

COPY

ORDINANCE

AN ORDINANCE TO ESTABLISH A POLICY FOR PROCUREMENT PROCEDURES FOR THE PURCHASE OF GOODS AND SERVICES BY THE CITY OF ALAMO; PROVIDING PENALTIES FOR VIOLATION; AND REPEALING ALL OTHER ORDINANCES AND SECTIONS OF ORDINANCES IN CONFLICT THEREWITH.

BE IT ORDAINED, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF ALAMO, GEORGIA AS FOLLOWS:

SECTION I. GENERAL

All procurements made by the City of Alamo involving the expenditure of City of Alamo Funds will be made in accordance with the following procurement standards.

The City of Alamo shall not engage in procurement practices which may be considered arbitrary or restrictive.

Purchases will be reviewed by the City Manager to prevent duplication and to ensure that costs are reasonable.

SECTION II. FEDERAL FUNDS REQUIREMENTS

In those projects involving grant or loan funds from the federal government, procurement transactions, regardless of method or dollar value, will maximize open and free competition consistent with the standards of 2 CFR Sections 200.317 through 200.327.

Helpful definitions and references:

"Micro-purchase" means a purchase of supplies or services, the aggregate amount of which does not exceed the micro-purchase threshold." 2 CFR 200.1 Definitions (Code of Federal Regulations (2024 Edition))

"Micro-purchase threshold" means the dollar amount at or below which a non-Federal entity may purchase property or services using micro-purchase procedures (see §200.320)." 2 CFR 200.1 Definitions (Code of Federal Regulations (2024 Edition)) [Competitive bidding not required.]

"Micro-purchase threshold" as defined in 48 CFR Section 2.101 means generally \$10,000.00.

"Simplified acquisition threshold" as defined in 48 CFR Section 2.101 is generally \$250,000.00.

Simplified Acquisition Procedures are described in 48 CFR Subchapter C Part 13. See Section 36.602-5 for simplified procedures to be used when acquiring architect-engineer services."

SECTION III. METHODS FOR PROCUREMENT

Procurements shall be made using one of the following methods: (a) small purchase procedures, (b) competitive sealed bids, (c) competitive negotiations, (d) non-competitive negotiation.

A. Small Purchases

Purchases which cost between \$500 and \$1,000 will require three over-the-telephone quotations of rate, price, etc. A memorandum will be prepared setting forth the date calls were made, parties contacted, and prices obtained. For purchases of less than \$500, efforts will be made to get the lowest and best price, but written records of such efforts are not necessary.

Purchases of supplies, equipment and services which cost between \$1,000 and \$10,000 will require written estimates but no legal advertisement is required. The City of Alamo will solicit written responses from at least three vendors, and if no such responses are available, a statement explaining the procurement circumstances will be prepared and filed.

B. Competitive Sealed Bids

Competitive sealed bidding will be employed when detailed specifications for the goods or services to be procured can be prepared and the primary basis for award is cost. When the anticipated cost of a contract, lease or other agreement for materials, supplies, equipment, or contractual services, other than those personal or professional, exceeds \$10,000, the City of Alamo will solicit sealed bids from responsible prospective suppliers by sending them a notice requesting a bid, by advertising in the legal organ of the county a minimum of two time, with the first advertisement occurring at least four weeks prior to the opening of the sealed bids or proposals.

Every bid or proposal opportunity extended by the City of Alamo for goods or services valued at more than \$100,000.00 shall be advertised in the Georgia Procurement Registry as required by O.C.G.A § 36-80-27.

Sealed bids will be opened in public. The City Council will make the decision as to whom the contract shall be awarded. After the bid award is made, a contract will be prepared for execution by the successful bidder.

Bidders will be notified in writing of cancellation of bidding or rejection of their bids. The City of Alamo may allow a vendor to withdraw a bid if requested at any time prior to the bid opening. Bids received after the time set for bid opening shall be returned to the vendor unopened.

C. Competitive Negotiations

The City of Alamo will use competitive negotiations, regardless of contract amount, upon a written determination that:

1. Specifications cannot be made specific enough to permit the award of a bid on the basis of either the lowest bid or the lowest evaluated bid price (in other words, bidding is not feasible).
2. The services to be procured are professional in nature.

Except for certain professional services (principally engineering services), competitive negotiations will proceed as follows:

a. Proposals will be solicited through newspaper advertisement; additionally, a Request for Proposal (RFP) may be prepared and mailed to qualified vendors. The newspaper advertisement must be published at least seven (7) days and not more than twenty-one (21) days before the date for receipt of the proposals. The RFP will describe services needed and identify the factors to be considered in the evaluation of proposals and the relative weights assigned to each selection factor. The RFP will also state where further details regarding the RFP may be obtained. The RFP will call attention to the same regulations discussed in Subsection C regarding the bidding process. Requests for proposals will always include cost as a selection factor.

b. Award must be made to the offeror whose proposal is determined in writing by the City Council to be the most advantageous to the City of Alamo. Evaluations must be based on the factors set forth in the Request for Proposal, and a written evaluation of each response prepared. The review committee may contact the firms regarding their proposals for the purpose of clarification and record in writing the nature of the clarification. If it is determined that no acceptable proposal has been submitted, all proposals may be rejected. New proposals may be solicited on the same or revised terms, or the procurement may be abandoned.

For the procurement of certain professional services, an alternative to RFPs may be used. The City of Alamo may publish a Request for Qualifications. RFQ's are handled in a similar method to RFPs with the exception that cost is not a factor in the initial evaluation. The City Manager will evaluate the responses and rank them by comparative qualifications. The highest scoring person or firm will be contacted, and the City Manager will negotiate cost. If the City Manager is unable to negotiate a satisfactory cost arrangement, the second highest scoring person or firm will be invited to negotiate. The City Manager will maintain a written record of all such negotiations.

D. Noncompetitive Negotiations

Noncompetitive negotiations may be used for procurements more than \$10,000 when bidding or competitive negotiations are not feasible. The City of Alamo may

purchase goods and services through non-competitive negotiations when it is determined in writing by the City Manager that competitive negotiation or bidding is not feasible and that:

1. An emergency exists which will cause public harm because of the delay caused by following competitive purchasing procedures, or
2. The product or service can be obtained only from one source, or
3. The contract is for the purchase of perishable items purchased on a weekly or more frequent basis, or
4. Only one satisfactory proposal is received, or
5. The state has authorized the noncompetitive negotiation.

Procurement by noncompetitive negotiation requires the strictest attention to the observation of impartiality toward all suppliers. The City Council must approve all procurements by non-competitive negotiation when only one supplier is involved or only one bid or response to an RFP/RFQ is received.

E. Requirements for Bidders

Bids will be accepted only from those contractors who have a proven record of ability to successfully complete the scope of work being bid. References will be requested along with the contractor's bid proposal. Any contractors submitting a bid must produce (along with his/her bid documents) written proof of liability insurance and worker's compensation coverage. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance and financial and technical resources in awarding contracts.

Upon submission of a bid, the contractor will present a bid guarantee equivalent to 5 percent of the amount of the contractor's submitted bid. Unsuccessful bidders will have their bid guarantee returned to them with the notice which advises them they are an unsuccessful bidder. The successful bidder will post (at the signing of the contract and notice to proceed) a performance bond equal to 100 percent of the contract amount, along with a payment bond equivalent to 100 percent of the contract amount.

SECTION IV. PUBLIC WORKS PROJECTS

A "public works construction project" means the building, altering, repairing, improving, or demolishing of any public structure or building or other public improvements of any kind to any public real property except as otherwise provided in O.C.G.A §36-91-2(12). Public works construction projects which can be performed at a cost of less than \$100,000.00 shall generally follow the requirements of Section III

hereinabove but may include any of the bidding, contracting, and bonding requirements applicable to larger projects. Public works projects which are projected to cost \$100,000.00 or more shall comply with the bidding, contracting, and bonding requirements set forth in O.C.G.A § 36-91-1 et seq.

SECTION V. CONTRACTS.

A. Generally, all procurements costing more than \$200 will be memorialized and supported by a written contract. Where it is not feasible or is impractical to prepare a contract, a written finding to this effect will be prepared and some form of documentation regarding the transaction will also be prepared. The contractual provisions required by 2 CFR Section 200.327 and 24 CFR Part 92 Sections 504, 505 and all other federal and state requirements will be included in all contracts if applicable. All contracts will contain language which allows the City of Alamo the opportunity to cancel any contract for cause. Said cause shall include (but not be limited to) demonstrated lack of ability to perform the work specified, unwillingness to complete the work in a timely fashion, cancellation of liability insurance or worker's compensation, failure to pay suppliers or workers, unsafe working conditions caused by the contractor, failure to comply with Davis-Bacon wage laws (where applicable), failure to keep accurate and timely records of the job, or failure to make those records available to the City of Alamo (on request) or any other documented matter which could cause a hardship for the City of Alamo if a claim should arise or the work not be completed on schedule at the specified cost.

B. Contracts for consultants who are engaged by the City of Alamo to prepare specifications or requirements for a bid solicitation or who serve in a consultative role during the bid, proposal evaluation or negotiation shall execute an agreement with the City of Alamo as required by O.C.G.A § 36-80-28.

SECTION VI. DOCUMENTATION

All source documents supporting any given transaction (receipts, purchase orders, invoices, RFP/RFQ data and bid materials) will be retained and filed in an appropriate manner.

SECTION VII. PURCHASING PREFERENCES; LOCALLY OWNED, MINORITY-OWNED, FEMALE-OWNED AND SMALL BUSINESSES

A. When contracting for or purchasing supplies, materials, equipment, or agricultural products, the City of Alamo shall give preference as far as may be reasonable and practicable to those manufactured or produced in the State of Georgia as required by O.C.G.A § 36-84-1.

B. When required by law or regulation, and when otherwise deemed feasible, affirmative steps will be taken and documented to solicit participation of locally owned, minority-owned, female-owned and small businesses. The City of Alamo will solicit

proposals from locally owned, minority-owned, female-owned and small businesses that provide the goods or services that are being sought whenever it is deemed possible and feasible without increasing the cost to the city or sacrificing quality. Where possible and feasible, delivery schedules will be established, and work will be subdivided to maximize participation by small businesses or minority-owned or women-owned businesses. The successful bidder will be required to use these same criteria in selection of suppliers and subcontractors whenever possible.

SECTION VIII. CODE OF CONDUCT

A. Conflict Of Interest

No City of Alamo Council Member, officer, employee, consultant, elected official, appointed official or designated agent of the City of Alamo will take part or have an interest in the award of any procurement transaction if a conflict of interest, real or apparent, exists. A conflict of interest occurs when the official, employee or designated agent of City of Alamo, partners of such individuals, immediate family members, or an organization which employs or intends to employ any of the above has a financial or other interest in any of the competing firms.

No City of Alamo Council Member, officer, employee or designated agent of the City of Alamo may acquire a financial interest in or benefit in any way from any activity which uses any portion of funds nor shall they have any interest in any contract, subcontract or agreement for themselves or any family members.

B. Acceptance of Gratuities

No City of Alamo Council Member, officer, employee, or designated agent of the City of Alamo shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, subcontractors, or potential subcontractors.

C. Penalties

Any City of Alamo Council Member, officer, employee, or designated agent of the City of Alamo who knowingly and deliberately violates the provisions of this Code of Conduct will be open to civil suit by the City of Alamo without the legal protection of City of Alamo. Furthermore, such a violation of these procurement standards is grounds for dismissal by the City of Alamo (if an employee) or such sanctions as available under the law.

Any contractor or potential contractor who knowingly and deliberately violates the provisions of these procurement standards will be barred from future transactions with City of Alamo.

SECTION IX. REPEAL.

This ordinance shall be cumulative of all other ordinances which may govern the subject matter hereof except to the extent that such ordinances or parts of ordinances are in conflict with the provisions of this ordinance. To the extent of any such conflict, such prior ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed or suspended as provided herein.

SECTION X. EFFECTIVE DATE.

This ordinance shall take effect from and after the 15th day of April, 2024.

Attest:

Maria Canillo
CITY CLERK

Camela Lee
MAYOR or MAYOR PRO TEMPORE