (j) prepare, adopt and maintain a vendors' catalog file;
- (k) exploit the possibilities of buying "in bulk" so as to take full advantage of discounts;
- (l) act so as to procure for the DDA all federal and state tax exemptions to which it is entitled; and

- (m) have the authority to declare vendors who default on their quotations irresponsible bidders and to disqualify them from receiving any business from the DDA for a stated period of time.

1.2 Scope of Purchasing Authority

1.2.1 General

By the adoption of this document, the DDA Director shall supervise the performance of all contracts for work to be done for the DDA, make all purchases of material and supplies, and see that such material and supplies are received, and are of the quality and character called for by the contract.

1.2.2 Budgeted Items

Purchases for materials, supplies, equipment and services which have been budgeted (i.e., appropriations appearing in the adopted budget), can be processed in the following manner:

- (a) Purchases up to and including \$10,000.00 shall be approved by the DDA Director.
- (b) Purchases of \$10,000.01 and over shall obtain prior approval by the DDA Board before being approved by the DDA Director.

1.2.3 Unbudgeted Items

Except as provided herein, the DDA Director and all Employees shall be held to the following conditions for procurement not contained within the adopted budget:

- (a) Purchases up to \$1,000.00 shall be approved by the DDA Director. The DDA Board shall be notified at the next regular meeting of the DDA Board of the unbudgeted expenditure.
- (b) Purchases of \$1,000.01 and above shall obtain prior approval by the DDA Board before being approved by the DDA Director.

1.2.4 Surplus Property – Purchase and Disposal

The DDA Director may consider the purchase of surplus equipment offered for sale by the State of Michigan or other governmental body after appropriate analysis of the factors involved with purchasing used equipment. The DDA Director, or designee, shall sell, trade, or otherwise dispose of surplus property and equipment belonging to the DDA upon the approval of the DDA Board.

1.2.5 Preference Given

Preference will be given to products and provisions grown and produced within the State of Michigan and to Michigan domestic labor.

All purchases are encouraged to be made from the Kochville Township area. The DDA Director and DDA Board are allowed to make those purchases with a Kochville Township area vendor whose bid may be up to five percent (5%) more than the lowest cost bid, if all is equal in quality and specifications.

1.2.6 Cooperative Purchasing

The DDA Director may initiate or participate with other governmental bodies, including the State of Michigan, in cooperative purchasing, either through the use of intergovernmental agreements pursuant to Act 7 of the Michigan Public Acts of 1967 (ex. sess.) or utilization of a contract clause allowing the legal purchase at the cost designated in another entities contract, in the best interest of this DDA, notwithstanding any provisions of this manual to the contrary.

1.2.7 Vendor's List

Prospective suppliers may be pre-qualified for particular types of supplies and services as established by the DDA. When solicitation mailing lists of potential contractors are used, the list shall include, but shall not be limited to, such pre-qualified suppliers. However, the only requirement for bid solicitation is that the DDA Director advertises the requirements.

The vendor list will reflect the restriction set out in the DDA prohibiting contracting with any DDA officer or employee for services unless expressly permitted by law. It is the responsibility of the DDA Director to carry out this provision at the contract negotiation stage.

1.2.8 Bidder's Responsibility Questioned

A written determination of non-responsibility of a bidder shall be made by the DDA Director. The unreasonable failure of a bidder to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such bidder. Information furnished by a bidder pursuant to this section shall be held in confidence by the DDA Director.

1.2.9 Exceptions

Exceptions to all or part of this policy may be granted at the discretion of the DDA Board.

1.2.10 Unauthorized Purchases

Except as otherwise provided by in this manual, or by rules established by the DDA Board, it shall be prohibited for the DDA Director or any DDA Employee to order the purchase of any material, supply, equipment or service contrary to the limitations set forth in this manual. Any purchase or contract made contrary to this manual or made contrary to procedures established by the DDA Board may not be approved by the DDA Board. The DDA Board shall not be bound by any unauthorized purchase.

Section 2 - Competitive Bidding Requirements

2.1 Competitive Informal Bidding Requirements

Purchases expected to exceed \$1,000.00, but to be less than \$5,000.00, may be solicited by means of a telephone quote. These procedures will be established later in this manual.

All informal competitive bidding purchases for goods or services in excess of \$5,000.00, but less than \$10,000.00, shall, wherever possible, be based on at least three (3) competitive written quotes, and shall be awarded to the lowest responsible bidder in

accordance with the standards set forth in the section entitled "Award of Contract". All informal competitive written bids shall be obtained by the DDA Director or designee by mail, fax, or telephone. The informal competitive bids obtained by the DDA Director or designee by mail, fax, or telephone shall be open to the public for inspection. Whether or not stated in the Request for Proposal, the DDA may consider life cycle costing analysis, and may give weight to the value of standard facilities and equipment, in selecting a vendor.

Utilization of a State bid does satisfy the competitive bidding requirements. A vote by the DDA Board exempting specific opportunities or conditions may be required by the DDA Director. Approval of an exemption of this requirement shall be a simply majority vote by the DDA Board.

Purchases exempted from competitive bidding requirements include purchases of land and rights of way, sole source purchases, emergency purchases, printing and engraving of bonds, utility services, intergovernmental purchases, purchases from state governmental agencies which offer services or goods to Michigan political subdivisions and cooperative purchases.

2.2 Competitive Sealed Bidding Requirements

Except as otherwise provided herein, sealed bids shall be solicited from a minimum of three (3) responsible prospective bidders on purchases expected to exceed \$25,000.00. All purchases of supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$25,000.00 shall be by formal, written contract from the lowest responsible bidder, after due notice inviting proposals. Whether or not stated in the Request for Proposal, the DDA may consider life cycle costing analysis and may give weight to the value of standard facilities and equipment, in selecting a vendor. Competitive sealed bidding requires the use of advertising.

- (a) The notice inviting bids shall be published in at least one (1) newspaper published in the Saginaw County that meets the requirements set forth in Act 247 of the Michigan Public Acts of 1963, as amended, or trade journal where bids for similar types of goods or services are normally advertised at least four (4) days but not more than forty-five days preceding the day set for receipt of proposals.

- (b) The notice inviting bids shall include a purchase description and all contractual terms and conditions applicable to the procurement or notice where those items may be obtained.

Purchases exempted from competitive procurement include purchases of land and rights of way, sole source purchases, emergency purchases, printing and engraving of bonds, utility services, intergovernmental purchases, purchases from state governmental agencies which offer services or goods to Michigan political subdivisions and cooperative purchases.

2.3 Bid Opening

Bids shall be submitted sealed to the office stated in the public notice and shall be identified as bids on the envelopes. Bids shall be opened in public by the representative designated by the DDA Board at the time and place stated in the public notice.

A bid tabulation will be made on each bid taken by the DDA. It shall be held in possession of the DDA Secretary or the Township Clerk for a minimum of five (5) years. All contracts will be appropriately executed and be on file in the DDA Director's Office or the Township Clerk's Office. These contracts will be held by the DDA forever.

2.4 Rejection of Bids

The DDA Director or DDA Board shall have the authority to reject all bids, parts of all bids or all bids for any one or more items included in the proposed contract, when public interest will be served thereby. The reasons therefore shall be made part of the contract file.

2.5 Award of Contract

The DDA Board shall make awards on all unbudgeted purchases of supplies and contractual services exceeding \$1,000.00. The DDA Chair shall be the authorized signature for these unbudgeted items or services. The DDA Director may sign contracts on unbudgeted items or services up to and including \$1,000.00.

- (a) Lowest Responsible Bidder. Contracts may be awarded to the lowest responsible bidder as determined in the evaluation process which may include life cycle costing and preference for continuation of "standard" equipment, supplies, etc. Consideration shall be given to the following

factors to determine the “responsible” nature of the business:

- (i) The ability, capacity and skill of the bidder to successfully complete the terms of the bid within the time specified.
 - (ii) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
 - (iii) The quality of performance of previous contracts.
 - (iv) The previous and existing compliance by the bidder laws and ordinances relating to the contract.
 - (v) The sufficiency of financial resources and ability of the bidder to perform the contract or provide the service.
 - (vi) The quality, availability and adaptability of supplies or contractual services to the particular use required.
 - (vii) The ability of the bidder and the cost to provide future maintenance and services for the use of the subject of the contract.
 - (viii) The number and scope of the conditions attached to the bid by the bidder.
- (b) When the award is not given to the lowest bidder, a complete statement of the reasons for placing the order with another bidder shall be made available to all bidders upon request.
- (c) If more than one (1) bid is received with quality, price and service being equal and acceptable, the award shall be made based on the following criteria of priority:
- (i) to a Township area vendor; then
 - (ii) to a Michigan vendor; then,
 - (iii) to the regular supplier best qualified explained under “Award of Contract”; and then,
 - (iv) by drawing lots.

2.6 Filing of Contract

All original contract documents shall be submitted to the DDA Secretary or Township Clerk for central filing.

2.7 Prohibition Against Subdivision

No contract or purchase shall be subdivided to avoid the requirements of this section.

2.8 Multi-Term Contracts

2.8.1 Specified Period

Unless otherwise provided by law, a contract for suppliers or services may be entered into for any period of time deemed to be in the best interest of the DDA provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefore.

2.8.2 Determination Prior to Use

Prior to the utilization of a multi-term contract, it shall be determined in writing;

- (a) that estimated requirements cover the period of the contract and that there is a reasonable probability they will continue to do so; and
- (b) that such a contract will serve the best interests of the DDA by encouraging effective competition or otherwise promoting economy in DDA procurement or operations.

2.8.3 Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods

When funds are not appropriated or otherwise made available to support continuation of performance in subsequent fiscal period, the contract shall be canceled and the contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the

price of the supplies or services delivered under the contract. The cost of cancellation may be paid from any appropriations available for such purposes.

Section 3 – Sole Source and Emergency Procurement

3.1 Sole Source Procurement

A contract may be awarded for a supply, service, or public improvement item without competition as set forth in the Procedures Manual.

3.2 Contents of Record

The DDA Director, or designee, shall maintain a record listing of all sole source and emergency procurement transactions. The records shall contain:

- (a) each contractors name;
- (b) the amount and type of each contract;
- (c) a listing of the supplies, services, or construction procured under each contract; and
- (d) the person authorizing the transaction.

3.3 Emergency Procurement

Notwithstanding any other provision of this policy, the DDA Director, or designee, may make or authorize others to make emergency procurement in any amount, when there exists a threat to public health, welfare, or safety under emergency conditions; provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

Section 4 – Petty Cash and Purchases and Conference Money

4.1 Petty Cash

Purchases costing \$50.00 or less may be obtained by the DDA Director or DDA Chair without prior approval of the DDA Board. The reimbursement of the funds shall be made by the Treasurer, or

designee, in a method determined by the Treasurer. Petty cash is used to eliminate processing costs for small purchases; a purchase being defined as one trip to a particular store. The DDA Director and Chair are encouraged to use this method of procurement when a valuable resource (time, convenience to pick up, etc.) can be economized. Division of a purchase so as not to exceed the \$50.00 limit is expressly prohibited.

4.2 Conference Money

If any member of the DDA, including the DDA Director, will be attending a conference, workshop, or similar DDA Board authorized event, the DDA Treasurer may, with DDA Board approval, release a set amount of money to cover conference, workshop, meals, lodging, or similar costs to the conference attendee. For instance, if the DDA Director will be attending a conference, the DDA Treasurer may, with DDA Board approval, issue the DDA Director \$1,000 in cash for the five (5) day conference. Upon returning from the conference, the DDA Director shall provide itemized receipts for all expenditures regarding the \$1,000 and return any amount unspent or unaccounted for to the DDA Treasurer within seven (7) days of returning from the conference.

Section 5 – Inspection, Testing, and Acceptance

5.1 General

The DDA Director, or designee, shall inspect or have inspected, all deliveries of equipment, materials, supplies or contractual services to determine their conformance with the specifications set forth in the order or contract.

5.1.1 Tests

The DDA Director, or designee, 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 DDA Director, or designee, shall have the authority to use any outside laboratory necessary to conduct such tests.

5.1.2 Acceptance

Upon approval by the DDA Director, or designee, the receiver's copy invoice or receipt shall be forwarded to the DDA Treasurer for inclusion in the bills to be paid by the DDA Board. Payment will not be made without a receiver's copy invoice or receipt.

Section 6 – Procurement of Public Improvement

6.1 General

In Public Improvements initiated and awarded by the DDA and not involving County, State, or Federal agencies, the DDA will be required to advertise for sealed bids on public improvements expected to exceed \$50,000.00. A contract may not be established on projects exceeding \$50,000.00 until the DDA Board has advertised the project, held a public hearing on the proposed plan (if required), specifications, form of contract and estimated cost. Projects estimated to cost between \$25,000.00 and \$50,000.00 shall be solicited by means of three (3) competitive written quotes and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in the section entitled "Award of Contract." Projects estimated to cost between \$10,000.00 and \$25,000.00 shall be solicited by means of a telephone quote. For projects less than \$10,000.00 the DDA Board may award the contract without bidding the project, but preference may be given to local vendors. Change orders to the projects will be subject to the same process as described in this section under **Contract Change Order**.

6.2 Amount of Bid Security

Bid security shall be required for all competitive sealed bidding for public improvement contracts when the price is estimated to exceed \$50,000.00. Bid security shall be a bond provided by a surety company authorized to do business in the State of Michigan, or the equivalent in certified funds, or otherwise supplied in a form satisfactory to the DDA. Nothing herein prevents the requirement of such bonds on public improvement contracts under \$50,000.00 when the circumstances warrant. Bid security shall be in an amount equal to at least five percent (5%) of the total bid amount and shall not exceed ten percent (10%) of the total bid amount.

6.3 Rejection of Bids for Noncompliance with Bid Security Requirements

When the Invitation for Bids requires security, noncompliance requires that the bid be rejected.

6.4 Withdrawal of Bids

After the bids are opened, they shall be irrevocable for the period specified in the Invitation for Bid. If a bidder is permitted to withdraw its bid before award, no action shall be made against the bidder or the bid security.

6.5 When Bonds Are Required And Amounts

When a public improvement contract is awarded in excess of \$50,000.00, the following bonds or security shall be delivered to the DDA and shall become binding on the parties upon the execution of the contract:

- (a) a performance bond satisfactory to the DDA, executed by a surety company authorized to do business in the State of Michigan, or otherwise secured in a manner satisfactory to the DDA, in an amount equal to 100% of the price specified in the current contract; and
- (b) a payment bond satisfactory to the DDA, executed by a surety company authorized to do business in the State of Michigan or otherwise secured in a manner satisfactory to the DDA, for the protection of all persons supplying labor and material to the Contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to 100% of the price specified in the contract.

6.6 Authority to Require Additional Bonds

Nothing in this section shall be construed to limit the authority of the DDA to require a bond or other security in addition to those bonds, or in circumstances other than specified in the preceding paragraph entitled **When Bond Are Requirement And Amounts**.

6.7 Bond Forms

The DDA Director shall establish by procedure the form of the bonds required by this section.

6.8 Contract Clauses

The DDA Director, or designee, shall assist the DDA Attorney in establishing in each DDA public improvement contract clauses providing for adjustments in prices, time of performance, or other contract provisions, as appropriate, and covering the following subjects:

- (a) the unilateral right of the DDA to order in writing:
 - (i) changes in the work within the scope of the contract; and
 - (ii) changes in the time of performance of the contract that do not alter the scope of the contract work;
- (b) variations occurring between estimated quantities of work in a contract and actual quantities;
- (c) suspension of work ordered by the DDA; and
- (d) site conditions differing from those indicated in the contract, or ordinarily encountered:
 - (i) when the contract is negotiated;
 - (ii) when the contractor provides the site or design; or
 - (iii) when the parties have otherwise agreed to the risk of differing site conditions.

6.9 Price Adjustments

Adjustments in price pursuant to clauses established under the subsection entitled **Contract Clauses** shall be computed in one or more of the following ways:

- (a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
- (b) by unit prices specified in the contract or subsequently agreed upon;

- (c) by costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon; or
- (d) in such other manner as the contracting parties may mutually agree.

6.10 Additional Contract Clauses

The DDA Director may require the inclusion in DDA public improvement contracts of clauses providing for appropriate remedies and covering the following subjects:

- (a) liquidated damages as appropriate;
- (b) specified excuses for delay or non-performance;
- (c) termination of the contract for default;
- (d) termination of the contract in whole or in part for the convenience of the DDA; and
- (e) mechanics liens served on the DDA.

6.11 Contract Change Order

The DDA Director, or designee, shall have the authority to authorize change orders in the field up to a maximum of \$1,500.00. Change orders in excess of \$1,500.00 require approval of the DDA Director and the DDA Board. The DDA Director, or designee, shall be responsible for monitoring and reporting upon the status of the costs of the total project budget or total contract budget. As a project's aggregate change orders reach \$10,000.00 or 5% of the original contract amount, whichever is greater, each change order request will be presented for approval by the DDA Board.

Section 7 – Procurement of Professional Services

7.1 Applicability

Professional services, estimated at any cost, may be procured as provided in this section.

7.2 Policy

It is the policy of the DDA to award professional services contracts to competent, qualified consultants or companies. Award of a contract, based on any of the three (3) methods described below, is followed by the negotiation of a contract for professional services on the basis of demonstrated competence and qualifications for the type of service required, and at fair and reasonable prices. Selection of a professional services provider shall be by one of the following methods: a) qualifications based selection; b) satisfactory performance in previous contractual experience; or, c) known expertise and reputation as a competent professional. Awards of professional services contracts are made by the DDA Board.

7.3 Qualifications Based Selection

Should the department choose to solicit professional services, through a qualifications based selection method the DDA Director, or designee shall encourage firms engaged in the lawful practice of their profession to submit upon successful processing of the requisition, a statement of qualifications and performance data, unless directed otherwise by the DDA Board. The Selection Committee, comprised of the DDA Director, DDA Board Chair, and DDA Board Vice-Chair shall evaluate statements of qualification and performance data submitted by the firms regarding the proposed contract. The Selection Committee shall conduct discussions with the firms, regarding the contract and the relative utility of alternative methods of approach for furnishing the required services, and then shall select therefrom, in order of preference, based upon criteria established by the DDA Director, or designee, the firms deemed to be most highly qualified to provide the services required.

7.4 Previous Contractual Experience

The DDA Director or DDA Board may wish to consider the naming of a professional services consultant to another contract based on a previous relationship with the consultant and the satisfactory outcome of the previous contract. Previous contracts do not guarantee future work nor tie the DDA to one service provider. The DDA records on such a previous contractual relationship shall contain enough information to justify the award of another contract. In many instances, it may be in the DDA's best interest to award succeeding contracts to provide continuity and avoid the need to acquaint and orient a new consultant or consulting team. For whatever reason the DDA Director or DDA Board wishes to

exercise this option, a sufficient amount of documentation shall be available to support the award of contract.

7.5 Known Expertise and Reputation

In some instances, it may be to the DDA's advantage to enter into a contract for professional services based upon the known expertise and reputation of a consultant. Utilization of this reasoning for award of contract will most generally come in emergency situations or instances where there are relatively few consultants providing such professional services.

7.6 Negotiation

Subsequent to the selection of a professional services firm, the DDA Director, or designee, shall negotiate a contract for compensation with the selected firm for professional services which the DDA Director, or designee, determines in writing to be fair and reasonable to the DDA. In making this decision, the DDA Director, or designee, shall take into account the estimated value, the scope, the complexity, and the professional nature of the services to be rendered. Should the DDA Director, or designee, be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the DDA Director, or designee, determines to be fair and reasonable to the DDA, negotiations with that firm shall be formally terminated. The DDA Director, or designee, shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, negotiations shall be formally terminated. The DDA Director, or designee, shall then undertake negotiations with the third most qualified firm. Should the DDA Director, or designee, be unable to negotiate a contract at a fair and reasonable price with any of the selected firms, the DDA Director, or designee, shall select additional firms in order of the competence and qualifications, and the DDA Director, or designee, shall continue negotiations in accordance with this section until an agreement is reached. Should negotiations fail to materialize into a contract with all firms on the short list, the DDA Director, or designee, may direct that the selection process be reinitiated and declare the initial process closed without result.

Section 8 – Pre-Litigation Resolution of Controversies

8.1 Right to Protest

Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the DDA Director. The protest shall be submitted in writing within fourteen (14) days after the facts or events giving rise thereto.

8.2 Authority to Resolve Protests

The DDA Director, or designee, shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest of an aggrieved bidder, offeror, or contractor, actual or prospective, concerning the solicitation or award of a contract.

8.3 Decision

If the protest is not resolved by mutual agreement, the DDA Director, or designee, shall promptly issue a decision in writing. The decision shall state the reasons for the action taken.

8.4 Notice of Decisions

A copy of the decision under the subsection entitled “Decision” shall be mailed or otherwise furnished immediately to the protestant and any other party intervening.

8.5 Finality of Decision

A decision under the subsection entitled “Decision” shall be final and conclusive, unless fraudulent, or any person adversely affected by the decision commences an action in court.

8.6 Stay of Procurement During Protests

In the event of a timely protest under the subsection entitled “Right to Protest” the DDA shall not proceed further with the solicitation or with the award of the contract until the DDA Director, or designee, makes a written determination that the award of the contract without delay is necessary to protect the substantial interests of the DDA.

8.7 Authority to Debar or Suspend

The DDA Director shall have the authority to suspend from consideration for award of contracts if there is probable cause for debarment. The suspension shall be for a period not exceeding three (3) months. After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the DDA Director, after consultation with the DDA Attorney, shall have the authority to debar a person or firm for cause from consideration for award of contracts. The debarment shall be for a period of not more than three (3) years.

8.8 Causes for Debarment or Suspension

The causes for debarment or suspension include the following:

- (a) conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- (b) conviction under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty with currently, seriously, and directly affects responsibility as a DDA contractor;
- (c) conviction under State or Federal antitrust statutes arising out of the submission of bids or proposals;
- (d) violation of contract provisions, as set forth below, of a character which is regarded by the DDA Director to be so serious as to justify debarment action:
 - (i) deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (ii) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.

- (e) any other cause the DDA Director determines to be so serious and compelling as to affect responsibility as a DDA contractor, including debarment by another governmental entity for cause.

8.9 Decision

The DDA Director shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken.

8.10 Notice of Decision

A copy of the decision under the subsection entitled "Decision" shall be mailed or otherwise furnished immediately to the debarred or suspended person or firm and any other party intervening.

8.11 Finality of Decision

A decision under the subsection entitled "Decision" shall be final and conclusive, unless fraudulent or the debarred or suspended person or firm commences an action in court.

Section 9 – Authority to Resolve Contract and Breach of Contract Controversies

9.1 Applicability

This section applies to controversies between the DDA and a contractor and which arise under, or by virtue of, a contract between them. This includes without limitation controversies based upon breach of contract, mistake, misrepresentation, or other cause of contract modification or rescission.

9.2 Authority

The DDA Director is authorized, prior to commencement of an action in court concerning the controversy, to settle and resolve a controversy described in this section entitled "Applicability". This authority shall be exercised in conjunction with the DDA Attorney.

9.3 Decision

If such a controversy is not resolved by mutual agreement, the DDA Director shall promptly issue a decision in writing. The decision shall state the reasons for the action taken.

9.4 Notice of Decision

A copy of the decision under the subsection entitled “Decision” of this section shall be mailed or otherwise furnished immediately to the contractor.

9.5 Finality of Decision

The decision under the subsection entitled “Decision” shall be final and conclusive, unless fraudulent or the contractor commences an action in court.

9.6 Failure to Render a Timely Decision

If the DDA Director does not issue the written decision required under the subsection entitled “Decision” within one hundred and twenty (120) days after written request by the contractor for a final decision, or within such longer periods as may be agreed upon by the parties in writing, then the contractor may proceed as if an adverse decision had been received.

Section 10 – Sales Tax and Payment of Penalties/Interest

10.1 Sales Tax

The DDA is exempt from tax in the case of sales of articles purchased for the DDA’s exclusive use. Additionally, if the State of Michigan or federal government determines that sales tax should have been paid by the contractor for goods purchased for a DDA project, the DDA agrees to reimburse the contractor for the tax, including interest, as assessed by the State of Michigan or the federal government.

10.2 Payment of Penalties and Interest

The DDA will not include payment penalties or interest in regular payments made to contractors conducting work on DDA projects. The DDA processes payments in a timely manner in an effort to minimize delays. Contractors conducting business with the DDA must recognize the payment process dictated by law, which includes approval of the scheduled bills by the DDA Board and the bearing it has on the payment process.

EXEMPTION CERTIFICATE

For the exclusive use of any State or
Territory of the United States or
any political subdivision of the foregoing or
the District of Columbia

Date:

To:

The undersigned hereby certifies that he/she is the DDA Director of the Kochville Township Downtown Development Authority, located in Saginaw County, Michigan, and that he/she is authorized to execute this certificate and that the article or articles specified below are purchased from _____ for the exclusive use of the Kochville Township Downtown Development Authority, Saginaw County, Michigan.

[INSERT ARTICLE OR ARTICLES HERE]

It is understood that the exemption from tax in the case of sales of articles under this exemption certificate to any state, city, etc., is limited to the sale of articles purchased for its exclusive use and it is agreed that, if the articles purchased tax-free under this exemption certificate are being otherwise used or resold prior to its useful life to employees or others, such fact must be reported to the manufacturer of the article or articles covered by this certificate.

It is agreed by the vendor and vendee that, if the articles purchased are tax-free under this exemption certificate are used or disposed of otherwise than as herein specified, the vendee shall pay the tax, including interest, assessed by the state or federal government. The Kochville Township Downtown Development Authority is tax exempt.

DDA Director
Kochville DDA
5851 Mackinaw Road
Saginaw, Michigan 48604

PART II

PURCHASING PROCEDURE

To be fully aware of the process, responsibilities and authority of the procurement process, any individual involved in conducting this function should read this procedure manual in its entirety.

General Statement

The purchasing procedure outlined in this manual shall be followed for the procurement of all equipment, materials, supplies, and independent contractor's services for use in DDA service.

The DDA Director is charged with the responsibility of supervising the performance of all contracts for work to be done for the DDA, make all purchases of materials and supplies, and to see that all such materials and supplies are received in the quantity, quality and character requested. The DDA Director may appoint a purchasing agent or agents to delegate all or part of the duties and responsibilities of the job.

Section 1 – Functions and Responsibilities

- 1.1** The DDA Director shall be responsible for requesting needed items in a timely manner.
- 1.2** The DDA Director should plan work so immediate need and emergency requests will be held to a minimum.
- 1.3** The DDA Director is responsible for preparing and ensuring that the appropriate level of advertising is utilized.
- 1.4** The DDA is not obligated to purchase equipment or accessories that are delivered for use on a trial basis.
- 1.5** DDA Board members, the DDA Director, and DDA employees may not purchase supplies, materials or equipment of any kind through the DDA or the procurement process for personal use. DDA Board members, the DDA Director, and DDA employees shall not use their positions as civil servants for personal gain or benefit. Activities which result in a personal gain or benefit shall be considered inconsistent, incompatible, or in conflict with DDA employment or appointment.

- 1.6 Specifications should not be written around one specific brand. The wording “or approved equal” will always follow the naming of a brand used to suggest type or quality of merchandise desired. The concept of competitive bidding must be kept in mind when developing and writing specifications.
- 1.7 The DDA Director, or designee, is responsible for the administration of annual contracts that directly affect the DDA operations.
- 1.8 The DDA Director is charged with the responsibility of selecting qualified bidders. In the event of a challenge by one or more bidders, the matter will be referred to the DDA Board for resolution.
- 1.9 The DDA Director is responsible for advising the DDA Board when any abnormal requirement for supplies becomes apparent.
- 1.10 The DDA Director shall be familiar with and follow all purchasing policies and procedures and instruct DDA employees as to proper procedures.

Section 2 - Purchases Order Forms

- 2.1 In an attempt to ease the burden of payment processing, consideration has been given to eliminate the need for a purchase order forms. In order to avoid misplacement or oversight of invoices, invoices received by the DDA which are smaller than 8½ x 11 inches should be taped to an 8½ x 11 inch sheet of paper.

Section 3 – Specifications

- 3.1 **General** – A specification is the description of materials or services to be purchased; the most important part of the bid process. Because quality is an important as price, the DDA Director, or designee, must furnish the specifications that will fulfill but not exceed the requirements for which the materials and/or services are intended.

In considering and developing specifications, it must always be borne in mind that purchases funded by public revenues cannot be expected to provide for deluxe or luxurious levels of quality. It is necessary to follow a general policy toward the purchasing of good, standard grades of merchandise which represent an optimum relationship between quality and price, at all times consistent with providing a satisfactory level of service.

Bids and quotations must be based upon adequate specifications. A lengthy specification designed solely for the purpose of eliminating competition is contrary to public purchasing laws and regulations and must be avoided. A brand name should be used only when no other of its kind can be proven to be satisfactory. Specifications must be precise so that bids will be received on equivalent items. Specifications are meant to protect the DDA and enable the DDA to get the product or service necessary to meet its operational goals.

3.2 Types of Specifications

3.2.1 Brand Specifications

A brand name may be used if it is representative of the quality desired and its use is intended to be illustrative. If a brand name is used, the words “or approved equal” must be added, unless it is approved in advance by the DDA Director that the brand identified is the only brand that will meet the needs of the DDA. Whenever possible, list all acceptable brand names (preferably at least three (3)). See Section 3.2.4 below.

3.2.2 Technical or Design Specifications

This type of specification describes the construction of the item in detail. Although this may appear to be the best type of specification to use, the DDA Director, or designee, must have a complete understanding of the final product and its use. Use of technical or design specifications virtually eliminate the vendor from liability as to the performance of the item after the purchase is made because the responsibility for performance usually lies with the specifier. Because of this responsibility factor, technical or design specifications are among the most difficult to prepare.

3.2.3 Performance Specifications

This type describes the function and use fo the product or exactly what the DDA wants to accomplish as an end result. This is usually considered as one of the most versatile type of specifications as the supplier is able to apply the latest technologies and techniques to achieve the performance desired by the DDA. Once again, caution must be exercised in preparing this type of specification. In solving a given

problem, the product bid may cause other, unexpected problems. For example, requesting a method for eliminating ice on streets in the DDA District could result in bids for a type of asphalt which melts ice and snow as well as bids for chemicals which are applied to a street surface. This requires a policy determination (if costs are favorable for the asphalt mix) as to whether the DDA should eliminate the use of chemical spreaders in the DDA District in the future. Performance specifications can be structured to limit the range of solutions offered and should be reviewed carefully prior to publication to be certain that the DDA really understands the essential nature of the problem to be solved. The DDA reserves the right to impose liquidated damages as a part of the contractual arrangements.

3.2.4 “Or Approved Equal”

This is used frequently in bid specifications and does not mean that the product will be evaluated as to whether it is exactly equal to the product named in the specification. “Or approved equal” or the more frequently used term, “Or Equivalent” means that an alternative product bid will be evaluated to determine if it produces the same end result as the brand specified. You should always be aware that the product bid may be substantially different from the specified product and that, if it produces the same end result, it must be considered on parity with the specified product. To avoid being faced with a limited choice such as this, it is important to add to the specification any physical characteristics of the product specified (such as general size, horsepower, weight, etc.) which must be met by the alternate bid in order to be accepted as “equivalent.” Although the purchaser always reserves the right to be the final judge as to the acceptability of an “equivalent” item, the justification can be extremely difficult to prepare unless some of the physical characteristics of the item desired are included in the bid. Try to avoid listing only a brand name or model number in the specification.

3.2.5 Insurance

All bidders shall be notified, either in the bid documents prepared by the DDA Director, or designee, or in the standard “Bidders Information” enclosed with the request for bids, that the DDA will consider only those bidders who provide the following proof of insurance:

- (a) statutory workers compensation coverage; and
- (b) at least, but can be redefined to a higher amount by the DDA Director, or designee, as warranted, liability insurance at a level of \$200,000.00 combined single limit.

3.2.6 Freight Requirements

The DDA does have a preferred freight arrangement when freight applies to a purchase. It is preferable that the specifications include arrangements for the title to pass at the destination which means that the seller pays the freight charges; bears freight charges; owns the merchandise to be delivered. Please refer to Section ___ “Guide for Receiving Goods on Behalf of the DDA.” The following table will help identify buyer and seller responsibilities.

THE EFFECT OF FREIGHT TERMS ON A TRANSACTION

1. FOB ORIGIN, FREIGHT COLLECT

Title passes at origin	BUYER...Pays freight charges BUYER...Bears freight charges BUYER...Owns goods in transit BUYER...Files claims, if any
------------------------	--------------------------------------------------------------------------------------------------------------------------------

2. FOB ORIGIN, FREIGHT PREPAID

Title passes at origin	SELLER...Pays freight charges SELLER...Bears freight charges BUYER...Owns goods in transit BUYER...Files claims, if any
------------------------	----------------------------------------------------------------------------------------------------------------------------------

3. FOB ORIGIN, FREIGHT PREPAID AND CHARGED BACK

Title passes at origin Seller collects charges from buyer by adding freight amount to invoice	SELLER...Pays freight charges BUYER...Bears freight charges BUYER...Owns goods in transit BUYER...Files claims, if any
--------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------

4. FOB DESTINATION, FREIGHT COLLECT

Title passes at destination	BUYER...Pays freight charges BUYER...Bears freight charges SELLER...Owns goods in transit SELLER...Files claims, if any
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5. FOB DESTINATION, FREIGHT PREPAID (PREFERRED METHOD)

Title passes at destination	SELLER...Pays freight charges SELLER...Bears freight charges SELLER...Owns goods in transit SELLER...Files claims, if any
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6. FOB DESTINATION, FREIGHT COLLECT AND ALLOWED

Title passes at destination Freight charges paid by buyer and then charged to seller by deduction from invoice	BUYER...Pays freight charges SELLER...Bears freight charges SELLER...Owns goods in transit SELLER...Files claims, if any
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Section 4 – Purchases under \$25,000.00, but over \$1,000.00

4.1 General

Purchases expected to be more than \$1,000.00 but less than \$25,000.00 requires some amount of competitive pricing. This is accomplished by telephone or written quotations, dependent upon the estimated cost, solicited from at least three (3) firms. The DDA Board may require formal bid procedures for purchases over \$500.00.

4.2 Discretionary Purchases

The DDA Director is given the authority to determine if a competitive bidding process is needed on an item expected to cost less than \$1,000.00. An item necessary to the operation of the DDA can be purchased without a competitive process when the DDA Director is comfortable that the cost of seeking competitive bids would exceed the savings. The DDA Director is encouraged to investigate the possible application of a State Contract (which is determined by competitive bidding) when considering a purchase.

4.3 Telephone Quotations

The telephone quotation system is acceptable for purchases expected to be more than \$1,000.00, but less than \$5,000.00. The DDA Director, or designee, shall review the prices and determine the low bidder meeting the requirements.

When obtaining telephone quotations, the DDA Director is subject to certain legal constraints:

- (a) Do not reveal one vendor's price to another until an award has been made.
- (b) Do not ask a vendor to revise the price once it is given. (However, should a vendor call back before the DDA Director has completed the telephone quotation process requesting to revise the price, the DDA Director may accept the new price).

Most purchases for immediate need do not fall within the DDA definition of "Emergency Purchases" in this *Purchasing Policies and Procedures Manual*. The use of Emergency Purchases without any form of competitive bidding for urgent need materials is not an automatic process. The telephone quotation system allows you to obtain rapid pricing for an urgent need on a competitive basis.

A “NO BID” is not considered a bid when obtaining telephone quotations. Every attempt should be made to obtain three (3) bids.

The DDA Director always reserves the right to review each telephone quotation, obtain additional bids if deemed necessary and verify prices with the named vendors.

4.4 Informal Written Bids

The informal written bidding process is utilized when the procurement is expected to be between \$5,000.00 and \$25,000.00. The DDA Director distributes the request for proposal/specifications to vendors. The DDA Director assigns a “return date” and time at which the sealed quotations from the vendors are opened. This usually occurs about two (2) or three (3) weeks from the date of the fax or the date of mailing.

On the return date, the quotations are opened and tabulated by the DDA Director. If no variations from the specifications are indicated, the DDA Director makes the award.

If there are variations from the specifications, the DDA Director notes the variations. If the recommendation of the DDA Director is not to the lowest bidder, written justification for rejection of any lower bid(s) is required to be made to the DDA Board.

4.5 Time Required

The entire informal bid purchasing process may take up to four (4) or five (5) weeks. If there are any errors, insufficient funds, or unusual deviations from specifications, the process may take longer.

Section 5 – Formal Bids – Purchases over \$25,000.00

5.1 General

The term “formal bid” is used to identify solicitations which represent major purchases of the DDA and which required special or “formal” handling. The difference between a formal and informal bid is primarily in the requirement of public notice. Formal bids require advertising in a newspaper of general circulation and every effort will be made to notify all vendors who have expressed an interest in the specific commodity or service of the intended purchase. Because of this, the formal bid process is longer than

the informal bid process. The underlying philosophy of the formal bid process is to obtain maximum competition from a much broader group of potential bidders.

Because of the scope of the contracts covered in formal bid processes, the specifications, general terms and conditions and required award documentation (written contracts, insurance certifications, and performance and payment bonds where required) are considerably more detailed and complex.

5.2 Procedures

Formal bids are prepared (including technical specifications, plans and drawings, where required) by the DDA Director, or designee. Then the DDA Director, or designee, publishes the notice for bids. Steps should include, but are not necessarily limited to:

- (a) The DDA Director, or designee, prepares the technical specifications.
- (b) The DDA Board reviews and approves the technical specifications.
- (c) The DDA Director, or designee, distributes the specifications to vendors for bidding consideration.
- (d) Formal bids are opened and tabulated at a specified time and date in the presence of the DDA Director, or designee, generally between two (2) and four (4) weeks after the date of publication.
- (e) The DDA Director, or designee, reviews all bids received and forwards a recommendation for award to the DDA Board.
- (f) Upon the DDA Board's approval, the DDA Director, or designee, shall contact the lowest responsible bidder receiving the award.
- (g) The DDA Director, or designee, arranges for the signing and commencement of the contract.
- (h) The DDA Director, or designee, is then responsible for processing the completed requisition.

Enough time must be allocated to the entire process to offset any delays encountered in resolving differences in specifications, bid amendments, bid opening date extensions, bid protests which may be lodged against the DDA, and the evaluation/recommendation process.

The process of formal bids from inception to award can easily take up to six (6) or eight (8) weeks. Although the governmental purchasing process is at times slower than purchasing in private industry, it is necessary that every protective and legislated step is taken. Every transaction must fall within the provisions of applicable law and regulations and be completely documented for subsequent bid inspection by DDA auditors, state and federal agencies, the bidders or any interested citizens.

When the formal bidding process is required for obtaining a commodity or service, the DDA Director, or designee, shall initiate the process, upon DDA Board approval. It is much better to start the process early, leaving adequate lead time for the process as well as the delivery of the goods or services than to wait until the need is critical. Many facets of the formal bid process cannot be expedited and the resultant delays in obtaining the DDA needs can affect the current agency operations.

5.3 Bonds for other than public improvement contracts

At the discretion of the DDA Director bidders may be required to submit with their bid a bid bond in an amount to be determined by the DDA Director and specified in the invitation to bid, as a guarantee that if the contract is awarded to such bidder, that the bidder will enter into the contract for the work described in the bid.

The DDA Director may require successful bidders to furnish performance and/or payment bonds at the expense of the successful bidder, in amounts to be determined by the DDA Director and specified in the invitation to bid, to ensure the satisfactory completion of the work for which a contract is awarded.

5.4 Alternative forms of security

In lieu of a bid, payment, or performance bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond. This form of bid security will be accepted only if the check is made payable to the DDA.

If approved by the DDA Attorney, a bidder may furnish a personal bond, property bond, or bank or saving and loan association's letter of credit on certain designated funds in the face amount required for the bid bond, only if payable to the DDA. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the DDA equivalent to a corporate surety bond.

5.5 Exemptions

Purchases exempted from competitive procurement include purchases of land and rights of way, sole source purchases, emergency purchases, printing and engraving of bonds, utility services, intergovernmental purchases, purchases from state governmental agencies which offer services or goods to Michigan political subdivisions and cooperative purchases.

Section 6 – Multi-Step Sealed Bidding

6.1 General

When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of un-priced offers. Bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation shall be invited to submit priced offers.

Section 7 – Exceptions to Bidding Procedures

7.1 Extenuating Circumstances

- (a) **Immediate Need.** An immediate need is defined as a unbudgeted purchase of equipment, materials, supplies or services over \$1,000.00 in which it can be demonstrated without question that the DDA could not have foreseen the requirements in sufficient time for normal purchasing procedure to be used and that if not immediately purchased would cause the DDA considerable hardship in performing necessary services.

In the event of an immediate need purchase, the DDA Director shall prepare a memo to the DDA Board explaining the circumstances. The DDA Director remains responsible for following the process, in retrospect to the immediate need purchase described earlier for an unbudgeted item.

- (b) **Operation Emergencies.** The DDA Director may authorize purchases in the open market for items without DDA Board approval and without advertisement when a bona fide operating emergency exists.

A full written account of the emergency shall be submitted immediately to the DDA Board. When these purchases exceed \$10,000.00, DDA Board approval will be obtained before the purchase is made unless the emergency is so immediate that prior DDA Board approval is not possible. Regardless, such purchases will be brought before the DDA Board at the earliest opportunity.

7.2 Sole Source Purchases and Brand Identification

Sole source purchases shall be held to a minimum. Efforts should be used to determine that the item being purchased is unique and therefore only one source is practicably available for the purchase.

Whenever a specified brand is identified, the description will be followed by “or approved equal.” Specific brand material required for the repair of equipment and machinery is excluded from the “approved equal” requirement. If the DDA must have a particular brand piece of equipment or material, the specifications must contain the following certification, followed by the DDA Director’s signature:

“I hereby certify that this is the only [insert material or brand] that will satisfy this requirement.”

7.3 Preferences

Bid awards are encouraged to be made to Kochville Township vendors when the bid is up to five percent (5%) more than the lowest cost bid is all is equal in quality and specifications, at the DDA Board or DDA Director’s discretion.

Section 8 – Competitive Negotiation and Other Methods of Selection

8.1 Competitive negotiation for goods or non-professional services

- (a) **Conditions for Use.** When the DDA Board determines by motion that the use of competitive sealed bidding is either not practical or not advantageous to the DDA, a contract

may be entered into by use of the competitive negotiation method.

- (b) **Request for Proposal.** The DDA Director, or designee, shall issue a written request for proposal indicating in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor.
- (c) **Selection and Award.** Selection shall be made of two (2) or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the request for proposal, including price if so stated in the request for proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the DDA shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. Should the DDA determine in writing and in its sole discretion that only one offerors is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

8.2 Professional Services

There are three (3) alternative methods of selection available for the DDA to use when an identified need for professional services arises. These methods are: qualifications based selection; previous contractual experience; and, known expertise and reputation. While each may be employed on various occasions, all professional service contracts are awarded by the DDA Board.

- (a) **Qualification Based Selection**
 - (i) **Conditions for Use.** Contracts for professional services, architecture and engineering may be entered into by use of the qualifications based selection for professional services method. Services may also be contracted by a selection process based on previous experience or known expertise as disclosed below or

any other method that is authorized by the DDA Director, or designee, or the DDA Board.

- (ii) **Request for Letters of Interest.** The DDA Director shall issue a written request for letters of interest. Indicating in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor.
- (iii) **Public Notice.** Public notice of the request for letters of interest shall be given at least four (4) days, but not more than twenty (20) days prior to the date set for receipt of proposals by publication in a newspaper of general circulation in the DDA District area. In addition, proposals may be solicited directly from potential contractors.
- (iv) **Selection and Award.** The DDA shall engage in individual discussions with two (2) or more offerors deemed fully qualified, responsible and suitable on the basis of initial response and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. At the discussion stage, the DDA may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to the competitors. At the conclusion of discussion, outlined in this paragraph above, on the basis of evaluation factors published in the request for letters of interest and all information developed in the selection process to this point, the DDA shall select in the order of preference two (2) or more offerors whose professional qualifications and proposed services are deemed the most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the DDA

can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the DDA determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

(b) **Previous Contractual Experience**

- (i) **Conditions for Use.** Contracts for professional services, architecture and engineering when it has been determined that previous experience with a consultant provides for continuity of service. The use of professional service providers that have previously performed work for the DDA is strongly encouraged as these service providers know the institutional history of the DDA.
- (ii) **Negotiations of Contract.** The DDA Director shall discuss and negotiate the scope of services cost and time frame with the professional services provider. The outcomes of these sessions become the basis for the DDA Director's recommendation to the DDA Board, if the total cost of the service is expected to exceed \$10,000.00. All negotiations in excess of \$10,000.00 are contingent upon the DDA Board's approval and authorization.

(c) **Known expertise and reputation**

- (i) **Conditions for Use.** Contracts for professional services, architecture and engineering when it has been determined that any other method of selection is impractical or ineffective. The DDA Director shall utilize this method when distinguished expertise in a field of study is necessary to insure the health, safety and welfare of the residents and business owners located within the DDA District. Use of this method will generally be held for emergencies or when few providers can be found within the immediate area.

(ii) **Negotiation of Contract.** The DDA Director shall enter into discussion and negotiation of the contract's terms and conditions with any agreement subject to ratification by the DDA Board.

(d) **Exceptions to Professional Service Contracts**

(i) **Planning, Engineering, and Legal Services.** The DDA currently has a professional service providing planning and engineering services. Additionally, the DDA has appointed an attorney to represent the DDA Board pursuant to Section 5(4) of the Act. These professional service providers have a keen understanding of the DDA and its operations. The DDA Board shall continue to utilize these professional service firms until such time as two-thirds (2/3) of the DDA Board votes in the affirmative to solicit bids for professional service providers as set forth in Section 8, subsection 8.2 of these *Purchasing Policies and Procedures Manual*.

Section 9 – Bid Evaluation and Award

9.1 General

The “lowest responsible bidder” is determined by not only the bid amount, but also an evaluation conducted by the DDA Director, or designee, to ensure that the bidder fits the definition of lowest responsible bidder. (The definition is stated in Section 2, Subsection 2.5.a of Part 1 (Competitive Bidding Requirements – Award of Contract). Awards will be made to only those bidders that satisfy the requirements concerning necessary insurance, workers compensation, etc. and coverages set forth in this *Purchasing Policies and Procedures Manual*.

9.2 Bid Award

Bids shall be awarded to the lowest responsive and responsible bidder. Awards may be made to more than one bidder when the terms and conditions of the invitation to bid provide that multiple awards may be made.. However, bid awards are encouraged to be made to Kochville Township area vendors when the bid is up to five percent (5%) more than the lowest cost bid if all is equal in quality and specifications at the DDA Board or DDA Director's discretion.

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 DDA Director with a copy to the DDA Board and the original filed with the other papers relating to the transaction.

9.3 Filing of Contract

Upon the finalization of a contract, the DDA Director is responsible for forwarding the contract documents to the DDA Secretary or in the alternative, the Township Clerk. The DDA Secretary will have all original documents on file in contract folders.

9.4 Contract Pricing Arrangement

Public contracts may be awarded on any basis that is not prohibited. Except in case of emergency affecting the public health, safety or welfare, no public contract shall be awarded on the basis of cost plus a percentage of cost. A policy or contract of insurance or prepaid coverage having a premium computed on the basis of claims paid or incurred, plus the insurance carriers administrative costs and retention stated in whole or part as a percentage of such claims, shall not be prohibited by this section. Architect, Engineer and similar contracts which are based on a percentage of construction cost shall not be prohibited by this section, providing the construction contract is not awarded by or to the Architect, Engineer or similar contractor.

9.5 Collusion amount Bidders

More than one bid from an individual, firm, partnership, corporation or association under the same or different name will be rejected. Reasonable grounds for believing that a bidder is interested in more than one bid for the work contemplated will cause rejection of all bids in which the bidder is interested. Any or all bids may be rejected if there is any reason for believing that collusion exists among the bidders. Participants in such collusion may not be considered in future bids for the same work. Each bidder, as a condition of submitting a bid, shall certify that he is not a party to any collusive action as herein defined.

9.6 Rejection of Bids

An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part or informalities waived when the DDA Director or

DDA Board determines that it is in the best interest of the DDA to do so. The reasons therefore shall be made a part of the record in the matter.

Section 10 – Public Improvement Projects

10.1 General

Public improvement projects are defined as work on real property or its improvements other than normal maintenance in excess of \$10,000.00, provided, however, that the work shall not be artificially divided to avoid classification as a capital improvement project under this section. The DDA will advertise for sealed bids, fix a bid security, open bids and hold a public hearing on the proposed plans, specifications, contract and cost when the proposed public improvement project is expected to exceed \$50,000.00. The DDA will solicit at least three (3) written bids for a proposed public improvement project expected to cost between \$25,000.00 and \$50,000.00. The DDA will solicit telephone quotes when the proposed public improvement project is expected to cost between \$10,000.00 and \$25,000.00. With regard to proposed capital improvement projects that are estimated to cost less than \$10,000.00 the DDA Board shall determine if it is beneficial and worth the expense to solicit informal or formal bids. Capital improvement projects shall not be awarded without the approval of the DDA Board. Partial budgeted payments of \$10,000.00 or less made on contracts previously approved by the DDA Board need not be presented to the DDA Board for payment approval prior to being paid. However, the payment shall be presented at the next meeting of the DDA Board for final approval.

10.2 Bid Bonds on Public Improvement Contract

Except in cases of emergency, all bids or proposals for public improvement contracts in excess of \$10,000.00 shall be accompanied by a bid bond from a surety company selected by the bidder, which is legally authorized to do business in Michigan, as a guarantee that if the contract is awarded to such bidder, that bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall be established in the notice to bidders and shall be at least five percent (5%) and shall not exceed ten percent (10%). Nothing in this section shall preclude the DDA Director or DDA Board from requiring bid bonds to accompany bids or proposals for public improvement contracts anticipated to be less than \$10,000.00.

No forfeiture under a bid bond shall exceed lesser of (1) the difference between the bid for which the bond was written and the next low bid, or (2) the face amount of the bid bond. In lieu of a bid bond, the contractor may submit a cashier's check or certified check to the DDA Treasurer, to be held in escrow.

10.3 Withdrawal of Bid Due to Error.

- (a) Bidders for a public construction contract may withdraw their bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

The DDA Director shall recommend one of the following procedures to the DDA Board, who shall be responsible for selecting the method of withdrawal:

- (i) The bidder shall give notice in writing or the claim of right to withdraw the bid within two (2) business days after the conclusion of the bid opening procedures; or
 - (ii) The bidder shall submit to the DDA Director the original work papers, documents and materials used in this preparation of the bid within one (1) business day after the date fixed for submission of bids. The work papers shall be delivered by the bidder in person or by registered mail at or prior to the time fixed for the opening of bids. Such mistake shall be proved only from the original work papers, documents and materials delivered as required herein.
- (b) Procedures for the withdrawal of bids for other than construction contracts may be established by the DDA Director.

- (c) No bid may be withdrawn under this section when the result would be the awarding of the contract on another bidder in which the ownership of the withdrawing bidder is more than five percent (5%).
- (d) If a bid is withdrawn under the authority of this section, the lowest remaining bid shall be deemed to be the low bid.
- (e) No bidder who is permitted to withdraw a bid shall, for the compensation, supply any material or labor to or performs any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.
- (f) If the DDA Director or DDA Board denies the withdrawal of a bid under the provisions of this section, the bidder shall be notified in writing stating the reasons for the decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.

10.4 Retainage on Public Improvements

- (a) In any contract for public improvements which provides for progress payments in installments based upon an estimated percentage of completion, the DDA shall retain funds pursuant to Act 524 of the Michigan Public Acts of 1980, as amended, to assure faithful performance of the contract.
- (b) Any subcontract for a public project which provides for similar progress payments shall be subject to the same limitations.
- (c) Nothing in this section shall preclude the DDA Director or the DDA Board from establishing retainages for contracts other than public improvements.

10.5 Performance and Payment Bonds for Public Improvement Contracts

- (a) Upon the award of any public construction contract exceeding \$10,000.00 awarded to any qualified bidder, such bidder shall furnish to the DDA the following bonds:
 - (i) A performance bond in the sum of the contract amount conditioned upon the faithful performance of

the contract in strict conformity with the plans, specifications and conditions of the contract, issued by a responsible surety approved by the DDA Board and shall guarantee the prompt payment for all materials and labor and protect and save the DDA harmless from claims and damages of any kind caused by the operation of the contractor and shall also guarantee the maintenance of the improvement for a period of four (4) years from and after its completion and acceptance by the DDA.

- (ii) A payment bond in the sum of the contract amount. Such bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in the prosecution of the work provided for in such contract, and shall be conditioned upon the prompt payment for all such materials furnished or labor supplied or performed in the prosecution of the work. "Labor or materials" shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.
- (b) Each of such bonds shall be executed by one or more surety companies selected by the contractor which are legally authorized to do business in Michigan.
- (c) Bonds shall be made payable to the "Kochville Township Downtown Development Authority."
- (d) Each of the bonds shall be filed with the DDA, or a designated office or official thereof.
- (e) Nothing in this section shall preclude the DDA Director or DDA Board from requiring payment or performance bonds for construction contracts below \$10,000.00.
- (f) Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contracts which are directly with the subcontractor(s) for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

10.6 Action on Performance Bonds

No action against the surety on a performance bond shall be brought unless brought within one (1) year after completion of the contract, including the expiration of all warranties and guarantees, or (2) discovery of the defect or breach of warranty, if the action be for such, whichever is later.

10.7 Actions on Payment Bonds

- (a) Subject to the provisions of subsection (b) hereof, any claimant who has performed labor or furnished materials in accordance with the contract for which a payment bond has been given, and who has not been paid in full therefor before the expiration of ninety (90) days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on such payment bond to recover any amount due for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be a named party to such action.

- (b) Any claimant who has a direct contractual relationship with any subcontractor from whom the contractor has not required a subcontractor payment bond but who has no contractual relationship, express or implied, with such contractor, may bring an action on the contractor's payment bond only written notice has been given to such contractor within one hundred eighty (180) days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Any claimant who has a direct contractual relationship with a subcontractor from whom the contractor has required a subcontractor payment bond but who has no contractual relationship, express or implied, with such contractor, may bring an action on the subcontractor's payment bond. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where regular transactions of business are held. Claims for sums withheld as retainages with respect to labor performed or materials furnished, shall not be subject to the time limitations stated in this subsection.

- (c) Any action on a payment bond must be brought within one (1) year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

Section 11 – Contracts

11.1 State Contracts

The State of Michigan establishes contracts which are extended to all political subdivisions. The DDA Director should confirm that no state contract exists for goods or materials being purchased by the DDA prior to soliciting bids.

11.2 Annual Contracts

Annual contracts, let for a period of one (1) year, fix the price and conditions for the purchase and delivery of a particular item, primarily an expendable item that is used on a frequent basis. The contractor has an obligation to furnish all material against that contract and the DDA has an obligation to order all materials covered by the contract from the successful contractor. Whenever possible, annual contracts will have an option for extension for one (1) year or more. This option must be exercised prior to the completion of the annual contract and as mutually agreed to by both parties. The DDA Board will be responsible for processing the necessary paperwork through the DDA Director ninety (90) days prior to the expiration of the contract. The DDA Director will define the requirements and make any recommendation for the extension of the contract and such recommendation is to be given to the DDA Board sixty (60) days prior to the expiration of the contract.

11.3 Multi-Term Contracts – Specified Period

Unless otherwise provided by law, a contract for goods, services or insurance may be entered into for any period of time deemed to be in the best interest of the DDA provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefore.

11.4 Contract Performance

When a contractor does not perform in accordance with the bid specifications, the DDA Director shall take corrective action. Allowing poor performance means that the contractor is not managing the contract in the DDAs best interest. The contract specifications call for a specific level of performance. If the DDA does not receive that level of performance, the contract should be reviewed for possible termination. Complaints on performance shall always be reviewed by the DDA Director, or designee, when they occur so that corrective action may be instituted, or to justify any future requests for cancellation or removal from the bidder lists. Failure to document poor service may result in another award to the same vendor at a future date. The DDA Director, or designee, is responsible for the documentation of poor performance when it occurs.

Section 12 – Contract Changes

12.1 Due to the changing purchasing needs of the DDA or because of other considerations, purchase are subject to change and cancellation after the original order has been processed and forwarded to the vendor. There are limits to the types of changes allowable under public purchasing procedures.

(a) Allowable Changes

- (i) Complete cancellation of an order.
- (ii) Cancellation of certain items of the order, usually due to unavailability or because of unacceptable back orders.
- (iii) Changing delivery point or delivery date.
- (iv) Correcting errors in the original order.
- (v) Changing size or color when price is not affected.
- (vi) Changing vendor address.

(b) Non-Allowable Changes

- (i) Adding items to an existing order without advance DDA Board approval, on items over \$10,000.00.

- (ii) Changing the vendor or vendor name, without advance DDA Board approval, on items over \$10,000.00.

- (iii) Changing unit prices except when correcting an error occurring in the original order.

(c) **Add-On Changes**

Process a change in the same manner as processing the original order.

(d) **Cancellation**

When cancellation is necessary, the following procedure should be used:

- (i) Determine cancellation costs or penalties, if any.

- (ii) The original order received by the vendor is a contract and the cancellation of this contract must be for valid reasons.

- (iii) The DDA Director contacts the vendor by telephone or in person. The vendor should be notified of the cancellation. Please not the date and individual taking the cancellation notice. The DDA then has the right to refuse shipment if the vendor ships after the notice date.

12.2 Public Improvement Project and Professional Service Contract Changes

The DDA Director is authorized by the DDA Board to act as contract administrator and is responsible for ensuring that the necessary changes to contracts gain the appropriate approval.

12.3 Individual Contract Change Orders

Because contract change orders are generally unbudgeted, change orders for contracts shall conform with Part I – Purchasing Policies, subsection 1.2.3 – Unbudgeted Items with only one exception. Individual contract change orders therefore may be approved by the DDA Director when costing no more than \$1,500.00. Except, however, the DDA Director may authorize change orders in excess of \$1,500.00, if, the DDA Board has established a budget limitation on the project and the approved change order will not

exceed the budget limitation on the project established by the DDA Board. When a change order exceeds the budget limitation established by the DDA Board changes orders over \$1,500.00 shall be approved by the DDA Board.

Example: A sewer project has a budget line item of \$1,000,000.00. The bids for the project was awarded to the contractor that submitted a bid of \$975,000.00. The contractor discovers unstable soil and needs a change order in the amount of \$1,800.00. The DDA Director may approve the change order as long as the DDA Board has not amended its budget.

If, however, the contractor bid \$1,000,000.00 and was awarded the bid, and discovers the same unstable soil, which requires a change order in the amount of \$1,800.00, the DDA Director cannot approve the change order because it is over the budgeted amount and exceeds \$1,500.00. If, however, only \$900.00 is needed for the change order in the same scenario, the DDA Director may approve the change order because the change order does not exceed \$1,500.00, even though the project will exceed the budget limitation.

12.4 Aggregate Contract Change Orders Per Project

When the aggregate amount of a projects change orders reaches \$5,000.00 or five percent (5%) of the original contract amount, whichever is greater, each change order thereafter must receive the recommendation of the DDA Director and approval by the DDA Board.

The DDA Director, or designee, shall prepare a DDA Board communication setting forth the reasons for the change order(s). The change will become an official part of the contact one approval is received from the DDA Board.

Section 13 – Guide for Receiving Goods on Behalf of the DDA

13.1 General

The DDA Board members, DDA Director, or employees and agents of the DDA who receive goods on behalf of the DDA represent an important link in the procurement chain. Properly trained and motivated, they can save hundreds of dollars and prevent lost time. If they fail to exercise their responsibilities, they may create countless problems. The responsibilities of receiving individuals

may be summarized in five activities: (1) Inspecting; (2) Counting; (3) Certifying; (4) Protecting; and (5) Communicating.

- (a) **Inspecting.** It is mandatory, before and during unloading, to inspect all container or packages for external damage. Any unusual rattles or signs of leakage should be noted. If external damage is noted, the package should be opened immediately and a joint inventory and examination of the contents should be made by the driver and the receiving person. A full, detailed result of the examination should be endorsed on the carrier's delivery receipt and the DDA copy, and the driver should sign the DDA copy of the document.

The DDA has the right to a reasonable inspection if there appears to be damage and should not allow the driver to pressure the receiving personnel into neglecting this important responsibility. Courts have generally held that a consignee may not open the container and examine the merchandise before giving a receipt to the carrier, unless the container indicates the probability of damage.

Once the merchandise has been signed for, the carrier's liability has technically ended – unless concealed damage is found within a reasonable time (usually within ten (10) days).

If no damage is visible, inspect the labels to be certain the package is being delivered to the proper location.

Once the package has been received and there is no damage, inspect the outstanding order file to be certain that the goods were actually on order.

Inspect the item for apparent compliance with the specifications or make and model listed on the purchase order.

- (b) **Counting**

Count the cartons, containers and items as they are being unloaded, and if there is a discrepancy, make a full notation on the carrier and DDA copies of the freight bill before signing. Require the driver to verify the exception statement on the freight bill.

Unpack all merchandise when practical and count the items to be certain that everything that was supposed to be shipped was included. When a large shipment is received, extract samples from the shipment and verify the count of the samples. If shortages occur frequently within the samples, the shipment should be segregated and action taken to require the vendor to complete the order. Industrial usage frequently allows a maximum of five percent (5%) overage and for a vendor to ship and close orders that are a maximum of five percent (5%) short. The count should be verified before payment.

(c) **Certifying**

Certifying the packing sheet – receiver with the correct count and any exception information discovered during the inspection.

In concealed damage claims, the burden of proof shifts to the claimant. When concealed damage is discovered, leave the damaged item in the container, and immediately notify the carrier in writing requesting an inspection. When shipments are made F.O.B. Destination, the seller must be notified of the necessity for a claim and provided with all the documentation and evidence to support the claim.

(d) **Protecting**

Move the goods to the proper location from the receiving point as quickly as possible. Protect the goods from the elements and improper storage and handling procedures. Identify goods with labels or property tags to insure against pilferage or misplacing. Update inventory records immediately.

(e) **Communicating**

Individuals receiving goods on behalf of the DDA should notify the DDA Director immediately receiving goods. Process receiving documents to the DDA Director immediately. Call the attention of the DDA Director of any damages, discrepancies in count or failure to deliver to specifications.

13.2 Claims

A refusal to accept goods is not justified solely by damage during transportation. However, if the damage is such that the entire value of the goods is destroyed, the goods may be refused and the carrier held responsible for their value.

Whenever possible, goods should be accepted, necessary steps should be taken to minimize damage, and a claim filed with the carrier. While awaiting the carrier's investigation of the claims, the goods should be left in the original container and moved only if absolutely necessary.

File claims immediately. Use a standard claim form, if available. Request an inspection. Confirm requests in writing.

Complete the claim form in full, supported by the original bill of lading, evidence of the freight charges and the original invoice. Keep copies of everything for DDA records. Too much information is better than too little. Digital photographs may even be desirable to support a claim.

Section 14 – Relations with Vendors

14.1 General

No official or employee of the DDA shall be financially interested, directly or indirectly, when negotiating any order or contract. The DDA Director and every official and employee of the DDA are expressly prohibited from accepting, directly or indirectly, from any person to which any order or contract may be, or might be awarded, any rebate, gift, money or anything of value whatsoever.

14.2 Vendor List

Applications for inclusion on the DDA's vendor list are available from the DDA Director's Office.

The information from the application form will be used to determine that the applicant is a proper legal entity and further that no conflict of interest exists and that they are capable of performing in a responsible and responsive fashion. Failure by the applicant to respond to all requested information on the application form may be deemed as grounds for immediate rejection. Applications which are rejected may be resubmitted for

consideration at such time additional requirements can be met or adequate information can be provided.

DDA Officials and employees should always keep in mind the importance of DDA – Vendor relations. If a dispute with a vendor occurs, be reasonable and professional.

14.3 Determination of Vendor Noncompliance

It shall be the responsibility of the DDA Director to determine and declare a vendor to be in noncompliance with the specifications as agreed upon. The following guidelines shall be used in the determination of vendor noncompliance, by the DDA Director:

- (a) Failure by a vendor to deliver on time, in the proper quantities or to meet specifications are serious discrepancies that must be dealt with in a prompt, uniform and fair manner.
- (b) The DDA Director should contact the vendor and ask the noncompliant situation be remedied. A record should be made of the date, time, person contacted, and the substance of the discussion.
- (c) If, after the initial contract, the vendor is still noncompliant, a memo should be forwarded to the DDA Board detailing the circumstances.
- (d) The DDA Director at the direction of the DDA Board may then provide the vendor with a written notice to cure the situation. If after this notice, the vendor fails to comply with the terms of the contract or order, the DDA Director will cancel the agreement, order from another source and take steps to recover the difference in price from the noncompliant vendor.

14.4 Vendor Protest Policy

Vendors who feel that an action or decision made by any DDA official or employee was wrong or inappropriate may file a protest, in writing, to the DDA Administrator within three (3) working days of the action, decision or award. The protest shall include the following information:

- (a) The name, address and telephone number of the protestor;

- (b) The signature of the protestor, or representative;
- (c) Identification of the DDA official, employee or representative;
- (d) A detailed statement of the legal and factual grounds of protest, including copies of the relevant documents; and
- (e) The form of relief being sought by the protestor.

The DDA Director will attempt to resolve the protest in such a manner so that mutual agreement is reached. In any case, the DDA Director will issue a written protest decision within fifteen (15) business days of receipt of the protest.

Should the written decision by the DDA Director be adverse to the protestor or the protest includes action taken by the DDA Director, the protestor can appeal the decision or action to the DDA Board. The appeal must be submitted to the DDA Secretary within three (3) business days of the date of receipt of the DDA Director's decision or DDA Director's action, whichever is applicable. The appeal will be presented to the DDA Board within thirty (30) business days. The appeal must include:

- (a) A copy of the original protest information.
- (b) A copy of the DDA Director's decision or the items set forth in a-e above.
- (c) The factual or legal errors in the decision made by the DDA Director, if applicable.
- (d) A restatement of the form of relief being sought.

Section 15 – Surplus Property – Purchase and Disposal

15.1 Purchase

In general, new equipment is to be preferred over used equipment. However, there are situations where the purchase of used equipment should be considered:

- (a) When price is of prime importance and the difference between new and used is significant.
- (b) Where equipment will be used infrequently, for a limited time, for training or for auxiliary operations.

- (c) When better delivery is essential.

The purchase of used equipment requires careful shopping and the DDA Director should make every effort to secure a minimum warranty or guarantee that the equipment will perform as needed and that service or replacement parts are reasonably available.

15.2 Disposal

When materials and equipment are determined to be obsolete, the DDA Director shall notify the DDA Board in writing, completely describing the item. Upon approval of the DDA Board, the DDA Director will perform the following tasks:

- (a) Notify local governmental units in the area to see if the item would be of use to another governmental unit.
- (b) If no other governmental unit can use the item, the DDA Director will evaluate the pros and cons of conducting a DDA auction versus the DDA participating in a Township, State, or County auction. When appropriate, newspaper advertising and sealed bids will be utilized.
- (c) If bids received are \$1,000.00 or less acceptance will be given by the DDA Director.
- (d) If any bid received exceeds \$1,000.00, the DDA Director will forward the recommendation to the DDA Board for final approval.
- (e) Upon disposition of any inventory item, the DDA auditor shall be notified.

Section 16 – Standardization of Materials and Equipment

16.1 General

The DDA Director shall be responsible for ordering standardized supplies used by the DDA. It shall be the duty of the DDA Director to adopt as standards the minimum number of qualities, sizes and varieties of supplies consistent with the operation of the DDA.

Section 17 – Public Access to Procurement Information

17.1 General

Except as provided herein, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Michigan and United States Freedom of Information Act.

A tabulation of all bids received shall be available for public inspection in the DDA Director's Office during normal business hours and by appointment along with a copy of all bids submitted for a minimum of one (1) year. A copy of the bid tabulation must be attached to the order/contract for processing. Any resulting contract originals will be forwarded to the DDA Secretary, or in the alternative, the Township Clerk's Office, for filing. Those files are kept pursuant to the Record Retention Schedule adopted by the State of Michigan.

Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids except in the event that the DDA decides not to accept any of the bids and to reopen the contract. Otherwise, proposal records shall be open to the public inspection only after award of the contract.

Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

Trade secrets or proprietary information submitted by a bidder, offeror or contract in connection with a procurement transaction shall not be subject to public disclosure under the Freedom of Information Act or Patriot Act; however, the bidder, offeror or contractor must invoke the protections of this section prior to or upon submission of the data or other materials, and must identify the data or other materials to be protected and state the reasons why protections is necessary.

Section 18 – All previous purchasing policies repealed

All previously adopted purchasing policies of the Kochville Downtown Development Authority or other documents in conflict with this *Kochville Township Downtown Development Authority Purchasing Policies and Procedures Manual* are hereby repealed.

FOR INFORMATION REGARDING THIS REQUEST CONTACT

DATE ISSUED: _____

INVITATION TO BID

NOTICE TO VENDOR, ALL BIDS MUST BE RETURNED TO THE ADDRESS ABOVE

VENDOR'S NAME AND ADDRESS		BIDS WILL BE RECEIVED UNTIL _____ FOR DELIVERY TO THE DDA. SEE BID FORM FOR DELIVERY. ALL PRICES LISTED SHOULD BE QUOTED ON AN F.O.B. DELIVERED BASIS TO THE DDA AT THE FOLLOWING LOCATION:		
QUANTITY	MEASURE	DESCRIPTION OF ITEM	UNIT PRICE	EXTENDED TOTAL
THE DDA RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS OR PORTIONS THEREOF				
IT IS NOT THE INTENT OF THE DDA TO RULE OUT COMPETITION IN THE SPECIFICATION SO LISTED. BIDS FROM OTHER MANUFACTURERS STANDARD UNIT OF PRODUCTION WILL BE ACCEPTED. HOWEVER, ANY DEVIATIONS MUST BE NOTED. THE FINAL BID QUOTE MUST BE ON THIS FORM TO BE CONSIDERED IF ADDITIONAL PAGES ARE ATTACHED HERETO.				

<p>SPECIAL INSTRUCTIONS TO BIDDERS</p> <ol style="list-style-type: none"> This is not an order. Each item listed must be priced separately and extended. All prices should be on a delivered basis – if not Bidder must show F.O.B. point. All items in space in lower right corner of this form must be filled in, including an authorized signature, to be considered. All information must be in ink or typewritten. MISTAKES MUST BE LINED OUT AND INITIALED. “Bidder agrees that if awarded a contract to supply any part of the above listed material, bidder will not engage in any discriminatory employment practices and that the bidder will comply with all statutes of the State of Michigan and the United States regarding discrimination. Failure to do so could be deemed a material breach of contract.” Prices stated in bid shall be firm for sixty (60) days from the due date unless otherwise stated. “Bidder certifies that these goods were produced in compliance with all applicable requirements of sections 6, 7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under section 14 thereof.” The DDA does not discriminate on the basis of disability. If you believe you have been discriminated against in this procedure, you may file a complaint alleging the discrimination with the DDA Director. 	<p>We propose to supply the above listed items.</p> <p>F.O.B. _____(Bidder MUST state F.O.B. point or bid may not be considered).</p> <p>Payment terms: _____ thirty (30) days</p> <p>We agree to make shipment in _____ days from receipt of order.</p> <p>I certify the prices in this bid have been determined without communication or agreement with any other bidder or competitor for the purpose of restricting competition.</p> <p>_____ Authorized Signature</p> <p>_____ Firm Name</p> <p>_____ Address</p> <p>_____ City, State, Zip Code</p> <p>_____ Phone Number</p> <p>_____ Contact Person</p>
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Kochville Township Downtown Development Authority
5851 Mackinaw Road
Saginaw, Michigan

VENDOR APPLICATION FORM

1. Business Name: _____ Years in Business _____

2. Business Address: _____

3. Federal Identification Number: _____

4. Type of Organization: Corporate _____ Partnership _____ Individual _____ Other _____

5. If corporation, indicate in which state: _____ When? _____

6. Does any DDA employee or official hold an office as Principal, Director, Partner or hold any remunerative position in this company?

Yes: _____ No: _____ List names, positions and departments on reverse side

7. Indicate classes of equipment, supplies, material and/or services on which you desire to bid/sell:

Attach separate list if necessary

8. Type of business (Check more than one if applicable):

A. Manufacturer or producer	_____	E. Distributor	_____
B. Dealer with inventory stock	_____	F. Service Establishment	_____
C. Dealer without inventory stock	_____	G. Professionally licensed	_____
D. Construction concern	_____	H. Other (Define)	_____

9. Type of operation (complete more than one if applicable):

A. Is your business located in the DDA District? _____

B. Is your firm located in Michigan? _____

C. Are you single management concern (not a branch or subsidiary or another firm)? _____

D. Number of employees: Companywide: _____ In Michigan: _____

E. Are you a minority or disadvantaged owned concern? _____

10. Vendor Contact Person(s)

() _____
() _____
() _____

11. The undersigned certifies that the information contained herein is correct. I understand that misrepresentation may be cause for removal from the qualified vendor list and may other penalties allowed by law. Further, I affirm that the undersigned company's employment practices do not discriminate as set forth by State or Federal statute.

Firm: _____ Signed: _____

Phone: _____

Date: _____

