

ORDINANCE No. 2018-08

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA
REVISING CHAPTER 2-8 “PURCHASING PROCEDURES” OF THE
CITY OF SAN JUAN BAUTISTA MUNICIPAL CODE**

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WHEREAS, the City Council directed staff to amend the San Juan Bautista Municipal Code to implement the Uniform Public Construction Cost Accounting Act and increase the spending authorization of the City Manager.

**THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA HEREBY ORDAINS
AS FOLLOWS:**

1. Environmental Determination. The City Council hereby finds that the adoption of this Ordinance does not constitute the approval of a “project” under the California Environmental Quality Act (CEQA) pursuant to section 15060(c)(2) and (3) and 15061(b)(3) of the State CEQA Guidelines. Specifically, this Ordinance will not result in a direct or foreseeable indirect physical change in the environment as it does not authorize the construction of any new structure or other physical changes to the environment.

2. Chapter 2-8 Replaced With a New Chapter 2-8. San Juan Bautista Municipal Code Chapter 2-8 entitled “Purchasing Procedures” is replaced in full with the following, which is hereby added to the San Juan Bautista Municipal Code as set forth on the attached eight (8) pages:

“Chapter 2-8 Purchasing Procedures”

Section 2-8-01. Purpose.

In order to establish efficient procedures for the acquisition of supplies, services, equipment, and materials at the lowest possible cost commensurate with the quality needed, to dispose of surplus personal property to the best advantage of the city, to exercise positive financial control over purchases, to clearly define authority for the purchasing function, and to assure the quality of purchases, the purchasing procedures set forth in this Chapter are adopted.

Section 2-8-02. Delegation of Purchasing Authority.

The City Manager is designated as the Purchasing Agent for the city. The Purchasing Agent shall have the authority to:

- A. Purchase or contract for supplies, services, equipment, and materials required by any department in accordance with the purchasing procedures prescribed by this Chapter, any administrative regulations that the City Manager shall adopt for the internal management and operation of the purchasing procedures, and any other rules and regulations as shall be prescribed by the City Council.
- B. Negotiate and recommend execution of contracts for the purchase of supplies, services, equipment, and materials.
- C. Act to procure for the City the needed quality in supplies, services, equipment, and materials at the least expense to the city.
- D. Discourage non-competitive bidding and endeavor to obtain as full and open competition as possible on all purchases.
- E. Prescribe and maintain such forms as reasonably necessary for the operation of this Chapter.
- F. Supervise the inspection of all supplies, services and equipment purchased to insure conformance with specifications.
- G. Recommend the transfer of surplus or unused supplies and equipment between departments as needed, and the sale of surplus supplies and equipment.
- H. Join with other governmental agencies in joint purchasing endeavors where the purchasing procedures substantially conform to this Chapter and state law.
- I. Make purchases by taking advantage of valid contract terms that have been negotiated by another governmental agency pursuant to Section 2-8-03.

Section 2-8-03. Agreements with other governmental agencies.

The City Manager may authorize in writing a joint effort with any other governmental agency to purchase or contract for specified supplies, services, equipment, and materials. He/she shall ensure that such purchases or contracts by other governmental agencies conform to the procedures established by state law.

Section 2-8-04. Departmental requisition procedure.

Departments shall submit requests for supplies, services and equipment to the City Manager.

Section 2-8-05. Bidding procedures for public construction projects.

A. Purpose: The purpose of this section is to adjust the monetary limits for public construction projects which can be carried out with administrative decision, informally bid, and formally bid projects. It is the intent of the city council that this chapter shall govern the selection of contractors by the city through the bidding procedures specified in article 1, chapter 2, part 3, division 2 of the Public Contract Code section 22000 et seq., the Uniform Public Construction Cost Accounting Act.

B. Definitions: The definitions employed in article 1 of chapter 2, part 3, division 2 of the Public Contract Code section 22000 et seq., and their statutory successors shall govern the construction of this section.

Accordingly, a "public project" means any of the following:

1. Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.
2. Painting or repainting of any publicly owned, leased, or operated facility.
3. In the case of a publicly owned utility system, "public project" shall include only the construction, erection, improvement, or repair of dams, reservoirs, power plants, and electrical transmission lines of two hundred thirty thousand (230,000) volts and higher.

A "public project" does not include maintenance work, such as:

1. Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
2. Minor repainting.
3. Resurfacing of streets and highways of less than one inch (1.0") thickness.
4. Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.
5. Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, power plants, and electrical transmission lines of two hundred thirty thousand (230,000) volts and higher.

C. Contract Letting Procedures: Except as otherwise provided herein, the provisions of the Uniform Public Construction Cost Accounting Act, Public Contract Code Section 22000 et seq., shall be controlling.

1. List of Qualified Contractors: The responsible department head shall maintain a list of qualified contractors identified according to categories of work in accordance with Public Contract Code Section 22034 and as determined by the California Uniform Construction Cost Accounting Commission.
2. No Bidding Required: Public projects less than or equal to Forty Five Thousand Dollars (\$45,000.00) may be performed by city staff, by force account with a contractor, by negotiated contract, or by use of a purchase order, pursuant to Section 22032 of the Public Contract Code.
3. Informal Bids: The city shall follow the following informal bidding procedure for public projects of One Hundred Seventy Five Thousand Dollars (\$175,000.00) or less, or those

public projects as specified in either section 22032(b) or Section 22020 of the Public Contract Code.

D. Notice: A Notice Inviting Informal Bids shall be sent to: (1) all contractors on the city's list of qualified contractors for the category of work being bid, and (2) the construction trade journals as specified in Section 22036 of the Public Contract Code and as named by the California Uniform Construction Cost Accounting Commission.

(1) The mailing of notices to contractors and construction trade journals shall be completed not less than ten (10) calendar days before bids are due.

(2) 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. Authority To Award Bid: The authority to award informal contracts is hereby delegated to the city manager unless all informal bids received are in excess of One Hundred Seventy Five Thousand Dollars (\$175,000.00), in which case the city council may, by passage of a resolution by a four-fifths (4/5) vote, award the contract at the amount set forth in Section 22034(f) of the Public Contract Code or less to the lowest responsible bidder, if it determines the cost estimate of the responsible department head was reasonable.

F. Formal Bids: The city shall follow the following formal bidding procedure for public projects equal to or greater than One Hundred Seventy Five Thousand Dollars (\$175,000.00), or as specified in either Section 22032(b) or Section 22020 of the Public Contract Code.

1. Plans and Specifications: The city council shall adopt plans, specifications, and working details for all public projects that are formally bid.

2. Notice: A notice inviting formal bids shall be published and mailed as specified below.

(a) A notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project.

(b) The notice inviting formal bids shall be mailed to construction trade journals specified in section 22036 of the Public Contract Code and as named by the State's Uniform Construction Cost Accounting Commission, at least thirty (30) calendar days before the date of opening the bids.

(c) The notice inviting formal bids shall be published in a newspaper of general circulation printed and published within the jurisdiction of the city, or if none exists, in a newspaper of general circulation which is circulated within the jurisdiction of the city, at least fourteen (14) calendar days before the date of opening the bids.

(d) In addition to notice required by this section, the public agency may give such other notice as it deems proper.

G. Procedure for Award of Informal or Formal Bids:

1. If a contract is awarded, it shall be awarded to the lowest responsive and responsible bidder. If two (2) or more bids are the same and the lowest, the city council may accept the one it chooses.

2. The city council has the discretion to reject any bids presented.

3. The city council has the discretion to reject all bids, if:

(a) The city council declares that the project may be more economically performed by employees of the city; and

(b) The city furnishes written notice to the apparent low bidder that informs the bidder of the agency's intention to reject the bid. Such notice shall be mailed at least two (2) business days prior to the public hearing at which the city council intends to reject the bid.

4. If after the first invitation of bids all bids are rejected, after reevaluating its cost estimates of the project, the city shall have the option of either of the following:

(a) Abandoning the project or re-advertising for bids in the manner described by this section; or

(b) By passage of a resolution by a four-fifths (4/5) vote of the city council, declaring that the project can be performed more economically by the employees of the public agency, may have the project done by force account without further complying with the uniform public construction cost accounting act or this section.

5. No Bids Received: If no bids are received through the formal or informal procedure, the project may be performed by the employees of the city by force account, or negotiated contract without further complying with the uniform public construction cost accounting act or this section.

6. Emergencies: In the case of emergency when repairs or replacements are necessary, the governing body may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the city, by contractor, or by a combination of the two (2). If the city chooses not to give notice for bids to let contracts, the city must comply with the provisions of the uniform public construction cost accounting act, Public Contract Code section 22050 et seq. (Ord. 2010-65, 7-6-2010; amd. Ord. 2015-88, 11-2-15)

7. Notice Inviting Bids. Notices inviting bids shall distinctly describe the project, state where bid forms and specifications may be secured, and state the time and place for the receiving and opening of sealed bids. Notices inviting bids must be posted at the City's designated posting places at least 10 days prior to bid opening.

8. Bidder's Security. All bids presented in connection with the public project shall be accompanied by bidder's security in the form and amount prescribed by Public Contract Code Sections 20170 and 20171. In all cases bidders shall be entitled to return of bid security provided that a successful bidder shall forfeit the bid security upon refusal or failure to execute the

contract within ten days after the notice of award of contract has been mailed, unless the City is responsible for the delay. 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, the amount of the lowest bidder's security shall be applied by the City to the difference between the low bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder.

9. Bid Opening Procedure. Sealed bids shall be submitted to the City Clerk and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notice. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty calendar days after the bid opening.

10. Rejection of Bids or No Bids Received. In its discretion, the City Council may reject any and all bids presented and re-advertise for bids. If no bids are received, the City Council may award the project by negotiated contract.

11. Award of Contracts. Contracts shall be awarded by the City Council to the lowest responsible bidder except where as otherwise provided herein.

12. Tie Bids. If two or more bids received are for the same amount or unit price, quality and service being equal, and if the public interest will not permit the delay of re-advertising for bids, the City Council may accept the one it chooses, or accept the lowest bid made by negotiation with the tie bidders, or may utilize a blind public drawing.

13. Performance Bonds. The City Manager shall have authority to require a performance bond before entering a contract in such amount as he/she finds reasonably necessary to protect the best interests of the city. If the City Manager requires a performance bond, the amount of the bond shall be described in the notice inviting bids.

Section 2-8-06. Open market procedures for purchases exclusive of public projects.

(A) Purchases of supplies, services, equipment and the sale of personal property that do not fall under Section 2-8-05 shall be by the open market procedures described in this section when the estimated value, exclusive of sales tax and freight, exceeds Twenty Thousand Dollars (\$20,000.00). Open market procedures may be dispensed with only when an emergency requires that an order be placed with the nearest available source or when the supply, service, or equipment can be obtained from only one vendor. The City Manager shall solicit open market quotes or bids by written requests to prospective vendors, by telephone, e-mail, or by public notice posted at the City's designated posting places.

(B) When entering a professional services contract, the skill or ability of the entity or person performing the services is a key component of the selection criteria. The selection should be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. Cost is only one factor in determining the selection. In these cases, the City Manager shall solicit requests for proposals or requests for quotations to prospective vendors either by mail, telephone, e-mail or by public notice posted at the designated posting places.

Section 2-8-07. Use of purchase orders.

Purchases of supplies, services, and equipment shall be made by purchase order.

Section 2-8-07.1. Encumbrance of funds only in cases of emergency.

Except in cases of emergency, a purchase order for supplies, services, equipment, or materials may not be issued unless there exists an unencumbered appropriation against which the purchase is to be charged.

Section 2-8-07.2. Written contract required for public projects and major acquisitions and sales.

A. Purchases and contracts, exceeding twenty thousand dollars (\$20,000.00), for supplies, services, equipment, and materials, and the sale of personal property shall be by written contract with:

(1) The lowest responsible bidder;

(2) In the case of sales by the city, the highest responsible bidder; or

(3) In the case of professional or personal services contracts, based on the criteria established in Section 2-8-06(b). Such purchases and contracts shall be pursuant to the procedures set forth in this Chapter.

B. All contracts regardless of amount shall be reviewed and approved by the City Attorney.

Section 2-8-07.3. Dollar limits for approvals.

A. Purchases of supplies, services, equipment, and materials and the sales of personal property shall be approved by:

(1) The City Manager, if such purchases or sales do not exceed twenty thousand dollars (\$20,000.00).

(2) The City Council, upon recommendation of the City Manager, if such purchases or sales exceed twenty thousand dollars (\$20,000.00).

B. All real property acquisitions or real property lease contracts, regardless of term or amount, shall be approved by the City Council.

Section 2-8-08. Determination of lowest responsible bidder.

In determining the lowest responsible bid, criteria will include, but not be limited to, the following:

A. The extent to which the offer meets the requirements and specifications of the city;

- B. Long term and short term costs to the city, including maintenance;
- C. Impact on operational efficiency, which includes delivery requirements;
- D. Ability and reliability of the bidder and suppliers to provide and guarantee the items procured;
- E. Financial stability of the bidder.

Section 2-8-09. Local vendor preference.

A. The city council shall be authorized to give preferences for goods and services as permitted by applicable state or federal law and specifically provided for from time to time by city council resolution or ordinance.

B. In procurement of goods or services for the city requirements, preference shall be given to those vendors who have a local presence in the city of San Juan Bautista, provided that the price, quality, terms, delivery, and service reputation are determined to be equal by the city council under the criteria set forth in Section 2-8-08.

C. Contracts for goods or services may be awarded to a local vendor who is not the lowest responsible bidder but who has certified that it is a local vendor pursuant to this section and if the cost difference between the local vendor and the lowest responsible bidder does not exceed five percent of the lowest responsible bid.

D. To qualify as a local vendor the entity submitting the bid or quotation must certify to all of the following at the time that the bid or quotation is submitted:

1. It has fixed facilities with employees located within the city limits;
2. It has a business street address (post office box or residential address shall not suffice to establish a local presence);
3. All sales tax returns for the goods purchased must be reported to the state through a business within the geographical boundaries of the city, and the city will receive one percent or such percentage of sales tax of goods purchased as is allocable to the city from time to time under the existing state law; and
4. It has a current city business license.

E. False certifications relating to local vendor preferences shall be immediate grounds for rejection of any bid or quotation, or in the case when the bid has been awarded, shall be grounds for voiding the bid or quotation, terminating any contract, and seeking damages thereto.

Section 2-8-10. Inspection, testing and acceptance responsibility.

The responsibility for the inspection, testing and acceptance of all supplies, equipment and contractual services performed shall rest with the City Manager.

Section 2-8-11. Sale of surplus supplies and equipment.

An auction company may be used to sell surplus supplies and equipment in which the best price will be achieved on behalf of the City.

3. Severability. This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

4. Effective Date. This Ordinance shall go into effect thirty (30) days after the date of its adoption.

THE FOREGOING ORDINANCE was first read at a regular meeting of the San Juan Bautista City Council on the 20th day of November 2018, and adopted at a regular meeting of the San Juan Bautista City Council on the 18th day of December, 2018 by the following vote:

AYES: Flores, Freeman, DeVries, Jordan, Edge

NOES: None

ABSENT: None

ABSTAIN: None



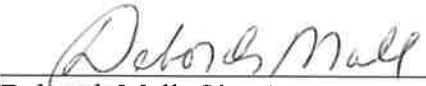
Mayor César Flores

ATTEST:



Laura Cent, City Clerk

APPROVED AS TO FORM:



Deborah Mall, City Attorney