

ORDINANCE NO. \_\_\_\_\_ (N.C.S.)

**AN ORDINANCE AMENDING ARTICLE III OF CHAPTER 12 OF THE SALINAS CITY  
CODE RELATING TO PURCHASING, INCLUDING ADDING PUBLIC WORKS  
PURCHASING THRESHOLDS AND A BEST INTEREST/BEST VALUE EXCEPTION**

WHEREAS, the Charter revisions of June 2016 repealed the \$50,000 maximum public work competitive formal bidding threshold, under the rationale that public works thresholds could be more effectively developed and updated by City Council by ordinance, resolution and/or policies and procedures; and

WHEREAS, the language herein will revise sections of Chapter 12 to clarify thresholds for bidding general purpose purchases and public works projects, add a definition for public works purchases, and provide an alternative provision allowing Council to make findings in unique circumstances when the City's best interests would not be served by low bid but could be served by alternate purchasing methodologies; and

WHEREAS, the Salinas City Council finds that the adoption of this ordinance is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF SALINAS as follows:

Section 1. ARTICLE III, PURCHASING, Sections 12-21, 12-22, 12-27, and 12-28.020 of the Salinas Municipal Code are hereby repealed in their entirety and replaced with the following:

**Sec. 12-21. General purchases in excess of thirty thousand dollars or public works purchases in excess of one hundred 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 is in excess of thirty thousand dollars the Purchasing Agent shall advertise for sealed bids and the contract of purchase shall be awarded to the lowest responsible bidder.

**(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 whatsoever is in excess of one hundred thousand dollars, the Purchasing Agent shall advertise for sealed bids and the contract of purchase shall

be awarded to the lowest responsible bidder. The one hundred 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 hundred 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. General purchases for less than thirty thousand dollars or public works purchases for less than one hundred thousand dollars.**

All purchase orders or contracts for services, materials, equipment, or supplies involving (a) general purchases for amounts of less than thirty thousand dollars, or (b) public works purchases of less than one hundred thousand dollars, may be let by free and open competitive quotations. The one hundred thousand dollar limit set forth in subsection (b) 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 hundred thousand dollars. These contracts shall be let in the open market in a 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. 12-27. Exceptions.**

Whether general purchases or public works purchases, 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 lowest price.

## **Section 12-28.020. Definitions.**

- (a) "Bid" or "bids" shall include any competitive bid submitted at the invitation of the city.
- (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, 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 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.

Section 2. EFFECTIVE DATE. This ordinance shall become effective as soon as thirty-one days following its adoption and shall be implemented only after the Secretary of State of the State of California confirms adoption of the June 7, 2016 updated Charter.

This Ordinance was introduced and read by title on August 16, 2016 and was passed and adopted on August \_\_\_\_, 2016.

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

\_\_\_\_\_  
Joe Gunter, Mayor

\_\_\_\_\_  
Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

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Christopher A. Callihan, City Attorney