

ORDINANCE NO. 875
AN ORDINANCE OF THE CITY OF SONORA
TITLE 3, PURCHASING, TEXT AMENDMENTS
UNIFORM CONSTRUCTION COST ACCOUNTING PROCEDURES

AN ORDINANCE OF THE CITY OF SONORA AMENDING CHAPTER 3.60, SECTIONS 3.60.010 THROUGH 3.60.200 OF THE CITY OF SONORA'S MUNICIPAL CODE TO ENACT THE UNIFORM CONSTRUCTION COST ACCOUNTING PROCEDURES

Adding to the City of Sonora's Municipal Code Section:

WHEREAS, State law requires that public works projects in excess of \$5,000 must be publicly advertised, formally bid and awarded to the lowest responsible and responsive bidder; and

WHEREAS, preparing public projects for formal bidding as required by State law can add substantial costs to a project; and

WHEREAS, prior to the passage of Assembly Bill No. 1666, which added Chapter 2 of the Public Contract Code, existing law did not provide a uniform cost accounting standard for construction work performed or contracted by local public agencies; and

WHEREAS, Public Contract Code Section 22000 et seq., the Uniform Public Construction Cost Accounting Act (the "Act") establishes such a uniform accounting standard; and

WHEREAS, the California Uniform Construction Cost Accounting Commission established under the Act has developed cost accounting policies and procedures for implementation by local public agencies in the performance of, or in the contracting for, construction of public projects; and

WHEREAS, the California Uniform Construction Cost Accounting Commission has adjusted the bid amounts detailed in the cost accounting policies and procedures for implementation by local public agencies in the performance of, or in the contracting for, construction of public projects.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Sonora does hereby ordain as follows:

Section 1. **Recitals.**

The above recitals are true and correct and made a part of this ordinance.

Section 2. **Municipal Code Amendment.**

Chapter 3.60 of the City of Sonora's municipal code are hereby amended as follows:

Chapter 3.60
Purchasing

3.60.010 Purpose

The purpose of this chapter is to establish procedures for the purchase and procurement of supplies, equipment and services and to provide efficiencies of public projects by implementing the California Uniform Public Construction Cost Accounting Act (UPCCAA).

It is the policy of the city of Sonora to obtain supplies, equipment and services at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases and contracts, and to clearly define authority for the purchasing and contracting function.

(Ord. 703 § 1 (part), 1995.)

3.60.020 Definitions

As used in this chapter, the following words and phrases have the meanings ascribed to them in this section.

- A. "Contract" means a written agreement between the city and a vendor, including a purchase order issued to a vendor. It is a binding agreement based upon mutual assent of the parties, made for a lawful purpose, between competent parties, in the form required by law and generally supported by consideration.
- B. "Formal bid" or "offer" means a bid which must be submitted in a sealed, marked envelope and in conformance with a prescribed format, to be opened at a specific time.
- C. "Informal bid" means an unsealed competitive offer conveyed by letter, telephone facsimile/telegram, or other means and under conditions different from those required of formal bidding.
- D. "Local business enterprise" means a business entity with fixed offices or distribution points located within the boundaries of the city, listed in the business license tax files with a city business address and designating, if appropriate, for sales tax purposes, the city as a point of sale for retail transactions.
- E. "Professional services" means accounting, appraisal, architectural, auditing, engineering, environment, land surveying, construction, management, legal, financial planning, medical or planning services or any service with similarly professional, scientific, expert or highly technical skill.
- F. "Public Contract" means those projects enumerated in Public Contract Code §§ 22002(c) and (d), as amended, which definitions are incorporated by reference.
- G. "Purchaser" means a city staff member primarily responsible for purchasing any given supplies, equipment or services, with dollar limits as defined in Administrative Policy No. 33.
- H. "Services contract" means (1) a contract directly engaging the time and effort of a contractor whose primary purpose is to perform identifiable tasks rather than to furnish an end item of supply, or (2) the rental of equipment, machinery and other personal property. A service contract may be either a nonpersonal or a person-al contract. It can also cover services performed by either profession-al or nonprofessional personnel, whether on an individual or organi-zational basis.
- I. "Sole source procurement" means an award for a commodity or service to the only known capable supplier, occasioned by the unique nature of the requirements, the supplier or market conditions.
- J. "Supplies" means all supplies, materials and equipment.

(Ord. 703 § 1 (part), 1995.)

3.60.030 Authority of the City Administrator

Subject to the availability of funds and the procedures set forth in this chapter, the city administrator is authorized to bind the city, by written contract or purchase order, involving an expenditure not to exceed twenty-five thousand dollars or the purchase of supplies, professional or contractual services in any one transaction, without advertising or previous specific action by the city council, to be furnished to the city for which funds have been budgeted and appropriated therefor.

(Ord. 703 § 1 (part), 1995.)

3.60.040 Authority of the City Council

Unless otherwise provided herein all contracts for supplies and professional or contractual services involving an expenditure of more than twenty-five thousand dollars shall be awarded by the city council. No contract shall be binding or have any force or effect until signed by the city administrator.

Specific supply purchases or specific remodeling of city buildings included in the city council approved fiscal budget need not be approved again by the city council.

(Ord. 703 § 1 (part), 1995.)

3.60.050 Professional Services

The city shall not be restricted to engaging in a competitive bidding procedure when seeking to retain specially trained persons or firms to provide services in connection with financial, economic, accounting, engineering, administrative, or other matters involving specialized expertise or unique skills. In securing professional services, the city shall utilize a request for proposal (RFP) procedure, the method and details of which may be set forth by administrative policy adopted by the city. Award of a contract shall be on the basis of demonstrated competence and on professional qualifications and timeliness necessary for the satisfactory performance of the services required.

(Ord. 703 § 1 (part), 1995.)

3.60.060 Competitive Bidding Preference

- A. All purchases of and contracts for supplies, materials, equipment and services, not defined in Public Contract Code sections 22002-22003, shall be based, wherever possible, on competitive bids. However, all bidding may be dispensed with as follows: for emergency purchases, where the goods or services can be obtained from only one source, or as designated by Administrative Policy No. 33.

(Ord. 703 § 1 (part), 1995.)

- B. All public projects defined by Public Contract Code section 22002-22003 the City may elect to utilize the UPCCAA.
- C. All Department Managers that initiate a public improvement project must insure delivery of the improvement complies with the UPCCAA.

3.60.070 Informal Bid Procedure

For purchases outside Public Contract Code section 22002-22003 involving over ten thousand dollars but not greater than twenty-five thousand dollars, purchaser shall make a reasonable effort to obtain competitive bids, the number determined by Administrative Policy No. 33, without the necessity of advertising, but with solicitation by letter, telephone or otherwise. Purchase shall then be made from the lowest possible bidder. In the event competitive bids are not obtained, purchaser shall document the reason(s).

(Ord. 703 § 1 (part), 1995.)

3.60.080 Formal Contract Procedure

Formal written contracts shall be used for all purchases of supplies or services or combination thereof, in excess of twenty-five thousand dollars. The city attorney will approve the form and legality of all formal written contracts before execution thereof.

(Ord. 703 § 1 (part), 1995.)

3.60.90 Determining the Lowest Responsible Bidder

In determining the responsible bidder, the following shall be considered, in addition to price:

- A. The quality of supplies offered;
- B. The ability, capacity and skill of the bidder to perform the contract or provide the supplies or services required;
- C. Whether the bidder can perform the contract or provide the supplies or services promptly, or within the time specified, without delay or interference;
- D. The sufficiency of the bidder's financial resources and the effect thereof on his/her ability to perform the contract or provide the supplies or services;
- E. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- F. The quality of the bidder's performance on previous orders or contracts with the town;
- G. Litigation involving the bidder on previous orders or contracts with the city;
- H. The previous and existing compliance by the bidder with laws and ordinances relating to the subject of the purchase or contract;
- I. The ability of the bidder to provide future maintenance and service where such maintenance and service is desirable; and
- J. Payment of local sales or use taxes that will accrue to the city.

(Ord. 703 § 1 (part), 1995.)

3.60.100 Negotiated Purchases and Contracts

Notwithstanding anything in this chapter to the contrary, the city administrator or his/her designee may authorize the purchase of technical or specialized supplies or equipment by competitive negotiation when:

- A. The supplies, equipment or services are such that suitable technical performance specifications are not readily available;
- B. The city is not able to develop descriptive specifications;
- C. The quality of the supplies and equipment cannot be accurately determined by reference to their specifications alone; and
- D. Such a method of purchase would be more advantageous to the city.

(Ord. 703 § 1 (part), 1995.)

3.60.110 Exemption from Formal Contract Procedure

Purchases of goods or services which can be obtained from only one source may be made without advertising and after approval by the city council. The city council may authorize purchase of supplies, equipment and services without complying with the above procedures when in the opinion of the council, compliance with the procedures is not in the best interest of the city. The city administrator may authorize emergency purchases of supplies, equipment or services. Emergency purchases are those required to prevent the immediate interruption or cessation of necessary city services or to safeguard life, property or the public health and welfare.

(Ord. 703 § 1 (part), 1995.)

3.60.120 Sole Source Procurement

In those cases where the procurement of any product or service is obtainable, only from a single or sole source, the purchaser, upon approval of the city council or city administrator (depending on contract price), shall negotiate, with the purveyor of such product or service, fair and equitable terms. Purchases from regulated public utilities may be made pursuant to applicable tariff without regard to this chapter.

(Ord. 703 § 1 (part), 1995.)

3.60.130 Change Orders

The purchaser may approve any changes within an approved contingency of 5% of the total Purchase Order. Any change orders to purchases where the approved contingency will be exceeded, must be approved by the city administrator. Any time an appropriation limit will be exceeded City Council approval is required to approve additional appropriation.

(Ord. 703 § 1 (part), 1995.)

3.60.140 Splitting Orders to Avoid Competitive Bidding Prohibited

It is unlawful to split or separate into smaller orders the purchase of supplies, materials, equipment or services for the purpose of evading the competitive bidding provisions of this chapter.

(Ord. 703 § 1 (part), 1995.)

3.60.150 Cooperative Purchasing Agreement with Other Agencies

Nothing contained in this chapter shall prohibit the participation by the city in any voluntary cooperative purchasing agreement or program entered into between the City and the State, County or other municipalities or agencies. City staff is empowered and authorized to act under the provisions of this chapter to procure for the city supplies and equipment in conjunction with such voluntary cooperative purchasing agreements or programs which may be available and advantageous to the City. All formal contract and bidding procedures to be followed in such cases shall be those specifically enumerated in the voluntary cooperative purchasing agreement or program.

(Ord. 703 § 1 (part), 1995.)

3.60.160 Uniform Public Construction Cost Accounting Act

- A. The City Council elects to participate in the California Uniform Public Construction Cost Accounting Act (Public Contract Code §§ 22000, et. seq.) and to provide procedures as established by the California Uniform Construction Cost Accounting Commission.

3.60.170 Public Process Bidding Procedures

- A. A Public Project of sixty thousand dollars (\$60,000) or less may be performed by City force account, by negotiated contract, or by purchase order.
- B. A Public Project greater than sixty thousand dollars (\$60,000) and less than or equal to two hundred thousand dollars (\$200,000) may be let to contract by informal bid procedures, as established in § 3.60.190.
- C. A Public Project of more than two hundred thousand dollars (\$200,000) shall, except as otherwise provided in § 3.60.190(D), be let to contract by formal bidding procedure in accordance with all applicable provisions of the California Public Contract Code or successor statute.
- D. The described project cost limits of subsections A through C shall be increased automatically as authorized pursuant to the adjustments made by the California Uniform Construction Cost Accounting Commission under Public Contract Code § 22020 or successor statute.

3.60.180 Public Project Negotiated Contract Procedures

- A. Cost Estimate. For Public Projects qualifying under subsection A of §3.60.170, the appropriate department head shall obtain a cost estimate from the project engineer or architect prior to negotiating a contract with a responsible contractor. For any City force account work, the department head shall first comply with the guidelines established by the California Uniform Construction Cost Accounting Commission in determining the cost of the public work.
- B. Award of Contract. The City Administrator shall have the authority to award and to execute any contract for the public work qualifying under subsection A of § 3.60.170 in an amount up to and including twenty-five thousand dollars (\$25,000) with the City Council awarding bids up to and including sixty thousand dollars (\$60,000).

3.60.190 Public Works Project Informal Bidding Procedures

This section is applicable to those projects that qualify under subsection B of §3.60.170.

- A. Maintenance of Contractors List. A list of contractors shall be developed and maintained in accordance with the provisions of Public Contract Code §22034 and criteria

promulgated from time to time by the California Uniform Construction Cost Accounting Commission.

B. Notice Inviting Informal Bids.

- a. Contents of Notice. The notice inviting bids shall describe the project in general terms, set forth how to obtain more detailed information about the project, state the time and place for submission of bids, and whether bid deposit or bond and faithful performance bond will be required.
 - b. Mailing of Notice. Where a public project subject to the provisions of this Section is to be performed, a notice inviting informal bids shall be mailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with subsection A of §3.60.200, and/or to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Public Contract Code §22036 or successor statute.
 - c. Timing of Notice. All mailing of notices shall be completed not less than ten (10) calendar days before bids are due.
 - d. Additional contractors and/or construction trade journals. Additional contractors and/or construction trade journals may be notified at the discretion of the City, provided however if there is no list of qualified contractors maintained by the City for a particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the Commission.
 - e. Proprietary Products or Services. If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.
- C. Award of Contract. The City Administrator shall have the authority to award and to execute any contract for the public work qualifying under subsection B of §3.60.170 in an amount up to and including twenty-five thousand dollars (\$25,000) with the City Council awarding bids up to and including two hundred thousand dollars (\$200,000). The contract shall be awarded to the lowest responsive and responsible bidder whose bid or proposal fulfills the purpose intended according to criteria designated in the solicitation. The City may waive any minor bid irregularities.
- D. Bids in Excess of Statutory Amount. If all bids received are in excess of two hundred thousand dollars (\$200,000), the City Council may, by adoption of a resolution by a four-fifths vote, award the contract, at two hundred twelve thousand five hundred dollars (\$212,500) or less, to the lowest responsive and responsible bidder, if it determines the cost estimate of the public agency was reasonable.

3.60.200 Null and Void

- A. Any purchase or contract made contrary to the provisions of this chapter shall be null and void.

(Ord. 703 § 1 (part), 1995.)