

CITY OF SANTA ROSA  
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL  
SUBJECT: AMENDMENT TO SANTA ROSA CITY CODE CHAPTERS  
3-08, PURCHASING POLICY, AND 3-44, PUBLIC WORKS  
CONTRACT POLICY  
STAFF PRESENTERS: JIM WRIGHT, PURCHASING AGENT, FINANCE  
DEPARTMENT  
AGENDA ACTION: INTRODUCTION OF ORDINANCE

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ISSUE

Should the Council, by Ordinance, amend certain sections of Santa Rosa City Code Chapters 3-08, Purchasing Policy, and 3-44, Public Works Contract Policy, to incorporate changes recommended by the Purchasing Task Force, and to make the Chapters more current, concise and clear?

BACKGROUND

1. City Code Chapter 3-08, Purchasing Policy, establishes the policy for the purchase of supplies, material, equipment, and non-professional services, and defines the authority of the purchasing function. This Chapter was last updated in 2000 to enable the City to effectively utilize electronic commerce and the Internet in procurement activities, and to improve the ability of Purchasing staff to respond to user department needs in a more timely fashion. The significant changes included: the threshold for formal bidding raised from \$50,000 to \$100,000; allowed for competitive bidding to be dispensed with for purchases under \$5,000; and the City Manager's and Purchasing Agent's award authorities were raised to \$100,000 and \$50,000, respectively.
2. City Code Chapter 3-44, Public Works Contract Policy, establishes the policy for letting public works contracts. This Chapter was last updated in 2003 to clarify prevailing wage requirements for minor public works contracts, and to clarify prevailing wage and bond requirements for graffiti eradication contracts.
3. A Purchasing Task Force, which included representatives from the City Attorney's Office in an advisory capacity, and all City departments that use purchasing services, was convened in September 2011 with the goal of examining and making recommendations to streamline the purchasing process. The above City Code Chapters, the City Charter, and Purchasing procedures were reviewed during regularly scheduled meetings, processes were mapped, and recommendations were formulated by the Task Force members.

## ANALYSIS

1. The changes recommended by the Purchasing Task Force for City Code Chapter 3-08, Purchasing Policy, and the rationale for these recommendations are listed below:

Make the definition of “public work” consistent with the definition in the State of California Public Contracting Code (PCC). This change is recommended to make it easier for staff to interpret exactly what constitutes public work versus general services for procurement planning and execution purposes. General services contracts are used for purchasing services like janitorial services, landscaping services, and security guard services, and since generally more stringent requirements exist for public works contracts, like for prevailing wages, bonds, and contractors’ licenses, the distinction is significant. The PCC definition was embellished slightly to apply to projects typically performed by the City of Santa Rosa, and the recommended language is as follows:

“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.

Raise the threshold for competitive bidding from \$5,000 to \$10,000 and allow departments to request quotes. The changes recommended will raise the threshold for competitive bidding from \$5,000 to \$10,000, and allow the Purchasing Agent to delegate the solicitation of competitive quotes to departments for the purchase of services between \$5,000 and \$10,000, and the purchase of goods between \$5,000 and \$25,000 to expedite the procurement process.

Departments would be required under Purchasing procedures, to request quotes from at least three vendors, if possible, to document the vendors contacted and their quoted amounts, the vendor selected for the purchase, or the reason why quotes could not be obtained or why it was not in the City’s best interest to obtain quotes. Giving departments the ability to solicit quotes would allow them to expedite the procurement process if they need goods or services quickly by soliciting quotes themselves, rather than submit their requirements to Purchasing who would then request quotes subject to possible workload constraints. Competitive quotes would not be required but encouraged for purchases less than \$5,000.

2. The changes recommended by the Purchasing Task Force for City Code Chapter 3-44, Public Works Contract Policy, and the rationale for these recommendations are listed below:

Make the definition of “public work” consistent with the definition in the State of California Public Contracting Code (PCC). This recommended change for City Code Chapter 3-44, Public Works Contract Policy, is also recommended above for City Code Chapter 3-08, Purchasing Policy, for the same reasons, and will make the two Chapters consistent.

Establish a threshold for competitive bidding of \$10,000 and allow departments to request quotes. City Code Chapter 3-44, Public Works Contract Policy, currently indicates all public works contracts shall be based on competitive bids regardless of the dollar amount. The changes recommended do not establish a threshold, but will allow the Purchasing Agent or the Directors of Utilities, Transportation and Public Works, and Recreation and Parks to dispense with or delegate the solicitation of quotes for public works contracts less than \$10,000 to expedite the procurement process.

Purchasing traditionally has administered most public works contracts less than \$10,000, and for projects between \$5,000 and \$10,000, departments would be required under Purchasing procedures to request quotes from at least three vendors, if possible, to document the vendors contacted and their quoted amounts, the vendor selected for the contract, or the reason why quotes could not be obtained or why it was not in the City’s best interest to obtain quotes. Giving departments the ability to solicit quotes would allow them to expedite the procurement process if they need public works contracts performed quickly by soliciting quotes themselves, rather than submit their requirements to Purchasing who would then request quotes subject to possible workload constraints. Competitive quotes would not be required but encouraged for public works contracts less than \$5,000.

3. Training would be provided to departments on the correct way to solicit and document quotes from vendors and contractors, and reviews would be performed by department managers, Purchasing and appropriate staff to ensure compliance.
4. As part of the City Code review process, changes are also recommended to update the language, and to make it more current, concise and clear.

### RECOMMENDATION

It is recommended by the Finance Department that the Council introduce an ordinance amending certain sections of City Code Chapters 3-08, Purchasing Policy, and 3-44, Public Works Contract Policy, to incorporate changes recommended by the Purchasing Task Force, and to make the Chapters more current, concise and clear.

Author: Jim Wright, Purchasing Agent

Attachments:

- Proposed City Code 3-08 Purchasing Policy

- Proposed City Code 3-44 Public Works Contract Policy

## Chapter 3-08

### PURCHASING POLICY CHANGES

#### 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.

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(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.

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

**Deleted:** the construction, improvement, or repair, excluding maintenance of (1) public buildings and other works; (2) streams, bays, waterfronts, embankments or other work for protection against overflow; (3) streets and related improvements, including lighting and signaling systems; (4) sewer and water systems; (5) parks, playgrounds, recreational and scenic areas.¶

(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.

#### 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.

#### 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.

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**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.

**3-08.100 Competitive bidding.**

(A) All purchases of and contracts for supplies, material, equipment and services, and all sales of said property which have been found not to be required for public use, shall be based, wherever possible, on competitive bids.

(B) It shall be the responsibility of the Purchasing Agent to evaluate each purchase or surplus action and to initiate the appropriate method of purchase or disposal which will be most cost effective for the City.

(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.

(D) If limitations on the source of supply, necessary restrictions in specifications, necessary standardization, quality considerations, or other valid reasons for waiving competition appears, then purchases may be made without recourse to the competitive bidding provisions of this chapter. Approval of waiver of competitive bidding shall be given by the same level of authority as set forth in Section 3-08.110 of this chapter.

**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.

**3-08.120 Bid procedure.**

(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~~

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procedures. Bidding may be dispensed with in the discretion of the Purchasing Agent if the total cost is less than \$10,000.00

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(B) Formal bid procedures are competitive sealed bidding or competitive sealed proposals as provided for in this chapter.

### **3-08.130 Competitive sealed bidding.**

(A) Conditions for Use. All contracts and/or purchases formally bid shall be by competitive sealed bidding except as otherwise provided in Section 3-08.140 of this chapter.

(B) Invitations for Bids. An invitation for bids (IFB) shall be issued and shall include a purchase description, specifications and all contractual terms and conditions applicable to the procurement.

(C) Public Notice. Public notice of the invitation for bids shall be given as determined by the Purchasing Agent. Notices inviting bids shall include a general description of the articles to be purchased or sold, shall state where bid documents and specifications may be secured, and the time and place for opening bids.

(D) Bidders' Security. When deemed necessary by the Purchasing Agent, bidders' security may be prescribed in the invitation to bid. Bids received without the prescribed security shall be considered nonresponsive and shall be rejected. Bidders shall be entitled to return of bid security provided that a successful bidder shall forfeit his bid security upon refusal or failure to execute the purchase agreement within 10 days after the notice of award has been mailed, unless the City is responsible for the delay. If the successful award is made to the next lowest responsible bidder, the amount of the lowest bidder's security shall be applied by the City to the difference between the lowest bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder.

(E) Performance Bonds. When deemed necessary by the Purchasing Agent, a performance bond may be prescribed in such amount as he shall find reasonably necessary to protect the best interest of the City, and shall be described in the notice inviting bids. Failure to submit a performance bond in the time prescribed in the notice of award shall be just cause for annulment of the award and forfeiture of the bidder's security.

(F) Insurance and Indemnity. Bids solicited for contractual services or specialized equipment shall include insurance requirements and indemnity clauses.

(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.

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(H) Bid Evaluation. Bids shall be evaluated based on the requirement set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used. The contract will be awarded to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

(I) Local Preference. A one percent preference shall be granted to local bidders in determining low monetary bid, except that the amount of the preference shall not exceed \$5,000.00. "Local bidder" is defined as a business entity with its principal place of business located within the City limits. To qualify for the preference, local bidders must submit proof of the address of its principal place of business and a copy of a current City business license with their bids. This provision shall only apply to bids where written bids are solicited, and shall not apply when conducting verbal quotations. These provisions shall not apply to bids that are intended to be in cooperation with other jurisdictions. These provisions may be waived by the Purchasing Agent when prohibited by the conditions of federal, state or private grant monies.

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

(K) Tie Bids. If two or more bids received are for the same total amount of unit price, quality and service being equal and if there is no evidence of collusion between the bidders, then the award authority may accept the bid of its choice.

### **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

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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.

**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.

## Chapter 3-44

### PUBLIC WORKS CONTRACT POLICY CHANGES

#### 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 ~~D~~irector of Utilities or the ~~D~~irector 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.

#### 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.

#### 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.

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(2) . Work in or about streams, bays, waterfronts, embankments or other works for protection against overflow;¶

(3) . Construction of streets and related improvements including installation of lighting and signaling systems;¶

(4) . Construction of sewer and water systems;¶

(5) . Construction of parks, playgrounds and other recreational and scenic improvements;¶

(6) . Furnishing materials and supplies for any such project;¶

(7) . Maintenance and repair of public works; and¶

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**3-44.80 ceptions 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.”

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3-44.090 **RESERVED**

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

**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.

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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 executed without recourse to the competitive bidding provisions of this chapter. Approval of waiver of competitive bidding may be made by the awarding authority after having reviewed and considered the reasons therefor.

(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.

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(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.

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**3-44.130 Indemnification.**

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

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**3-44.150 Major contracts—Bidding procedures.**

(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

**Deleted:** The contractor shall assume the defense of, including settlement of, and indemnify and save harmless the City, its officers, agents, and employees, from all claims, loss, damage, injury, and liability of every kind, nature, and description, directly or indirectly arising from the performance of the contract or work, regardless of responsibility for negligence (including costs and expenses, which include attorney’s fees, incurred in connection therewith) and from any and all claims, loss, damage, injury, and liability, howsoever the same may be caused, resulting directly or indirectly from the nature of the work covered by the contract, regardless of responsibility for negligence (including costs and expenses, which include attorney’s fees, incurred in connection therewith) but excluding liabilities due to the sole negligence or willful misconduct of the City.¶

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in trade publications, shall be issued as determined by the Director or the Director's designee.

(B) Bid Security. All bidders shall furnish bidder's security in the amount of 10 percent of the contract price.

### 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.

### 3-44.170 Minor contracts—Bidding procedures.

(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.

(B) Bid Security. Bidder's security in the amount of 10 percent of the contract price shall be included with the proposal except as provided below.

### 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

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(1) . Performance bond in the amount of 50 percent of the contract price;¶

(2) . Labor and materials bond in the amount of 50 percent of the contract price;¶

(3) . Materials guaranty (maintenance) bond in the amount of 50 percent of the contract price. This bond shall unconditionally guarantee materials for a period of one year from and after the date of recordation of the notice of completion.¶

(B) . Insurance. The contractor shall assume all responsibility for damage to property or injury to person(s) caused by any equipment furnished by him under the contract or the operation thereof. The contractor shall take out and maintain during the life of the contract such public liability and property damage insurance satisfactory to the City, as shall protect him and the City from loss, liability, or claims for damages or personal injury, including accidental death as well as for claims for property damage, which may arise from or out of performance of the contract, whether such performance be by himself, his subcontractor, anyone directly or indirectly employed by him, or the City, its officers, agents or employees, and the amount of such insurance shall be as follows unless alternative Section 3-44.050 applies:¶

(1) . Public liability insurance in an amount not less than \$300,000.00 per person, \$500,000.00 per incident, or \$500,000.00 combined single limit;¶

(2) . Professional liability (errors or omissions) insurance in a like amount, if applicable;¶

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**Deleted:** Ten percent of the contract price shall be retained as a labor and materials surety

**Deleted:** unless the Director, at any time, determines a higher retention is necessary to cover any unpaid claims, provided proper stop notices pursuant to the California Civil Code of said claim ...

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.