

ORDINANCE NO. 1389

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA AMENDING THE ARCATA MUNICIPAL CODE RELATING TO ITS PURCHASING PROCEDURES

TITLE II—ADMINISTRATION CHAPTER 4—FISCAL ADMINISTRATION ARTICLE 2—PURCHASING

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

Section 1: Title II—Administration, Chapter 4—Fiscal Administration, Article 2—Purchasing, Sections 2400 through 2414 of the Arcata Municipal Code are hereby amended as follows:

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 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 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 Article 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 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 prescribe.

SEC. 2404. Bidding.

Purchases of new supplies, materials, equipment and services shall be by bid procedures pursuant to Sections 2407 and 2408. Bidding shall be dispensed with only when an emergency requires that an order be placed with the nearest available source of supply, when the amount involved is less than Fifteen Thousand Dollars (\$15,000.00), or when the commodity can be obtained from

only one vendor. Purchases of used supplies, materials, or equipment need not comply with this requirement.

All new equipment, materials, and supplies, except as otherwise provided in this Article, when the estimated cost thereof shall exceed Fifteen Thousand Dollars (\$15,000.00), shall be purchased or contracted for by formal written contract from the lowest responsible bidder after due notice inviting proposals and pursuant to the procedure provided herein. All sales of personal property no longer required for the use of the City, when the estimated value shall exceed Five Thousand Dollars (\$5,000.00), shall be sold by formal written contract 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.

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 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 procedure.

All new equipment, materials, and supplies, except as otherwise provided herein, when the estimate cost thereof shall exceed Fifteen Thousand Dollars (\$15,000.00), shall be purchased or contracted for by formal written contract from the lowest responsible bidder after due notice inviting proposals and pursuant to the procedure provided herein. All sales of personal property no longer required for the use of the City, when the estimated value shall exceed Five Thousand Dollars

(\$5,000.00), shall be sold by formal written contract to the highest responsible bidder, after due notice inviting proposals and pursuant to the procedure provided herein.

(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 and specifications may be secured, and the time and place for opening bids.

(1) Published Notice. Notice inviting bids shall be published at least ten (10) days before the date of opening of the bids. Notice shall be published at least twice 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.

(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.

(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 bid security upon failure or refusal on his part to execute a contract within ten (10) days after the mailing 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.

(c) Bid Opening Procedure. Sealed bids shall be submitted to the Purchasing Agent and shall be identified as bids on the envelope. 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.

(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.

(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 (Ordinance No. 1124).

(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. (Ord. No. 992)

Purchases of materials, supplies and equipment of less than the estimated value of Fifteen Thousand Dollars (\$15,000.00), and all sales of personal property no longer required for the use of the City, of less than the estimated value of Five Thousand Dollars (\$5,000.00), 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, by telephone, and by such other means as are readily available.

(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).

(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 purchases.

(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 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 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 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. (Ord. No.1185)

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 Arcata vendors. 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 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, 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 to \$50,000, 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, 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.

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.

Section 2: This ordinance will take effect thirty (30) days after the date of its adoption.

DATE: February 18, 2009

ATTEST:

/s/ Randal J. Mendosa
Acting City Clerk, City of Arcata

APPROVED:

/s/ Mark E. Wheetley
Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of **Ordinance No. 1389**, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California on the 18th day of February, 2009, by the following vote:

AYES: **WHEETLEY, STILLMAN, BRINTON, ORNELAS, WINKLER**

NOES: **NONE**

ABSENT: **NONE**

ABSTENTIONS: **NONE**

/s/ Randal J. Mendosa
Acting City Clerk, City of Arcata