



MEDINA, WASHINGTON

AGENDA BILL

Monday, June 14, 2021

Subject: Ordinance No. 999 Amending MMC Chapter 2.64 Public Works Purchasing Policies

Category: City Council Business

Staff Contact: Julie Ketter, Finance & HR Director

Summary

December 2020 the State Auditor's Office completed the City of Medina's 2019 annual audit. As in previous years, the auditor provided management with exit recommendations for updates to our policies and procedures. These do not affect the "clean audit" report status but need to be addressed before the next audit cycle.

It was noted that staff had established procedures expanding the use of formal sealed bid process to certain small works projects (\$100K<\$350K), when doing so would possibly save costs, but this was not included in the related code.

It was also noted that the code lacked a formal sealed bidding process for large Public Works projects (>\$350K). The City's current, undocumented procedures mirror the requirements of RCW 39.04, as reflected in the attached.

The necessary code updates to address the SOA's recommendations reflected in attached Exhibit A.

Attachment:

Ordinance 999, including **Exhibit A**

Budget/Fiscal Impact: None

Staff Recommendation: Approve

City Manager Approval: 

Proposed Council Motion: "I move to Adopt Ordinance No. 999 Amending MMC Chapter 2.64 as recommended by the State Auditor's Office."

Time Estimate: XX minutes.

Ordinance No. 999

MEDINA CITY COUNCIL

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MEDINA,
WASHINGTON, AMENDING MMC CHAPTER 2.64

WHEREAS, State policy requires that agencies develop written internal policies for managing Public Works Purchasing & Contracting; and

WHEREAS, as a result the State Auditor made recommendations that the City update policies to match current practices; and

WHEREAS based on example policies provided by MRSC, RCW and existing City practices, City staff drafted the recommended updates to MMC Chapter 2.64 for Public Works Purchasing & Contracting for City Council consideration;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MEDINA, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Amended MMC Chapter 2.64. The City Council finds it in the best interest of the City to have an updated Public Works Purchasing & Contracting policy recorded in MMC Chapter 2.64 and hereby adopts the amended MMC 2.64 attached hereto as **Exhibit A**.

Section 2. Corrections. The City Clerk and codifiers of the ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 3. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 4. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF MEDINA ON THE 14th DAY OF JUNE 2021 BY A VOTE OF X FOR, X AGAINST, AND X ABSTAINING, AND IS SIGNED IN AUTHENTICATION OF ITS PASSAGE THE 14th DAY OF JUNE 2021.

Jessica Rossman, Mayor

Approved as to form:
Ogden Murphy Wallace, PLLC

Attest:

Scott M. Missall, City Attorney

Aimee Kellerman, City Clerk

PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.: / AB

Chapter 2.64 Small Works Roster Public Works Purchasing & Contracting

2.64.020 Small Works Roster

The following small works roster procedures are established for use by the city of Medina pursuant to RCW [39.04.155](#):

A. Cost. The city of Medina need not comply with formal sealed bidding procedures for the construction, building, renovation, remodeling, alteration, repair, or improvement of real property where the estimated cost does not exceed ~~\$300,000~~\$350,000, which includes the costs of labor, material, equipment and sales and/or use taxes as applicable. Instead, the city of Medina may use the small works roster procedures for public works projects as set forth herein. At its discretion, the City may opt to use formal sealed bidding procedures for projects less than \$350,000 if it feels doing so can save costs on the project. The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process.

B. Publication. At least once a year, the city of Medina, on its own or through MRSC, shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. Responsible contractors shall be added to appropriate city or MRSC roster or rosters at any time that they submit a written request and necessary records. The city of Medina may require master contracts to be signed that become effective when a specific award is made using a small works roster.

C. Telephone or Written Quotations. The city of Medina shall obtain telephone, written or electronic quotations for public works contracts from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to a contractor who meets the mandatory bidder responsibility criteria in RCW [39.04.350](#)(1) and may establish supplementary bidder criteria under RCW [39.04.350](#)(2).

1. A contract awarded from a small works roster need not be advertised. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation.

2. Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster.

“Equitably distribute” means that the city of Medina may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.

3. If the estimated cost of the work is from \$150,000 to \$300,000, the city of Medina may choose to solicit bids from less than all the appropriate contractors on the appropriate small works roster but must notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The city of Medina has the sole option of determining whether this notice to the remaining contractors is made by:

- a. Publishing notice in a legal newspaper in general circulation in the area where the work is to be done;
- b. Mailing a notice to these contractors; or
- c. Sending a notice to these contractors by facsimile or e-mail.

4. At the time bids are solicited, the city of Medina representative shall not inform a contractor of the terms or amount of any other contractor’s bid for the same project.

5. A written record shall be made by the city of Medina representative of each contractor’s bid on the project and of any conditions imposed on the bid. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

D. Limited Public Works Process. If a work, construction, alteration, repair, or improvement project is estimated to cost less than \$35,000, the city of Medina may award such a contract using the limited public works process provided under RCW [39.04.155](#)(3). For a limited public works project, the city of Medina will solicit electronic or written quotations from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder as defined under RCW [39.04.010](#). After an award is made, the quotations shall be open to public inspection and available by electronic request.

For limited public works projects, the city of Medina may waive the payment and performance bond requirements of Chapter [39.08](#) RCW and the retainage requirements of Chapter [60.28](#) RCW, thereby assuming the liability for the contractor’s nonpayment of laborers, mechanics, subcontractors, materialmen, suppliers, and taxes imposed under RCW Title [82](#) that may be due from the contractor for the limited public works project. However, the city of Medina shall have the right of recovery against the contractor for any payments made on the contractor’s behalf.

The city of Medina shall maintain a list of the contractors contacted and the contracts awarded during the previous 24 months under the limited public works process,

including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded.

E. Determining Lowest Responsible Bidder. The city council or designated city official shall award the contract for the public works project to the lowest responsible bidder; provided, that all bids may be rejected and the city may call for new bids. A responsible bidder shall be a registered and/or licensed contractor who meets the mandatory bidder responsibility criteria established by Chapter 133, Laws of 2007 (SHB 2010) and who meets any supplementary bidder responsibility criteria established by the city of Medina.

F. Award. The city manager shall be authorized to award and execute contracts in accordance with Chapter [2.66](#) MMC. (Ord. 842 §§ 1, 2, 2009; Ord. 822 § 3, 2007)

2.64.040 Formal Sealed Bidding

The City adheres to requirements outlined in RCW Chapter 39.04 (Public Works) for the procurement of public works projects with contract values greater than \$350,000.