

ORDINANCE NO. _____

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA AMENDING CERTAIN SECTIONS OF CHAPTERS 3-08 PURCHASING POLICY, AND 3-44 PUBLIC WORKS CONTRACT POLICY OF THE SANTA ROSA CITY CODE

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. Section 3-08.020, Definitions, of the Santa Rosa City Code is amended to read as follows:

“3-08.020 Definitions.

As used in this chapter, the following terms are defined as follows:

(A) “Department” and “using department” mean any of the departments, offices or other organizational units of the City government.

(B) “Professional services” means services such as, but not limited to, the services of attorneys, physicians, architects, engineers, and other consultants or individuals or organizations possessing a high degree of technical skill.

(C) “Public work” means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind, including demolitions, and the construction and installation of drainage systems, lighting and signaling systems, sewer and water systems, and park and recreational facilities.

(D) “Responsible bidder” means a person or entity who has the capability in all respects to perform fully the contract requirements.

(E) “Responsive bidder” means a person or entity who has submitted a bid which conforms in all material respects to the invitations for bids.

(F) “General Services” means any and all work performed or services rendered by independent contractors, with or without the furnishing of material, such as but not limited to: custodial services, building and equipment maintenance, machinery and equipment rental, and telephone, gas, water, electric light and power services, excluding contracts for public works projects or professional services.

(G) “Supplies,” “materials,” and “equipment” mean any and all articles or things which shall be furnished to or used by any department of the City, including those items purchased by the City and furnished to contractors for use in public works projects.

(H) “Surplus property” means waste materials generated in the work process and discarded articles, parts, equipment or supplies, material, equipment useful only for reprocessing.”

Section 2. Section 3-08.040, Purchasing Organization, of the Santa Rosa City Code is amended to read as follows:

“3-08.040 Purchasing organization.

There is created a centralized purchasing organization in which is vested authority for the purchase of supplies, materials, equipment and services, creation and maintenance of the policy

for the management of inventory, and to perform duties as assigned by ordinance or regulation.”

Section 3. Section 3-08.060, Exemptions from centralized purchasing, of the Santa Rosa City Code is amended to read as follows:

“3-08.060 Exemptions from centralized purchasing.

The Purchasing Agent may authorize, in writing, any or all departments to purchase or contract for supplies, materials, equipment and services, independently of the Purchasing Section, including supplies, materials, equipment and services with a total cost of less than \$10,000, but shall require that such purchases or contracts be made in conformity with the procedures established by this chapter. The Purchasing Agent may also rescind any or all of such authorizations upon written notice.”

Section 4. Section 3-08.090, Encumbrance of funds, of the Santa Rosa City Code is amended to read as follows:

“3-08.090 Encumbrance of funds.

Except in cases of an emergency, the Purchasing Agent shall not issue any purchase order nor shall any contract be approved for supplies, materials, equipment or services unless there exists an unencumbered appropriation in the fund account against which said purchase or contract is to be charged.”

Section 5. Subsection (C) of Section 3-08.100, Competitive bidding, of the Santa Rosa City Code is amended to read as follows:

“(C) Emergency purchases and contracts for supplies, material, equipment and services may be made free of the bidding requirements of this chapter when the purchase or contract for the item or items is immediately necessary for the continued operation of a department or for the preservation of life or property, or when such purchase is required for the health, safety, and welfare of the people or for the protection of property, provided that there is a present, immediate, and existing emergency. Determination and declaration that such an emergency exists shall be made at the same level of authority as set forth in Section 3-08.110 of this chapter.”

Section 6. Section 3-08.110, Award authority, of the Santa Rosa City Code is amended to read as follows:

“3-08.110 Award authority.

(A) Purchases or contracts that exceed \$100,000.00 shall be awarded by the City Council, except that the Board of Public Utilities may award purchases or contracts that exceed \$100,000.00 in accordance with City Charter section 25. Purchases or contracts equal to or less than \$100,000.00 may be awarded by the City Manager. Purchases or contracts equal to or less than \$50,000.00 may be awarded by the Purchasing Agent.

(B) No purchase or contract made by any person other than the above shall be binding

upon the City or constitute a lawful charge against any City funds.

(C) Modifications to contracts or purchase orders which represent no change in the scope of the character of material or services provided in the original contract or purchase order may be approved by the City Manager or Purchasing Agent if the dollar value of the modification is within their award authority.”

Section 7. Subsection (A) of Section 3-08.120, Bid procedure, of the Santa Rosa City Code is amended to read as follows:

“(A) Restrictions on Amount. If the cost of a service or commodity or a class of commodities normally obtained from the same sources of supply, or for a sale of personal property which has been found not to be required for public use, is estimated to exceed \$100,000.00, purchase or sale shall be by formal bid. When the cost of the foregoing items is less than \$100,000.00, purchase or sale shall be made in accordance with small purchase procedures. Bidding may be dispensed with in the discretion of the Purchasing Agent if the total cost is less than \$10,000.00.”

Section 8. Subsection (G) of Section 3-08.130, Competitive sealed bidding, of the Santa Rosa City Code is amended to read as follows:

“(G) Bid Opening. Sealed bids shall be submitted to the Purchasing Agent and shall be identified on the envelope as a bid. Bids may also be submitted over the Internet, at the discretion of the Purchasing Agent, in accordance with California Public Contract Code section 1601. Bids shall be opened in public at the time and place stated in the invitation for bids. A tabulation of all bids received shall be open for public inspection in the City’s purchasing office during regular business hours for a period of not less than 30 calendar days after the bid opening.”

Section 9. Section 3-08.140, Competitive sealed proposals, of the Santa Rosa City Code is amended to read as follows:

“3-08.140 Competitive sealed proposals.

(A) Conditions for Use. When the Purchasing Agent determines in writing that the use of competitive sealed bids is either not practical or not advantageous to the City, a contract or purchase may be entered into by use of competitive sealed proposals.

(B) Request for Proposal. Proposals shall be solicited through a request for proposal.

(C) Public Notice. Public notice of the request for proposal shall be given as determined by the Purchasing Agent.

(D) Receipt of Proposals. Sealed proposals shall be submitted to the Purchasing Agent by the date and time specified on the prescribed forms and shall be identified by the request-for-proposal number. Proposals may also be submitted over the Internet, at the discretion of the Purchasing Agent, in accordance with California Public Contract Code section 1601.

(E) Proposal Evaluation. The request for proposals shall state the criteria for evaluation and the relative importance of price and other factors.

(F) Negotiation. The most qualified and responsive offeror will be selected for

contract negotiation. If agreement cannot be negotiated with the first choice offeror, the second choice offeror will be contacted with the first choice offeror dismissed from further consideration on that particular project. The negotiation process shall be documented by the Purchasing Agent.

(G) Award. Award shall be made to the responsible offeror whose proposal is determined to be the most advantageous to the City, taking into consideration price and the criteria established for evaluation set forth in the request for proposal. The contract file shall contain the basis on which the award is made.

(H) Rejection of Proposals. The City reserves the right to reject any or all proposals in whole or in part and may waive any irregularities or informalities in the proposals when such action is considered to be in the best interest of the City. The Purchasing Agent shall have the authority to reject proposals and waive irregularities or informalities on behalf of the City. All proposals received after the designated closing date and time shall be considered nonresponsive and shall be rejected.”

Section 10. Section 3-08.150, Small purchase procedure, of the Santa Rosa City Code is amended to read as follows:

“3-08.150 Small purchase procedure.

Any contract or purchase not exceeding \$100,000.00 may be made in accordance with small purchase procedures; provided, however, that requirements shall not be artificially divided so as to constitute a small purchase under this section. Insofar as is practical, no less than three bids shall be solicited. All bids shall be recorded by the Purchasing Agent or the Purchasing Agent’s designee and maintained as a public record open for inspection for a period of one year from date of award. Award shall be made to the lowest responsive and responsible bidder through request for quotations, or to the offeror whose proposal is determined to be the most advantageous to the City through request for proposals following procedures promulgated by the Purchasing Agent.”

Section 11. Section 3-44.020, Definitions, of the Santa Rosa City Code is amended to read as follows:

“3-44.020 Definitions.

As used in this chapter, the following words are defined as follows:

(A) “Contract work” means employment of workers by contract, including change orders. “Contract work” excludes employment of City employees and day work.

(B) “Day work” means work performed by City employees and/or by the employment of workers paid by the City on a daily basis.

(C) “Director” means the Director of Transportation and Public Works, the Director of Utilities or the Director of Recreation and Parks.

(D) “Force account” means work performed by a contractor on a time and materials basis.

(E) “Graffiti eradication” means the removal or covering of graffiti, including, but not limited to, the use of a combination of chemicals, sandblasting and/or paint on both public and private property.

(F) “Major contract” means any contract let by the City for the performance of public works in an amount exceeding the cost limit established by Section 10105 of the State Contract Act.

(G) “Minor contract” means any contract let by the City for the performance of public works in an amount which does not exceed the cost limit established by Section 10105 of the State Contract Act.”

(H) “Public work” means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind, including demolitions, and the construction and installation of drainage systems, lighting and signaling systems, sewer and water systems, and park and recreational facilities.

(I) “Professional services” means services such as, but not limited to, the services of attorneys, physicians, architects, engineers, surveyors and other consultants or individuals or organizations possessing a high degree of technical skill.

(J) “General services” means any and all work performed or services rendered by independent contractors, with or without the furnishing of material, such as but not limited to: custodial services, building and equipment maintenance, machinery and equipment rental, and telephone, gas, water, electric light and power services, excluding contracts for public works projects or professional services.

Section 12. Section 3-44.030, Professional or support services, of the Santa Rosa City Code is amended to read as follows:

“3-44.030 Professional or general services—Chapter inapplicability.

This chapter has no application to the hiring of or contracting for professional services or general services.”

Section 13. Section 3-44.070, Competitive bidding, of the Santa Rosa City Code is amended to read as follows:

“3-44.070 Competitive bidding.

All public works contracts shall be based on competitive bids unless otherwise provided in this chapter. Bidding may be delegated or dispensed with in the discretion of the Director or Purchasing Agent if the expenditure is less than \$10,000.00.”

Section 14. Section 3-44.080, Emergency contracts, of the Santa Rosa City Code is amended to read as follows:

“3-44.080 Exceptions to Competitive Bidding

(A) Minor contracts. A minor contract for public works may be made free of the bidding requirements of this chapter when the awarding authority determines that it is in the best interests of the City to suspend competitive bidding for that contract.

(B) Emergency contracts. Emergency contracts for public works may be made free of the bidding requirements of this chapter when determined and declared by the awarding authority that an emergency exists.

(C) Sole source procurement. If limitations on the source or the scope and nature of the contract are such that no more than one contractor is available to meet the specifications, quality considerations, or other valid considerations, then contracts may be awarded free of any of the competitive bidding provisions of this chapter. Approval of the waiver of competitive bidding under this subsection may be made by the awarding authority after having reviewed and considered the reasons therefor.”

Section 15. Section 3-44.090, Sole source procurement, of the Santa Rosa City Code is amended to read as follows:

“3-44.090 RESERVED”

Section 16. Section 3-44.110, Contract award, of the Santa Rosa City Code is amended to read as follows:

“3-44.110 Contract award.

(A) Bid Opening. Sealed bids shall be submitted to the City and shall be identified as bids on the envelope. Bids may also be submitted over the Internet, at the discretion of the Director, the Director’s designee, or the Purchasing Agent, in accordance with California Public Contract Code section 1601. Bids shall be opened in public at the time and place stated in the public notice or in the request inviting bids or proposals. A tabulation of all bids or proposals received shall be open for public inspection during regular business hours for a period of not less than 30 calendar days after the bid opening.

(B) Tie Bids. If two or more bids received are for the same total amount or unit price, the City may consider factors other than price and accept the one it chooses.

(C) Awarding Authority. Major contracts shall be awarded by the City Council except that the Board of Public Utilities may award major contracts in accordance with City Charter section 25. Minor contracts may be awarded by the City Manager. Contracts within the award authority of the Purchasing Agent as established by Section 3-08.110 may be awarded by the Director or the Purchasing Agent.”

Section 17. Section 3-44.130, Indemnification, of the Santa Rosa City Code is amended to read as follows:

“3-44.130 Indemnification.

The successful bidder shall indemnify the City in accordance with the terms of the contract.”

Section 18. Subsection (A) of Section 3-44.150, Major Contracts – Bidding procedures, of the Santa Rosa City Code is amended to read as follows:

“(A) Public Notice. Public notice inviting bids shall be published once at least 10 days before the date of opening the bids in a newspaper of general circulation printed and published in the City. In addition, the Director or the Director’s designee may issue public notice to the trade publications. The Director or the Director’s designee may waive the necessity to publish the invitation to bid in a newspaper published in the City if the scope and nature of the contract is such that contractors are not available in the local area, except that public notice by other appropriate means, including but not limited to notice in trade publications, shall be issued as determined by the Director or the Director’s designee.”

Section 19. Section 3-44.160, Major contracts - Requirements, of the Santa Rosa City Code is amended to read as follows:

“3-44.160 Major contracts—Requirements.

(A) Bonds and Insurance. The successful bidder shall provide bonds and insurance in accordance with the terms of the contract.

(B) Wage Rates. Pursuant to the requirements of California Labor Code, the general prevailing wage rates in the locality in which the work is to be performed, for each craft or type of worker needed to execute the contract, shall be followed.

(C) Payments. Method of payment may be set forth in the contract, otherwise no payment shall be made to the contractor until the contract is performed satisfactorily and the notice of completion is recorded by the City. Retention shall be withheld in conformance with California Public Contract Code section 7201 for a period of 35 days from and after the date of recordation of the notice of completion.”

Section 20. Subsection (A) of Section 3-44.170, Minor contracts – Bidding procedures, of the Santa Rosa City Code is amended to read as follows:

“(A) Public Notice. Written proposals shall be solicited from at least three contractors by telephone, written request, or by public notice pursuant to Section 3-44.150(A). Bids may also be solicited and submitted over the Internet, at the discretion of the Director, the Director’s designee, or the Purchasing Agent, in accordance with California Public Contract Code section 1601. The contract shall be awarded to the lowest responsible bidder and shall be based on at least three bids or proposals where possible.”

Section 21. Section 3-44.180, Minor contracts - Requirements, of the Santa Rosa City Code is amended to read as follows:

“3-44.180 Minor contracts—Requirements.

(A) Bonds and Bid Security. The Director, the Director’s designee, or the Purchasing Agent may require a performance bond, a materials and labor bond, and a maintenance bond before awarding a contract, in such amounts as he or she determines are reasonable. If bonds are not required, the Director, the Director’s designee, or the Purchasing Agent, may, in his or her discretion, waive the requirement for bidder’s security. The form and amount of the bonds and the requirement for bidder’s security shall be as set forth in the bid and contract and approved as

to form by the City Attorney.

(B) Insurance. The contractor shall provide insurance in accordance with the terms of the contract.

(C) Wage Rates. The Director may require the contractor to comply with the prevailing wage rate provisions of the California Labor Code. If required, such requirements shall be set forth in the contract.

(D) Payments.

(1) No payment shall be made to the contractor until the contract is performed satisfactorily and the notice of completion is recorded.

(2) Retention shall be withheld in conformance with California Public Contract Code section 7201 for a period of 35 days from and after the date of recordation of the notice of completion.

(3) Guarantee. The contractor shall unconditionally guarantee 50 percent of all materials and workmanship for a period of time of one year from and after the date of recordation of the notice of completion.”

Section 22. Environmental Review. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act under CEQA Guideline 15061(b)(3) because it can be seen with certainty that there is no possibility that the adoption and implementation of this ordinance may have a significant effect on the environment.

Section 23. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 24. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

IN COUNCIL DULY PASSED AND ADOPTED this ____ day of _____, 2013.

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST: _____
City Clerk

APPROVED: _____
Mayor

APPROVED AS TO FORM:

City Attorney