

Ordinance No. 413

An ordinance to amend sections of the Code of Ordinances regarding contracts and purchasing.

The City of Center Line ordains:

Section 1. Amendments.

Sections 2-341 through 2-352 of the Code of Ordinances shall be amended to read as follows:

DIVISION 2. - CONTRACTS AND PURCHASING

Sec. 2-341. - Approval of purchases; purchasing agent designated.

Except as prescribed in the Charter, all purchase orders shall be approved by the city clerk, who is hereby appointed purchasing agent. In the absence of the city clerk, the deputy city clerk shall be vested with all authority of the purchasing agent.

Sec. 2-342. - Purchases or contracts over \$10,000.00; written contract required; solicitation of bids; cooperative purchasing participation.

- a. Any expenditure or any contract obligating the city, in an amount over \$10,000.00, shall be made or awarded only on written contract and approved by the city council. Notice soliciting sealed competitive bids shall be published on the City's website or in a newspaper of general circulation in the city at least five days prior to the final date for submitting the bids. Such notice shall briefly state the specifications of the supplies, materials, service, or equipment required and shall state the amount of surety to be submitted with the bid, if any is required to be given with the contract, and shall further state the time and place for filing and opening of bids and the general terms and conditions of the award of the contract. In lieu of advertising, the purchasing agent may post notices on the bulletin board in the city hall. The city may also post notices of soliciting sealed competitive bids on an internet-based bidding platform.
- b. The city shall have the authority to join with other units of government in a cooperative purchasing plan when it is in the best interest of the city. The cooperative purchasing may include but is not limited to joint or multiparty contracts between public purchasing units and open-ended state or federal public purchasing unit contracts which are made available to the city, notwithstanding any other provisions of this division. The city may also utilize cooperative purchasing organizations, including those using electronic bidding, to purchase supplies and services when deemed by the purchasing agent or the city council to be in the best interest of the city. In such instances, where bids are received through a formal cooperative purchasing program or when bids are received by another governing unit for an item that meets the needs of the city, the advertising and bidding requirements identified in this division shall be deemed to have been met.
- c. The purchasing agent shall have the authority to solicit qualifications instead of sealed bids for professional services. The purchasing agent shall use a committee to evaluate the responses to the request for qualifications. The purchasing agent shall inform city council of the committee's evaluation and then shall enter into contract negotiations with the most qualified bidder. The result of such contract negotiations shall be presented to city council for final approval.

Sec. 2-343. - Sealed bids, advertising; security or bond required.

The purchasing agent shall, in addition, solicit sealed bids from all qualified prospective bidders known by him by forwarding to each a copy of the notice of the proposed award. All bids shall be sealed and submitted to the purchasing agent and shall be accompanied by security in the form of cashier's check, certified check, cash or bond in such amount as prescribed in the public notice inviting bids. The purchasing agent shall determine the amount of the performance bond required for construction contracts and the amounts of the labor and materials bond required of the successful bidder.

Sec. 2-344. - Opening of bids; rejection.

All bids, except responses to requests for qualifications, shall be opened in public at the time and place stated in the notice. The purchasing agent shall post a list of responses received to requests for qualifications. The city council shall have the right to reject any or all bids or parts thereof and to waive any irregularities in any bid.

Sec. 2-345. - Competing bidders; bids in same amount, determination.

After examination and tabulation, all bids may be inspected by the competing bidders. Whenever all bids received are for the same total amount or unit price, the successful bidder shall be determined by vote of the city council, or whenever such action will best serve the public interest, the purchasing agent with the approval of the city council may purchase the commodities in the open market, provided the price paid in the open market shall not exceed the bid price submitted for the same commodity. The city council shall award the bid to the "lowest responsible bidder". The "lowest responsible bidder" means that the bidder who submits the lowest bid, conforming to the specifications, as evaluated pursuant to the provisions of this division and the procurement policy adopted by the city council, and who is qualified by meeting the following standards as they relate to the particular contract under consideration. The bidder must demonstrate:

- a. Adequate financial resources for performance, or the ability to obtain such resources as required during performance, as determined by the purchasing agent, after consultation with the department that will be utilizing the goods or services procured, and the necessary experience, organization, technical qualifications, skills, and facilities, or has the ability to obtain them (including probable subcontractor arrangements);
- b. Ability to comply with the proposed or required time of delivery or performance schedule;
- c. A satisfactory record of integrity, judgment, and performance (contractors who are delinquent in current contract performance, considering the number of contracts and the extent of delinquencies of each, shall, in the absence of evidence to the contrary or compelling circumstances, be presumed to be unable to fulfill this requirement);
- d. Qualifications and eligibility to receive an award under applicable laws, ordinances, and regulations; and the ability to comply with applicable bonding and insurance requirements;
- e. That the bidder is not disqualified or debarred by the state or federal government or in default or indebted to the city, especially for property taxes, assessments, or water and sewer bills.

Sec. 2-346. - Contract; refusal to execute, forfeiture.

Each contract submitted to the city council for approval shall be accompanied by a tabulation of all bids or qualifications received. All bids, deposits of cash, certified or cashier's checks may be retained until the contract is awarded and signed. If any successful bidder fails or refuses to execute the contract after its award the deposit accompanying the bid shall be forfeited and the city council may award the contract to the next lowest responsible bidder or readvertise for new bids.

Sec. 2-347. - Contract required to be filed; surety bond.

A copy of each contract shall be filed with the city clerk. At the time the contract is executed by him, the contractor shall execute any required surety company bond to the city, conditioned upon the faithful performance of the contract and saving the city harmless from all losses or damage caused to any person or property by reason of any carelessness or negligence by the contractor and from all expense of inspection, engineering, and otherwise, caused by the delay in the completion of any improvement, and further conditioned to pay all laborers, mechanics, subcontractors, and material men as well as all just debts and demands incurred in the performance of such work.

Sec. 2-348. - Power of city council.

Contracts shall be approved as to sufficiency of funds by the officer charged with the maintenance of the accounting system of the city. The letting and making of such contracts is hereby vested in the city council, which, in its discretion, shall have the power to reject any or all bids.

Sec. 2-349. - Purchases under \$10,000.00; procedure.

All purchases of supplies, materials, service or equipment, the cost of which is less than \$10,000.00, may be made in the open market, without advertisement and irrespective of the procedure prescribed for purchases over \$10,000.00. The city council may approve a procurement policy to further define procedures for the purchase or acquisition of supplies or services, and such procurement policy shall be reviewed triennially.

Sec. 2-350. - Inspection, acceptance of materials.

The responsibility for the inspection and acceptance of all materials, supplies, and equipment shall rest with the department, agency or bureau utilizing same.

Sec. 2-351. - Sale of property.

Whenever any city property, real or personal, is no longer required, it may be sold. Personal property not exceeding \$500.00 in value may be sold for cash by the purchasing agent after soliciting quotations or competitive bids therefor. Property of a value in excess of \$500.00 may be sold after advertising and soliciting competitive bids, as provided in this division, with the approval of the city council. Insurance settlements shall be an exception to this provision.

Sec. 2-352. - Exceptions to competitive bidding provisions.

- a. If at any time the city council shall determine by a majority vote of the members present at any regular or special meeting that no advantage would result to the city from competitive bidding relative to a particular purchase or sale, the purchasing agent shall not be required to comply with the provisions of this division requiring competitive bidding.
- b. If a public emergency requires the immediate delivery of the items or the performance of the service, the purchasing agent shall authorize such purchase in writing and shall forward such authorization for the emergency contract or purchase to the city council for their information.
- c. If only one source of supply is available and the purchasing agent shall so certify.
- d. The item to be acquired is rare or unique and the purchasing agent shall so certify.

Section 2. Severability.

If any section, clause, or provision of this Ordinance shall be declared to be unconstitutional, void, illegal, or ineffective by any Court of competent jurisdiction, such section, clause, or provision declared to be unconstitutional, void, or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

Section 3. Repealer.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 4. Publication.

The Clerk shall publish this Ordinance within ten days in a newspaper printed and circulating within the City of general circulation.

Section 5. Effective Date.

This Ordinance shall be effective ten days after date of adoption by the City Council.

EFFECTIVE SEPTEMBER 23, 2021