

ORDINANCE NO. 1553

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA AMENDING THE ARCATA MUNICIPAL CODE RELATING TO PURCHASING PROCEDURES, TITLE II (ADMINISTRATION), CHAPTER 4 (FISCAL ADMINISTRATION)

The City Council of the City of Arcata does ordain as follows:

Section 1: Title II, Administration, Chapter 4, Fiscal Administration is hereby amended as shown by the following strikethrough for deleted text and bold double underscore for new text:

ARTICLE 1—ACCOUNTING AND BUDGETARY PRACTICES

SEC. 2300. Practices Generally.

The City's accounting system should make it possible to:

- (a) show that all applicable provisions have been complied with; and
- (b) determine fairly and with full disclosure the financial position and results of financial operations of each of the constituent funds and self-balancing account groups.

If there is a conflict between legal provisions and generally accepted accounting principles applicable to governmental units, legal provisions must take precedence. Insofar as possible, however, the City's accounting system should make possible the full disclosure and fair presentation of financial position and operating results in accordance with generally accepted principles of accounting.

SEC. 2305. Budget.

A current operating budget must be adopted by the City, on or before the first day of July of each year, and the accounting system must provide budgetary control over all City revenues and expenditures. Recurring expenditures should not substantially exceed recurring revenues for any fiscal year.

SEC. 2310. Accounting system generally.

The City's accounting system should be maintained and operated in accordance with generally accepted accounting principles as established from time to time by the Governmental Accounting Standards Board and the American Institute of Certified Public Accounts.

SEC. 2315. Charges for engineering services.

As a charge for the processing and checking of maps or plans by the Engineering Department for any firm or individual, the firm or individual shall pay to the City the current ~~hourly charge~~ fees as determined by ~~the Finance Director~~ resolution of the City Council. This section shall not apply to the processing and checking of maps or plans for subdivisions within the City.

ARTICLE 2—PURCHASING

SEC. 2400. Adoption of purchasing system.

In order to establish efficient procedures for the purchase of supplies, equipment, materials and services, to secure for the City supplies, equipment, materials, and services at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases, to clearly define authority for the purchasing function and to assure the quality of purchases, and to minimize purchases of the products of nuclear weapons contractors, a purchasing system is hereby adopted.

SEC. 2401. Purchasing Agent.

There is hereby created the position of Purchasing Agent. The City Manager shall be the Purchasing Agent, or in the absence of the City Manager, the Acting City Manager shall so serve. The City Manager may delegate any of the powers and functions of Purchasing Agent to ~~the Director of Finance or~~ to any other officer or employee of the City. The Purchasing Agent, or designee, shall have authority to:

- (a-) Purchase or contract for supplies, equipment, materials and services required by any using department in accordance with purchasing procedures prescribed by this Article, such administrative regulations as the Purchasing Agent shall adopt, and such other rules and regulations as shall be prescribed by the City Council.
- (b-) Negotiate and recommend execution of contracts for the purchase of supplies, equipment, materials and services.
- (c-) Act to procure for the City the needed quality in supplies, equipment, materials and services at least expense to the City.
- (d-) Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases.
- (e-) Prepare and recommend to the City Council rules governing the purchase of supplies, equipment, materials and services for the City.
- (f-) Prepare and recommend to the City Council revisions and amendments to the purchasing rules.
- (g-) Keep informed of current developments in the field of purchasing, prices, market conditions and new products.
- (h-) Prescribe and maintain such forms as are reasonably necessary to the operation of this Article and other rules and regulations.
- (i-) Supervise the inspection of all supplies, equipment and materials purchased to insure conformance with specifications.

(j-) Recommend the transfer of surplus or unused supplies, materials and equipment between departments as needed and the sale of all supplies, materials and equipment which cannot be used by any department or which have become unsuitable for City use.

(k-) Maintain a **list of qualified contractors (a “Bidders' List”)**, Vendors Catalog File and records needed for the efficient operation of the purchasing function.

SEC. 2401.1. Administrative Purchasing Policies and Procedures.

The Purchasing Agent shall develop for the City Council’s adoption, Administrative Purchasing Policies and Procedures to implement Articles 2 and 3 of this Chapter of the Municipal Code. All resolutions adopted by the Council creating specialized purchasing policies shall be automatically incorporated into said Administrative Purchasing Policies and Procedures.

SEC. 2402. Exemption from centralized purchasing.

The Purchasing Agent may authorize, in writing, any department to purchase or contract for supplies, materials, services and equipment independently of the Purchasing Agent; but ~~he~~ **the Purchasing Agent** shall require that such purchases or contracts shall be made in conformity with the procedures established by this Article and may further require periodic reports from the department on the purchases and contracts made under such written authorization.

SEC. 2403. Estimate of requirements.

All using departments shall file detailed requisitions or estimates of their requirements in equipment, materials, supplies, and services in such manner, at such time, and for such future periods as the Purchasing Agent shall prescribe. Such requisitions and estimates shall be filed with the Purchasing Agent on such forms as ~~he/she shall~~ **prescribed by the Purchasing Agent.**

SEC. 2404. Bidding for supplies, materials, equipment and services.

(a) Purchases of new supplies, materials, equipment and services shall be by **competitive** bid procedures pursuant to Sections 2407, **Formal competitive bid process,** and 2408, **Open market procedure.** Bidding shall be dispensed with only when:

(1) ~~a~~ **An** emergency requires that an order be placed with the nearest available source of supply;

(2) ~~w~~ **When** the amount involved is less than ~~Fifteen~~ **Sixty** Thousand Dollars (\$15,000.00 **60,000.00**); ~~or~~

(3) ~~w~~ **When** the commodity can be obtained from only one vendor, **or is uniquely compatible with existing City programs, equipment or systems.**;

(4) **When the P**urchases **is** of used supplies, materials, or equipment.

(b) All new equipment, materials, and supplies, except as otherwise provided in this Article, when the estimated cost thereof shall exceed ~~Fifteen-Sixty~~ Thousand Dollars (\$15,000.00 60,000.00), shall be purchased or contracted for by formal ~~written contract~~ **competitive bid received** from the lowest responsible bidder after due notice inviting proposals and pursuant to the procedure provided herein.

(c) All sales of personal property no longer required for the use of the City, when the estimated value shall exceed ~~Five Fifteen~~ Thousand Dollars (\$5,000.00 15,000.00), shall be sold by formal ~~written contract~~ **competitive bid** to the highest responsible bidder, after due notice inviting proposals and pursuant to the procedure provided herein.

SEC. 2405. Purchase orders.

Purchases of supplies, materials, services and equipment shall be made only by purchase order, except:

(a-) Services provided by public utilities;

(b-) Services provided pursuant to an approved contract or agreement;

(c-) Group health or life insurance or general liability, property damage or other insurance;

(d-) Legal advertising;

(e-) Cash advances for training and travel purposes;

(f-) Gasoline credit and purchases;

(g-) Memberships, dues and subscriptions; and

(h-) Small purchases made through the use of a petty cash fund **or a City-issued credit card.**

SEC. 2406. Encumbrance of funds.

Except in case of emergency, when necessary for the protection of the public peace, health, safety, welfare, or property or interest of the City or general public, the Purchasing Agent **or designee** shall not issue any purchase order for supplies, materials, services and equipment unless there exists an unencumbered appropriation in the fund account against which said purchase is to be charged.

SEC. 2407. Formal ~~contract~~ competitive bid procedure.

(a) All new equipment, materials, and supplies, except as otherwise provided herein, when the estimated cost thereof shall exceed ~~Fifteen Sixty~~ Thousand Dollars (\$15,000.00 60,000.00), shall be purchased or contracted for by formal ~~written contract~~ **competitive bid** from the lowest responsible bidder after due notice inviting proposals and pursuant to the procedure provided herein. **The invitation for proposals shall be issued in accordance with the City's Administrative Purchasing**

Policies and Procedures.

(b) All sales of personal property no longer required for the use of the City, when the estimated value shall exceed ~~Five~~ **Fifteen** Thousand Dollars (~~\$5,000.00~~ **15,000.00**), shall be sold by formal ~~written contract~~ **competitive bid** to the highest responsible bidder, after due notice inviting proposals and pursuant to the procedure provided herein.

(c)(a) Notice Inviting Bids. Notices inviting bids shall include a general description of the articles to be purchased or sold, shall state where bid ~~blanks~~ **forms** and specifications may be secured, and **shall state** the time and place for opening bids.

(1) Published Notice For Formal Competitive Bids. Notice inviting bids shall be published at least ~~ten~~ **fourteen** (~~10~~**14**) days before the date of opening of the bids. Notice shall be published at least ~~twice~~ **once** in a newspaper of general circulation in the City, ~~or if there is none, it shall be posted in at least three public places in the City. Newspaper notices must be five (5) days apart~~ **and in the appropriate local trade and/or vendor journals. At the discretion of the Purchasing Agent, bids may be solicited over the internet in accordance with Public Contract Code §1601.**

(2) Bidders' List. The Purchasing Agent shall also solicit ~~sealed~~ bids from all responsible prospective suppliers whose names are on the Bidders' List or who have requested their names to be added thereto.

(d)(b) Bidders' Security. When deemed necessary by the Purchasing Agent, bid security shall be prescribed in the Notice Inviting Bids. Unsuccessful bidders shall be entitled to return of bid security. A successful bidder shall forfeit ~~his~~ **the** bid security upon **the bidder's** failure or refusal ~~on his part~~ to execute a contract within ten (10) days after ~~the mailing~~ **issuance** of the notice of award. The City Council may, upon failure or refusal of the successful bidder to execute the contract, award it to the next lowest responsible bidder. If the City Council awards the contract to the next bidder, the amount of the successful bidder's security shall be applied by the City to the difference between the successful bid and the next lowest responsible bid, and the surplus, if any, shall be returned to the successful bidder.

(e)(e) Bid Submittal and Opening Procedure. ~~Sealed b~~ **Bids** shall be submitted to the Purchasing Agent and shall be identified as bids on the envelope **as specified in the Notice Inviting Bids. Bids that are solicited over the internet shall be submitted as required in Public Contract Code §1601.** Bids shall be opened in public at the time and place stated in the Notice Inviting Bids. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty (30) calendar days after the bid opening.

(f)(d) Rejection of Bids. The City Council shall have the authority to reject all bids, parts of bids, or all bids for any one or more materials, supplies, services or equipment included in the proposed contract, when the public interest would be served thereby and may re-advertise for bids.

(g)(e) Award of Contracts. Contracts shall be awarded by the City Council to the lowest responsible bidder. In determining "lowest responsible bidder" in addition to price, the following shall be considered:

- ~~(1.)~~ The ability, capacity and skill of the bidder to perform the contract or provide the service required;
- ~~(2.)~~ Whether the bidder has the facilities to perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- ~~(3.)~~ The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- ~~(4.)~~ The bidder's record of performance of previous contract or services;
- ~~(5.)~~ The previous and existing compliance by the bidder with laws relating to the bid;
- ~~(6.)~~ The sufficiency of the financial resources and ability of the bidder to supply the materials, supplies or equipment;
- ~~(7.)~~ The quality, availability and adaptability of the equipment, materials, or supplies to the particular use required;
- ~~(8.)~~ The ability of the bidder to provide future maintenance and service for the use of the subject of the bid;
- ~~(9.)~~ The number and scope of the conditions attached to the bid;
- ~~(10.)~~ The estimated cost monthly, quarterly, semi-annually or annually for maintenance of said equipment;
- ~~(11.)~~ The factors specified in Paragraph 5906(A) of the Arcata Nuclear Weapons Free Zone Act.

~~(g)~~ ~~(f)~~ **Tie Bids.** If two or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of re-advertising bids, the Council may accept the one it chooses or accept the lowest bid made by negotiation with the tie bidders.

SEC. 2407.5. Splitting bids.

Where bids are received for multiple goods or merchandise, the City may split the bid and award different contracts to the various lowest responsible bidders.

SEC. 2408. Open market procedure for materials, supplies and equipment.

Purchases of and contracts for materials, supplies and equipment of less than the estimated value of ~~Fifteen~~ Sixty Thousand Dollars (~~\$15,000.00~~ 60,000.00), and all sales of personal property no longer required for the use of the City; of less than the estimated value of ~~Five~~ Fifteen Thousand Dollars (~~\$5,000.00~~ 15,000.00), shall be made by the Purchasing Agent pursuant to the Open Market Procedure prescribed herein.

(a) Notice Inviting Bids. The Purchasing Agent shall solicit bids by written requests to prospective vendors, bidders by telephone, and by such other means as are readily available by readily available means including but not limited to social media, online platforms, and electronic list serves.

(b) Minimum Number of Bids. Open Market purchases shall, whenever possible, be based on at least three competitive bids, and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in Section 2407(e)(g).

(c) Written Bids. ~~Sealed written~~ Bids when required shall be submitted to the Purchasing Agent who shall keep a record of all Open Market orders and bids for a period of one year after the submission of bids or the placing of orders. This record, while so kept, shall be open to public inspection.

SEC. 2409. Inspection and testing.

The Purchasing Agent may inspect supplies, materials, and equipment delivered to determine their conformance with the specifications set forth in the order or contract. The Purchasing Agent shall have 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 specifications.

SEC. 2410. Emergency ~~purehases~~procurement.

(a) By Agent. In case of any apparent emergency such as military attack or sabotage, rioting, extraordinary fire, storm, epidemic, earthquake, or other disaster menacing life or property, the City Manager, or Purchasing Agent if so delegated, shall be empowered ~~to authorize the Purchasing Agent~~ to secure by Open Market procedure as herein set forth, at the lowest obtainable price, any equipment, materials, supplies or services regardless of the amount of the expenditure.

(1) Recorded Explanation. A full report of the circumstances of an emergency ~~purchase~~procurement shall be filed by the Purchasing Agent with the City Council and shall be entered in the minutes of the Council and shall be open to public inspection.

(b) By Department Heads. In case of actual emergency and with the approval of the City Manager, the head of any department may purchase directly any supplies whose immediate procurement is essential to prevent delays in the work of the department which may vitally affect the life, health or convenience of citizens or property of the City.

(1) Recorded Explanation. The head of the department shall send to the Purchasing Agent a requisition and a copy of the delivery record together with a full written report of the circumstances of the emergency. A report shall be filed with the Council as provided in subsection 2410(a)(1) above.

(2) Emergency Procedure. The Purchasing Agent shall prescribe by rules and regulations the procedure under which emergency purchases by heads of departments may be made.

SEC. 2411. Surplus supplies and equipment.

All departments, boards and commissions shall submit to the Purchasing Agent at such time and in such form as ~~he/she~~ Purchasing Agent shall prescribe, reports showing all equipment, materials and supplies, which are no longer used or which have become obsolete, worn-out or scrapped. The Purchasing Agent shall have authority to sell all equipment, materials and supplies which have become unsuitable for public use or to exchange same for, or trade in the same, on new equipment, materials and supplies. Such sales, exchanges or trade-ins shall be made in conformance with Section 2407 or Section 2408 of this Code, whichever is applicable.

SEC. 2412. Cooperative Purchasing.

The Purchasing Agent shall have the authority to join with other units of government in cooperative purchasing plans or may purchase from other governmental agencies when the best interest of the City would be served thereby, and shall particularly seek to do so in cooperation with other governmental agencies having nuclear weapons free contracting requirements.

The Purchasing Agent, upon receipt of a bid from a cooperative purchasing plan shall have the authority to solicit equal or better bids from ~~Area~~-vendors. Such Bid will be awarded in conformance with Sections 2407(e) or 2412(a).

SEC. 2413. Contracts for professional consultant services.

(a) Professional consultants for specific projects requiring specialized expertise may be retained from the private sector to augment the City's professional capabilities for specialized services not available to the City through the existing City work force, provided that the following conditions are met:

~~(1-)~~ Consultants are selected on the basis of demonstrated competence and professional qualification necessary for the satisfactory performance of the services required;

~~(2-)~~ The selection of professional consultants will not result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration; and

~~(3-)~~ City employees do not participate in the selection process when such employees have a ~~material~~ financial interest in the person or business entity seeking a contract with the City. For purposes of this section, "~~material~~ financial interest" is as defined in Government Code ~~§81700~~ 87103 of the Political Reform Act.

These requirements are intended to be consistent with Section 4526 of the State of California Government Code, which applies to professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms.

(b) Projects requiring professional consultant services shall be administered as follows:

(1) Small Projects. Where the potential fee is less than ~~\$25,000~~ **60,000**, the City Manager may negotiate with a qualified person or firm to perform the necessary services.

(2) Medium Projects. Where the project has a potential fee of ~~\$25,000~~ **60,000** to ~~\$50,000~~ **200,000**, the City Manager may negotiate with a qualified person or firm for performing the necessary services, subject to City Council approval of the negotiated contract.

(3) Larger Projects. Where the project has a potential fee of greater than ~~\$50,000~~ **200,000**, the City will prepare a Request for Proposal or Request for Qualifications as appropriate, and follow guidelines as detailed in the City's Administrative Purchasing Policies and Procedures. **If, pursuant to a four-fifths vote, the City Council determines that the Request for Proposal or Request for Qualifications process is not likely to serve the best interests of the City, the City Council may direct the City Manager to negotiate with a qualified person or firm for performing the necessary services, subject to City Council approval of the negotiated contract.**

SEC. 2414. Nuclear Weapons Free Contracts.

Section 5906 of the Arcata Nuclear Weapons Free Zone Act (Ordinance No. 1124) is incorporated in its entirety as this Section. For purposes of interpreting this Section, the definitions of Section 5902 of said Act shall apply.

SEC. 2415. Recycled Products.

A. The Purchasing Agent shall establish and maintain procedures and specifications for the purpose of recycled products including paper, oil and other products which give preference, whenever feasible, to the purchase of recycled products.

B. The Purchasing Agent shall purchase such recycled products, instead of non-recycled products, whenever such recycled products are available at no more than ten percent (10%) more than the total cost of non-recycled products, and when availability, fitness, quality, and price are equal.

C. For the purpose of this section "recycled paper" means all paper and wood pulp products containing post consumer waste and secondary waste materials as defined in this section, "Post consumer waste" means a finished material which would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary waste" means fragments of products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes post consumer waste, but does not include mill broke, wood slabs, chips, sawdust or other wood residue from a manufacturing process.

"Recycled paper" means a paper product with not less than 50 percent of its total weight consisting of secondary and post consumer waste with not less than 10 percent of its total weight consisting of post consumer waste.

ARTICLE 3—~~INFORMAL~~ BIDDING FOR PUBLIC PROJECTS

SEC. 2420. ~~Purposes~~Informal bidding.

A. Purposes. Pursuant to Resolution No. 012-09 (eff. 8/2/2001), the City Council duly elected to become subject to uniform construction cost accounting procedures as set forth in the California Public Contracts Code, Section 22000 et seq., the Uniform Public Construction Cost Accounting Act. By making such election, the City may follow an informal bid process to award contracts ~~by~~ **for** public projects, as defined in the Uniform Public Construction Cost Accounting Act, for contracts up to the monetary limits as set forth in the Uniform Public Construction Cost Accounting Act. The purpose of this ~~ordinance~~ **Section 2420** is to implement the authorized informal bidding protocol.

~~SEC. 2425. Qualified Contractors.~~

B. Qualified Contractors.

~~A.~~ **1. List of Contractors.** The Purchasing Agent shall maintain a list of qualified contractors, identified according to categories of work. Minimum criteria for development and maintenance of the contractor's list shall be determined in accordance with criteria established by the California Uniform Construction Cost Accounting Commission.

~~B.~~ **2. Notice.** All contractors on the list for the category of work being bid and construction trade journals as specified for Humboldt County by the California Uniform Cost Accounting Commission shall be mailed a notice inviting informal bids unless the product or service is proprietary.

~~C.~~ **3. Time for Notice.** All mailing of notices **inviting informal bids** to contractors and construction trade journals shall be completed not less than ten (10) calendar days before bids are due.

~~D.~~ **4. Description of Notice.** The notice inviting informal bids shall describe the project in general terms, how to obtain more detailed information about the project, and state the time and place for the submission of bids.

~~E.~~ **5. Award of Contract.** The City Council hereby delegates the authority to award informal contracts to the Purchasing Agent for public project contracts in the amount of ~~\$25,000.00~~ **60,000.00** or less. Informal contracts for public project contracts in an amount greater than ~~\$25,000.00~~ **60,000.00** shall be awarded by the City Council.

SEC. 2425. Performing, bidding and awarding contracts for public projects.

The City shall perform, bid or award contracts for public projects in a manner consistent with Public Contract Code § 22032 of the California Uniform Public Construction Cost Accounting Act (CUPCAA), including monetary limits for formal, informal, and

exempted bid processes. CUPCCAA monetary limits in place as of the effective date of this Ordinance are set out below. These monetary limits are subject to periodic adjustment by State legislative amendment to Public Contract Code § 22032, and the intent of this Section 2425 is to allow the City’s process for performing, bidding or awarding public projects to follow the CUPCCAA monetary limits as amended from time to time. The Purchasing Agent shall maintain current records of the CUPCCAA monetary limits.

A. Public projects of sixty thousand dollars (\$60,000) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order, and may be awarded by the Purchasing Agent.

B. Public projects of two hundred thousand dollars (\$200,000) or less may be let to contract by informal procedures as set forth in Article 3 of the CUPCCAA, and shall be awarded by the City Council.

C. Public projects of more than two hundred thousand dollars (\$200,000) shall, except as otherwise provided in Article 3 of the CUPCCAA, be let to contract by formal bidding procedure, and shall be awarded by the City Council.

Section 2: Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

Section 3: This ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that revisions to purchasing procedures in a manner consistent with state law may have a significant effect on the environment.

Section 4: This ordinance will take effect thirty (30) days after the date of its adoption.

DATE: December 15, 2021

ATTEST:

APPROVED:

/s/ Bridget Dory
City Clerk, City of Arcata

/s/ Stacy Atkins-Salazar
Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 1553, passed and adopted at a regular meeting of the City Council of the City of Arcata, County of Humboldt, State of California, held on the 15th day of December, 2021, by the following vote:

AYES: ATKINS-SALAZAR, GOLDSTEIN, MATTHEWS, SCHAEFER, WATSON

NOES: NONE

ABSENT: NONE

ABSTENTIONS: NONE

/s/ Bridget Dory
City Clerk, City of Arcata