

ORDINANCE NO. _____ (N.C.S.)

**AN ORDINANCE AMENDING ARTICLE III AND ARTICLE III-A OF CHAPTER 12 OF
THE SALINAS MUNICIPAL CODE RELATED TO PURCHASING POLICIES AND
PROCEDURES**

City Attorney Impartial Analysis

This ordinance renumbers Article III and makes non-substantive updates to Article III and Article III-A of Chapter 12 of the Salinas Municipal Code to align Article III with current purchasing policies and practices.

WHEREAS, establishing local policies and procedures governing the purchase or services, supplies, materials, and equipment for municipal purposes, and that do not conflict with applicable state or federal law, is within the police power of the City of Salinas; and

WHEREAS, it is desirable and appropriate to have adopted purchasing policies and procedures that provide for efficiency consistency, accountability, and responsibility, and for those policies and procedures to be reviewed and updated as needed;

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF SALINAS AS FOLLOWS:

SECTION 1. Article III of Chapter 12 of the Salinas Municipal Code is hereby renumbered and amended as follows:

Article III. Purchasing

Sec. 12-~~48~~03.01. Title and Purpose.

This article shall be known as the City of Salinas purchasing ordinance. Except as otherwise specifically provided in this Code, it shall govern all purchasing activity of the City, except real property acquisition and disposition, public works construction projects, and as may otherwise be specifically provided in this Code.

Sec. 12-03.02. Definitions.

- (a) "Professional Services" are services which require the exercise of professional discretion and independent judgment, based on advanced or specialized knowledge, expertise, or training gained by formal studies or experience.
- (b) "Public Works Purchases" means, for purposes of this article, purchases for public works projects. "Public Works Projects" means construction, alteration, demolition, or repair work done under contract and paid for in whole or in part out of public funds. Public Works Project does not include maintenance work, which includes routine, recurring, and usual work for the preservation or protection of any publicly owned or operated facility for its intended purpose.

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Sec. 12-~~1903.03~~ Purchasing Agent—Appointment.

The Purchasing Agent shall be appointed by the City Manager.

Sec. 12-~~2003.04~~ Same—Powers and Duties.

Subject to specific limitations stated in this article, and except as may otherwise be specifically provided in this article, the Purchasing Agent shall have the following powers and duties:

- (a) ~~He or she shall be the~~To act as the sole agent for the City in contracting for supplies, materials, equipment, and contractual services, ~~except with respect to the procurement of legal services in which case the Purchasing Agent shall be the City Attorney. This authority may be delegated in writing where necessary with the approval of the City Manager.~~
- (b) ~~He or she shall~~To prepare and maintain a current purchasing manual to provide for the implementation of this article and for the direction and information of users and the public.
- (c) ~~He or she shall~~To prepare or supervise preparation of written specifications and advertising.
- (d) ~~He or she shall~~To advertise and award bids as authorized.
- (e) ~~He or she shall~~To execute purchase orders and changes thereto.
- (f) ~~He or she shall~~To inspect or supervise the inspection of delivered items to ensure adherence to specifications and standards.
- ~~(g) He or she shall maintain and control a central stores inventory on a revolving fund arrangement.~~
- ~~(h)(g)~~ He or she shallTo purchase only when funds are available.
- ~~(h)~~ He or she shallTo edit and issue specifications for all bids or quotations.
- (i) To prescribe and maintain such forms as are reasonably necessary to fulfill the duties described in this section.

Sec. 12-~~2403.05~~ General Purchases or Public Works Purchases in excess of two hundred-fifty thousand dollars.

- (a) General Purchases. Except as otherwise directed by the City Council or pursuant to subsection (b) of this section, whenever the amount to be expended for any purchase in excess of two hundred-fifty thousand dollars the Purchasing Agent shall advertise for sealed bids and the contract of purchase shall be awarded to the lowest responsible bidder.

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(b) Public Works Purchases. For public works purchases, except as otherwise directed by the City Council, whenever the amount to be expended for any purchase is in excess of two hundred-fifty thousand dollars, the Purchasing Agent shall advertise for sealed bids and the contract of purchase shall be awarded to the lowest responsible bidder. The two hundred-fifty thousand dollar limit set forth above shall automatically adjust annually to reflect the construction cost index percentage change as published by the Engineering News Record. In no event shall the adjusted limit be less than ~~one-two~~ hundred-fifty thousand dollars.

(c) Bid Solicitation. Bid solicitation requests made pursuant to subsection (a) or (b) shall be published in a local newspaper of general circulation describing the goods and services required, stating the date time, and place assigned for the public opening of the bids. No bids will be received at any time subsequent to the time indicated in the announcement. The Purchasing Agent shall submit a tabulation of bids to the City Council together with recommendations for award to the lowest responsible bidder.

(d) Rejection of Bids. The council, City Manager, and/or the Purchasing Agent shall have authority to reject any and all bids.

Sec. 12-~~22~~03.06. General Purchases or Public Works Purchases for Less Than Two Hundred-Fifty Thousand Dollars.

All purchase orders or contracts for services, materials, equipment, or supplies involving general purchases or public works purchase of two hundred-fifty thousand dollars or less, may be approved by the City Manager. The two hundred-fifty thousand dollars limit set forth in this section shall automatically adjust annually, with respect to general purchases to reflect the change in the April Consumer Price Index for Urban Consumers (CPI-U) for the San Francisco-Oakland-Hayward areas, and with respect to public works purchases to reflect the construct cost index percentage change as published by the Engineering News Record. In no event shall the adjusted limit be less than two hundred-fifty thousand dollars. These contracts shall be let in the open market in the manner calculated to ensure the best interests of the public, after solicitation for quotations by mail, telephone, or competitive negotiation by the Purchasing Agent. In the solicitation for competitive quotations, the Purchasing Agent shall contact as many local sources of supply as reasonable for the solicitation.

Sec. 12-~~23~~03.07. Determination of Lowest Responsible Bid.

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) Reliability of the suppliers to provide and warranty the items procured; and

(e) Financial stability of the bidder.

Sec. 12-~~24~~03.08. Emergency Purchases.

In the case of emergency affecting the public's health and safety, the Purchasing Agent and City Manager are authorized to purchase supplies, materials, equipment, or contractual services required for such emergency, without regard to amount limitation or prior approval of the City Council.

Sec. 12-~~25~~03.09. Exceptions.

Exceptions to the competitive bidding requirements are ~~goods or professional~~ services pertaining to, but not limited to, physicians, attorneys, appraisers, architects, engineers, auctioneers, consultants, arbitrators, designers, and auditors, or goods or services pertaining to, but not limited to, insurance, copyrighted materials, sole source items, gas, electricity water, ~~telephones,~~ and cooperative purchasing with other governmental agencies, such as school districts, local, county, state, or federal agencies, when it is to the advantage of the City to purchase from such other governmental agencies.

Sec. 12-~~26~~03.10. Purchases by Purchasing Agent and City Manager Only.

All purchases whatsoever shall be made only by the Purchasing Agent or, where specifically provided for in this article, by the City Manager, and no such purchase for the use of the City or any department thereof shall be valid or binding upon the City unless made by the Purchasing Agent or where authorized by the City Manager.

Sec. 12-~~27~~03.11. Exceptions.

~~Whether For those~~ general purchases or public works purchases subject to approval by the City Council, except where competitive bidding is required by federal law or by reason of the source of funding for the project, the goods, materials, equipment, supplies, and/or services may be procured by negotiated contract and without exclusive low-bid based competition when the City Council determines that, due to the nature of the purchase, low-bid based competition is not likely to serve the best interests of the City, yield the best value to the City, or result in the lower price.

~~Sec. 12-27.1. Reserved.~~

SECTION 2. Section 12-28.020 of Chapter 12 of the Salinas Municipal Code is hereby amended as follows:

- (a) "Bid" or "bids" shall ~~include any competitive bid submitted at the invitation of the city~~ mean a formal written offer, in response to a solicitation, to furnish goods including, but not limited to, supplies, equipment, vehicles, and/or services in conformity with the specifications, delivery terms, and conditions required at a guaranteed maximum cost.

- (b) "Bidder" shall mean any person, including any corporation or other business entity, who submits a response to a competitive invitation from the city.
- (c) "City" shall mean the city of Salinas acting through the city council, the city manager, the purchasing agent or such other person who is authorized under the city Code or otherwise duly designated to procure and execute contracts on behalf of the city.
- (d) "Local business enterprise" means a business enterprise, including but not limited to, a sole proprietorship, partnership or corporation, which has a legitimate business presence in the city of Salinas. Evidence of a legitimate business presence in the city of Salinas shall include:
- (1) Having a current city of Salinas business license;
 - (2) Having a business office within the city of Salinas and employing at least one full-time employee within the city of Salinas;
 - (3) Being current on all city of Salinas taxes, fees, assessments, and fines;
 - (4) Not subject to enforcement action by the city or in litigation with the city;
 - (5) Began doing business within the city of Salinas at least one year prior to the city's inviting bids or quotations for the respective purchases or is a newly established business enterprise which is owned by an individual(s) formerly employed by a local business enterprise, as defined in this subsection, for at least two years immediately prior to the issuance of either a request for competitive bids or request for qualifications from the city; and
 - (6) Submitting a declaration of local business enterprise on a form provided by the city.
- (e) "Public work(s) purchases" shall ~~include any construction, reconstruction, structure or infrastructure improvement,~~ for purposes of this article, mean purchases for public works projects. "Public Works Projects" means construction, alteration, demolition, or repair work done under contract and paid for in whole or in part out of public funds. Public Works Project does not include maintenance work, which includes routine, recurring, and usual work for the preservation or protection of any publicly owned or operated facility for its intended purpose. building, alteration, demolition, excavation, refuse hauling, installation, maintenance, or repair of any public work, including the supplying of materials, supplies, and labor.
- (f) "Purchase" shall mean the acquisition of those supplies, materials, equipment, or service bought in a single transaction from a single vendor.
- (g) "Responsible" shall, for purposes of this article, mean a bidder's quality, fitness, and capacity to perform or otherwise meet the particular requirements of the proposed work or service.
- (h) "Responsive" shall mean a bidder's compliance with the solicitation instructions.

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SECTION 2. All ordinances and parts of ordinances and all resolutions and parts of resolutions in conflict herewith are hereby repealed as of the effective date of this ordinance.

SECTION 3. Publication. The City Clerk shall cause a summary of this ordinance to be published once in a newspaper published and circulated in Salinas within fifteen (15) days after adoption. (Salinas Charter Section 11.9)

SECTION 4. CEQA Compliance. The City Council’s adoption of this ordinance is not a project subject to environmental review under the California Environmental Quality Act (CEQA Guidelines Section 15061(b)(3) because it would not have a significant effect on the environment. Additionally, the City Council’s adoption of this ordinance is exempt because it does not meet the definition of a “project” under CEQA, pursuant to CEQA Guidelines sections 15060(c)(1) and 15378(a), because it has no potential to result in a direct or reasonably foreseeable physical change in the environment.

SECTION 5. Severability. 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 any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Salinas City Council hereby declares that it would have passed this ordinance and each and every section, subsection, clause, and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. Effective Date. This ordinance will take effect thirty (30) days from and after its adoption.

PASSED AND ADOPTED this ____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Dennis Donohue, Mayor

APPROVED AS TO FORM:

Christopher A. Callihan, City Attorney

ATTEST:

Patricia M. Barajas, City Clerk
