

CITY OF HEALDSBURG

ORDINANCE NO. 1081

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HEALDSBURG REPEALING ORDINANCES NO. 934 AND 954 RELATING TO PURCHASING POLICIES AND PROCEDURES AND ADDING A NEW CHAPTER 3.24 TO THE HEALDSBURG MUNICIPAL CODE GOVERNING PURCHASING POLICIES AND PROCEDURES

WHEREAS, in 1996, the City Council adopted Ordinance No. 934 which added sections 2-45 through 2-60, inclusive, of Article IV of Chapter 2 to the Healdsburg Municipal Code; and

WHEREAS, in 1999, the City Council adopted Ordinance No. 954 which amended Ordinance No. 934 by increasing staff's purchasing authority limits for purchases made by the Electric Utility Department; and

WHEREAS, Ordinance No. 934 and Ordinance No. 954 are hereinafter referred to jointly and severally as "the Purchasing Ordinance"; and

WHEREAS, the Purchasing Ordinance establishes policies and procedures governing the purchase of services, supplies, material and equipment used for municipal purposes; and

WHEREAS, establishing local policies and procedures governing purchase (or lease) of services, supplies, material and equipment for municipal purposes, and that do not conflict with applicable state or federal laws is within the police power of the City of Healdsburg ("City"); and

WHEREAS, it is desirable and appropriate to have adopted purchasing policies and procedures that provide for efficiency, consistency, accountability and responsibility; and

WHEREAS, certain economic and geographic factors and conditions, as identified herein, have shown that certain local businesses operate at a competitive disadvantage due to generally higher cost of commercial/retail rents, land values and property taxes, housing costs, and fuel prices, all as further outlined below; and

WHEREAS, money that is spent in Healdsburg tends to circulate within the community, thereby promoting economic activity within the City; and

WHEREAS, money that is spent in Healdsburg increases tax revenues for the City; and

WHEREAS, it is in the best interest of the City and its residents to adopt purchasing policies and procedures that promote economic activity within, and increase tax revenues for, the City;

NOW, THEREFORE, the City Council of the City of Healdsburg ordains as follows:

SECTION 1. Based on information and evidence provided, the City Council finds as follows:

- A. It is desirable and appropriate, and in the best interest of the City, to have adopted purchasing policies and procedures that accomplish all of the following:
 - 1. Provide for efficiency, consistency, accountability and responsibility and that tend to promote the goal of securing services, supplies, material and equipment at the lowest feasible cost commensurate with the level of quality required.
 - 2. Exercise financial control over and consistency in purchasing activities.
 - 3. Responsibly manage public funds, stimulate the local economy, and generate local sales tax revenue.
 - 4. Recognize and make allowances for economic and geographic disadvantages suffered by certain local businesses.
- B. The general cost of purchasing, leasing or renting retail space in Healdsburg is at least 5% higher than in most other areas of Sonoma County.
- C. Land values and associated property taxes tend to be at least 5% higher in Healdsburg than in surrounding communities.
- D. The cost of housing is the single biggest component of the "cost of living" when comparing the economic differences between communities. The cost of housing in Healdsburg tends to be between 10% and 30% higher than for surrounding communities, including Santa Rosa, Windsor, Cloverdale and Ukiah.
- E. The price of fuel and other "consumables" tends to be higher in Healdsburg than in surrounding communities.
- F. Funds that are spent within the City of Healdsburg tend to circulate within the City of Healdsburg on average 3 times before leaving the City.

SECTION 2. City Ordinance 934, which codified sections 2-45 through 2-60 of Article IV in Chapter 2 of the Healdsburg Municipal Code, City Ordinance No. 954 which amended Ordinance No. 934, and any other conflicting ordinances and resolutions previously adopted by the City Council relating to policies, procedures or regulations for purchasing services, supplies, material and/or equipment are hereby repealed in their entirety, excepting however, any adopted policies, procedures or regulations relating to the purchase of power, electricity, or related supplies, materials, equipment or services purchased by the Northern California Power Agency on behalf of the City of Healdsburg, which shall remain in effect.

SECTION 3. Title 3, Chapter 3.24, "Purchasing Policies and Procedures", is hereby added to the Healdsburg Municipal Code as follows:

"Chapter 3.24 -- Purchasing Policies and Procedures

Section 3.24.010 Purpose of purchasing policies and procedures

The purpose of this chapter is to (1) establish efficient and effective processes for the purchase or lease of services, supplies, materials and equipment at the lowest feasible cost commensurate with the level of quality required; (2) exercise financial control and accountability over purchases; (3) compensate for economic and geographic disadvantages suffered by certain local businesses; and (4) clearly define authority for the purchasing function. In adopting this ordinance, it is the intent of the City Council to responsibly manage public funds, stimulate the local economy, generate local sales tax revenue by purchasing locally where feasible, and provide responsibility for, and consistency in, implementing purchasing policies and procedures.

Section 3.24.020 Definitions

As used in this chapter 3.24, the following terms shall have the meanings described below:

- A. "City" The City of Healdsburg, including the political entity and its geographical boundaries
- B. "Code" The City of Healdsburg Municipal Code
- C. "Excluded Goods or Services" Goods or Services (as described below) in which any city official or city employee has a financial interest
- D. "Goods or Services" Services, supplies, materials and equipment that are the subject of this chapter
- E. "Local Vendor" a bidder, vendor, supplier of Goods or Services having an established place of business within the City and having had a City business license continuously for at least twelve (12) months
- F. "Purchasing Officer" The City Manager or designee of the City Manager
- G. "This chapter" Chapter 3.24 of the City of Healdsburg Municipal Code

Section 3.24.030 Purchasing Officer designated and duties established

- A. The City Manager is designated as Purchasing Officer for the City and for the City's Redevelopment Agency (collectively, "City").
- B. The City Manager may delegate all or a portion of the duties of Purchasing Officer to any city staff member. The Purchasing Officer shall have the authority to:
 - 1. Purchase, or contract for the sale or lease, of Goods or Services required by the City in accordance with purchasing procedures established in this chapter and other applicable law;
 - 2. Negotiate and recommend execution of contracts for purchase or lease of Goods or Services in accordance with purchasing procedures established in this chapter and other applicable law;
 - 3. Act to procure for the City the necessary quality in Goods or Services in accordance with the provisions of this chapter and other applicable law;
 - 4. Prepare and recommend to the City Council amendments to the purchasing rules;
 - 5. Establish and maintain such forms as reasonably necessary to the purchasing function and maintain other records necessary for the efficient acquisition of Goods or Services;
 - 6. Supervise the inspection of all Goods or Services purchased or leased by the City to ensure conformance with specifications;
 - 7. Recommend and oversee the sale or disposal of all Goods or Services which cannot be used by the City, or which have become unsuitable for City use;
 - 8. Maintain a bidder's list, including a "local bidder's list" that identifies businesses and service providers that have an established place of business within the City and that have had a City business license for at least twelve (12) months.
- C. Purchase Agreements up to an amount of twenty-five thousand dollars (\$25,000.00) may be authorized and executed by the Purchasing Officer. Purchase Agreements of twenty-five thousand (\$25,000.00) dollars or more shall be authorized by City Council.

Section 3.24.040 Procedures for Purchases of less than \$25,000

- A. For purchases of Goods or Services of less than \$25,000, or that are not subject to other laws and/or procedures, the Purchasing Officer shall use the following procedures.

1. For purchases of Goods or Services having an estimated value of one thousand dollars (\$1,000.00) or less, informal quotes may be obtained from vendors but are not required.
2. For purchases of Goods or Services having an estimated value of more than one thousand dollars (\$1,000.00), but less than twenty-five thousand dollars (\$25,000.00), firm quotes either received in writing or taken verbally but confirmed in writing shall be obtained. At the discretion of the Purchasing Officer, the competitive bid process described in Section 3.24.050 may be used for the acquisition of Goods or Services having an estimated value of more than one thousand dollars (\$1,000.00), but less than twenty-five thousand dollars (\$25,000.00).

B. Bids should be solicited and obtained from Local Vendors whenever feasible.

Section 3.24.050 Procedures for Purchases of more than \$25,000; Formal Sealed Bids

A. Except for contracts involving the purchase of electricity and/or electric power made by the Northern California Power Agency on behalf of the City, when the estimated amount of value involved in a purchase transaction exceeds twenty-five thousand dollars (\$25,000.00), the authorization to award a purchase contract shall be made by City Council Resolution following a sealed competitive bid process as outlined below:

1. A "notice inviting bids" shall be prepared and shall include a general description of the Goods or Services to be purchased or sold, where bid instructions and specifications may be obtained, the time and place for bid openings, and whether a bid deposit or bond, or other security, such as performance, payment or maintenance bonds, will be required.
2. A "notice inviting bids" shall be advertised at least twice in a newspaper of general circulation in the City with the first publication being at least ten (10) days prior to the opening of bids.
3. The Purchasing Officer shall solicit sealed bids from known responsible Local Vendors whose names are on a bidders' list, including a Local bidders' list, or who have requested their names to be added thereto. The Purchasing Officer may advertise the "notice inviting bids" in applicable publications and websites accessible to the public.
4. When required by law or deemed appropriate by the Purchasing Officer, and if included in bid instructions, bidders may be required to submit a bid deposit or bond in an amount determined by the Purchasing Officer. Bidders shall be entitled to return of bid security, except that a successful bidder (and a successful bidder's

surety, if a bid bond is required) shall be liable for any damages suffered or incurred by the City upon refusal or failure to execute a contract within ten days after the notice of award of contract has been mailed, unless the city is responsible for the delay.

5. The City Council may, on refusal or failure 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 lowest bidder following a forfeit of the bid security by the lowest bidder, the amount of the lowest bidder's bid security shall be applied by the City to the difference between the low bid and the second lowest bid; the surplus, if any, shall then be returned to the lowest bidder.
6. When deemed appropriate by the Purchasing Officer, and if included in bid instructions, any person or entity entering into a contract with the City may be required to furnish a faithful performance deposit or bond in an amount determined by the Purchasing Officer.
7. Sealed bids shall be submitted to the Purchasing Officer and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notices. 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.
8. In its sole discretion, the City Council may reject all bids presented and re-advertise for bids.

B. Bids should be solicited and obtained from Local Vendors whenever feasible.

Section 3.24.060 Purchasing Award

- A. In awarding a contract for Goods or Services that is subject to this chapter, the following procedures and policies shall be applied:
 1. Subject to the provisions of subsection (3), below, and except as may otherwise be provided in this chapter, contracts that are subject to this section shall be awarded to a responsible bidder who submits the lowest responsive bid.
 2. If two (2) or more bids received from responsible bidders are for the same total amount or unit price, quality and service being equal, preference shall be given to a Local Vendor, in accordance with subdivision (3), below, or the Purchasing Officer or City Council (depending on who will make an award) may accept the lowest bid made by negotiation with the tie bidders.

3. Local Vendors shall be given an allowance of five percent (5%), up to a maximum allowance of five thousand dollars (\$5,000) on any bid for Goods or Services. In applying this Local Vendor allowance, the Purchasing Officer shall deduct five percent (5%) from the total bid submitted by a Local Vendor for purposes of comparing bid prices and determining the lowest responsive bid.

Section 3.24.070 Purchasing Award; Factors to be Considered

- A. In determining bid responsiveness, the Purchasing Officer or City Council (depending on who will make an award) shall consider whether the bid documents are completed as required and the bid generally conforms to the bidding requirements. The Purchasing Officer or City Council may waive any bid non-conformities in accordance with applicable law. Any conditions or qualifications included by a bidder in a bid will be considered when determining whether a bid is responsive.
- B. In its discretion, the Purchasing Officer or City Council (depending on who will make an award) may use any of the following criteria in evaluating the responsibility of bidders:
 1. The ability, capacity and skill of the bidder to perform the contract or provide the service required.
 2. The ability of the bidder to perform the contract or provide the service promptly, or within the time specified, without delay or interference.
 3. The reputation and experience of the bidder, including the City's previous experience with the bidder.
 4. Prior and current compliance by the bidder with applicable law, including without limitation, compliance with any applicable licensing requirements.
 5. The sufficiency of the bidder's financial and staffing resources for performing the contract or providing the Goods or Services.
 6. The quality, availability and adaptability of the supplies or contractual services to the particular use required.
 7. The ability and availability of the bidder to provide future maintenance/service.
 8. Any conditions or exceptions attached to the bid by the bidder.

Section 3.24.080 Exceptions to this Chapter

- A. The following conditions constitute sufficient cause to dispense with the bidding requirements of this chapter and such requirements shall not apply to:

1. Contracts for professional or expert services, such as, but not limited to, services rendered by architects, attorneys, engineers, and other specialized consultants.
 2. Goods or Services which can be provided by only one (1) supplier or only from one (1) source due to a patent or copyright.
 3. Contracts for advertising, ordinary travel expense items, and subscriptions to trade publications or other publications used by the City for a public purpose.
 4. Situations where no bids have been received following bid announcements or all bids received exceed budget appropriations or costs estimates.
 5. Emergency conditions which involve a sudden, unexpected occurrence or discovery of a condition or circumstance that poses a clear and imminent danger requiring immediate action and that compels placing an order with the most expedient source of supply.
 6. Contracts involving the purchase of electricity and/or electric power or other Goods and Services executed by the Northern California Power Agency on behalf of the City.
 7. Contracts for janitorial services for City buildings and facilities
 8. Products or services for which other public agencies have gone through a competitive bidding process and are able to have the bid prices they received extended to the City. These "**cooperative purchasing**" or "piggyback purchasing" agreements (including, but not limited to, CCOP State Department of General Services, U.S. General Services Administration, any County, and State Cooperative Purchasing pools) in which the City is eligible to participate shall may be used in lieu of any bidding requirements under this chapter.
 9. When the estimated value of the Goods or Services is less than \$1,000.
 10. When the City Council specifically waives the competitive bid process and authorizes staff to negotiate the purchase by a four-fifths vote.
- B. This chapter is expressly made inapplicable to bids for public projects as defined by the State of California in the Public Contracts Code, § 20160, et seq.
- C. Contracts for Excluded Goods or Services that are not otherwise prohibited by law shall not be eligible for the five percent allowance as described in §3.24.060(A)(3) of this chapter.

Section 3.24.090 Local preference for discretionary purchases

To the extent permitted by applicable law, and subject to the provisions of this chapter, purchases that are exempt from competitive bidding law shall be made from Local Vendors, so long as the Purchasing Agent determines that the Local Vendor meets the City's requirements and that the purchase from a Local Vendor is otherwise in the best interests of the City.

Section 3.24.100 Splitting orders prohibited

It is unlawful to split or separate into smaller orders the purchase of Goods or Services for the purpose of evading the competitive bidding provisions of this chapter. For Goods or Services which are purchased repeatedly throughout a year, the bidding procedures used shall be consistent with the estimated cumulative expenditures during a twelve (12) month period.

Section 3.24.110 Prevailing wages

Potential bidders for Goods and Services that are subject to the requirements of the California Prevailing Wage Law (California Labor Code section 1720, et seq.) shall be notified of the applicability of prevailing wage requirements in the bid documents and shall comply therewith.

Section 3.24.120 Recycled products

Product purchases, whenever feasible, shall contain the highest amount of post-consumer and recovered materials practicable. In all cases, Goods or Services must meet reasonable performance standards, and be readily available at a competitive price.

Section 3.24.130 Surplus Supplies and Equipment

At such times as determined by the Purchasing Officer, reports shall be prepared showing all supplies and equipment which are no longer used or which have become obsolete or worn out. The Purchasing Officer shall have the authority to sell, trade or exchange all supplies and equipment. All surplus property valued at more than five hundred (\$500.00) dollars requires a Council Resolution declaring it surplus. Upon declaration of an asset as surplus, the City Manager shall have the authority to dispose of supplies and equipment in whatever manner shall best serve the interests of the City. Surplus property shall be offered first for gift or sale to local public schools and then to local 501(c)(3) charitable organizations before being disposed of by other methods.

Section 3.24.140 Inspection and testing of purchases

The Purchasing Officer is authorized to order the inspection of supplies and equipment delivered and services performed to determine their conformance with the specifications set forth in the

order or contract. The Purchasing Officer 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."

SECTION 4: This Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to §§15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because it has no potential for resulting in physical change to the environment, either directly or indirectly.

SECTION 5: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Healdsburg hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to any such decision or preemptive legislation.

SECTION 6. Effective date: This ordinance of the City of Healdsburg shall be effective thirty (30) days after the date of its passage. Before expiration of fifteen (15) days after its passage, this ordinance, or a summary thereof as provided in California Government Code Section 36933, shall be published at least once in a newspaper of general circulation published and circulated in the City of Healdsburg, along with the names of the members of the City Council voting for and against its passage.

INTRODUCED by the City Council of the City of Healdsburg on the 20th day of April, 2009 and PASSED and APPROVED on the 4th day of May, 2009 by the following vote:

AYES: Councilmembers: (4) Chambers, McGuire, Plass, and Vice Mayor Wood

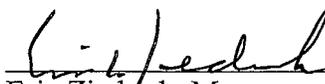
NOES: Councilmembers: (0) None

ABSENT: Councilmembers: (0) None

ABSTAINING: Councilmembers: (1) Mayor Ziedrich

SO ORDERED

ATTEST


Eric Ziedrich, Mayor


Maria Curriel, City Clerk

Dated: May 5, 2009