

ORDINANCE NO. 2058

AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, AMENDING SECTIONS 17.30.040 (SUPPLIES, GOODS AND EQUIPMENT), 17.30.080 (BEST VALUE SELECTION PROCEDURES), 17.30.090 (FORMAL BIDDING PROCEDURE), 17.30.120 (SERVICE CONTRACTS – SIGNATURE AUTHORITY), and 17.30.130 (PUBLIC WORKS) OF TITLE 17 (DEVELOPMENT) OF “THE CODE OF THE CITY OF SANTA CLARA, CALIFORNIA” TO PROVIDE THE EXECUTIVE DIRECTOR OF SANTA CLARA STADIUM AUTHORITY WITH DELEGATED AUTHORITY TO EXECUTE CONTRACTS UP TO AND INCLUDING \$100,000 AS ALLOCATED TO AND AUTHORIZED BY THE STADIUM AUTHORITY BY ADOPTION OF THE ANNUAL BUDGET FOR SUPPLIES, GOODS, EQUIPMENT, SERVICES, AND PUBLIC WORKS

BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, Chapter 17.30 (Stadium Authority Procurement Policy) provides the formalized policies and procedures with respect to procurement for the Santa Clara Stadium Authority (Stadium Authority);

WHEREAS, on October 8, 2019, the City Council approved Ordinance No. 2005 amending the Stadium Authority Procurement Policy, which rescinded delegation to the Executive Director to enter into agreements without prior Stadium Authority Board approval;

WHEREAS, the Forty Niners Stadium Management Company LLC (Stadium Manager) has the authority to execute contracts on behalf of the Stadium Authority only insofar as the Executive Director has such authority as described in Section 2 of the First Amendment to the Stadium Management Agreement between the Stadium Authority, Stadium Manager, and Forty Niners SC Stadium Company, LLC;

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WHEREAS, as of the effective date of Ordinance No. 2005, November 8, 2019, all Stadium Authority agreements for services, supplies, materials, and equipment require the approval of the Stadium Authority Board; and,

WHEREAS, the August 31, 2022 Settlement Agreement and Mutual Release between the Santa Clara Stadium Authority, Forty Niners SC Stadium Company, LLC, and Stadium Manager provides that Stadium Authority and City staff will recommend for City Council consideration an Ordinance to reinstate the Executive Director's signature authority to execute contracts that are no greater than \$100,000 in value to the Stadium Authority; and,

WHEREAS, Stadium Authority and City staff and the Stadium Manager have worked collaboratively to propose changes to the Stadium Authority Procurement Policy as reflected in this Ordinance, that is intended to comply with Section 5 of the Settlement Agreement and Mutual Release.

NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

SECTION 1: That Section 17.30.040 (entitled "Supplies, Goods and Equipment"), of Chapter 17.30 (entitled "Stadium Authority Procurement Policy") of Title 17 (entitled "Development") of "The Code of the City of Santa Clara, California" ("SCCC") is amended to read as follows:

"17.30.040 Supplies, goods and equipment.

(a) The procurement policies apply to all purchases or contracts for supplies, goods, materials, and equipment by and on behalf of the Stadium Authority. Purchases of supplies, materials, and equipment by bid procedures shall be pursuant to SCCC 17.30.050 through 17.30.110.

(b) The Executive Director is authorized to execute a contract to acquire supplies, materials, and equipment on behalf of the Stadium Authority in an amount up to and including one hundred thousand dollars (\$100,000.00) as allocated to and authorized by the Stadium Authority by adoption of the annual budget. A contract or agreement amount with an allocated value above this dollar limit requires approval by the Stadium Authority Board.”

SECTION 2: That Section 17.30.080 (entitled “Best Value Selection Procedures”), of Chapter 17.30 (entitled “Stadium Authority Procurement Policy”) of Title 17 (entitled “Development”) of “The Code of the City of Santa Clara, California” (“SCCC”) is amended to read as follows:

“17.30.080 Best value selection procedures.

Except as otherwise provided, purchases and contracts for supplies, materials, or equipment of estimated value in the amount of two hundred fifty thousand dollars (\$250,000.00) or more, but less than one million dollars (\$1,000,000.00), may be made by the Executive Director, in the open market as follows:

(a) Minimum Number of Bids. Open market purchases shall be based on at least three bids unless the Executive Director determines that obtaining three bids is not feasible as a result of the lack of firms qualified to provide the required materials and supplies.

(b) Request for Bids. The Executive Director, in his or her discretion, may solicit bids by telephone request, written request to prospective vendors by mail, including electronic mail, and/or by notice posted on a public bulletin board in or near the office of the Stadium Authority.

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(c) The Request for Bid. The request for bid made subject to this section shall describe the supplies, materials, or equipment desired in specific terms and how to obtain more detailed information, and shall state the time and place for submission and opening of bids; provided, however, the bid specifications shall ensure that more than one vendor could meet the bid requirements.

(d) Submission of Bids. Bids may be submitted to the Executive Director in writing or verbally. The award of the contract by the Executive Director shall be on the basis of best value. The Executive Director may reject any and all bids. The Executive Director shall keep a record of all open market orders and bids for a period of one year after the submission of bids or the placing of orders. Such record, while so kept, shall be open to public inspection.

(e) Evaluation of Bids. In the evaluation of bids under this section, the Executive Director may consider any of the following illustrative evaluation factors in determining the best value bid, but will take all necessary measures to ensure that the contracts are awarded fairly:

(1) Price, dollar value of procurement pricing information and quotations;

(2) Demonstrated ability to perform all requirements and delivery of the quantity of supplies, materials, and equipment within the time specified;

(3) Specific examples of similar past performance and demonstrated experience in providing the quality and quantity of supplies, materials, and equipment for projects of comparable size, scope and complexity;

(4) Evaluation of the ability to provide future maintenance and services, if applicable;

(5) Quality of supplies, materials and equipment to be provided under the contract; and

(6) Compliance or responsiveness of bid with bid specifications.”

SECTION 3: That Section 17.30.090 (entitled “Formal Bidding Procedure”), of Chapter 17.30 (entitled “Stadium Authority Procurement Policy”) of Title 17 (entitled “Development”) of “The Code of the City of Santa Clara, California” (“SCCC”) is amended to read as follows:

“17.30.090 Formal bidding procedure.

Except as otherwise provided, purchases and contracts for supplies, materials, or equipment of one million dollars (\$1,000,000.00) or more shall be by written contract with the lowest responsible bidder, pursuant to the following procedures:

(a) Notices Inviting Bids. Notices inviting sealed bids shall include a general description of the articles to be purchased, where bid blanks and specifications may be secured, and the time and place for opening bids.

(1) Published Notices. Notices inviting bids shall be published and/or posted at least ten days before the date of opening the bids. Such notices shall be published at least once in a newspaper of general circulation, and/or notices shall be posted in at least three public places in the City that have been designated as places for posting public notices. Whichever notice is given shall be determined by the Executive Director as being in the best interest of the City to attract bids.

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(2) Bidders List. The Executive Director shall also solicit sealed bids from all responsible prospective suppliers. It shall be within the discretion of the Executive Director to add, delete, reject, and change the bidders list so as to maintain a current list of suppliers who are capable of responsible and efficient service to the Stadium Authority.

(b) Bidder's Security. When deemed necessary by the Executive Director, bidder's security may be prescribed in the public notices inviting bids. Bidders shall be entitled to the return of their bid securities; provided, however, 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 the contract has been mailed unless the Stadium Authority is responsible for the delay. On refusal or failure of the successful bidder to execute the contract, the contract may be awarded to the next lowest responsible bidder. If the contract is awarded to the next lowest responsible bidder, the amount of the lowest bidder's security shall be applied by the Stadium Authority to the difference between the low bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder.

(c) Bid Opening Procedure. Sealed written bids shall be submitted to the Executive Director and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids shall be open for public inspection during regular business hours for a period of not less than thirty (30) calendar days after the bid opening.

(d) Rejection of Bids. The Executive Director may reject any and all bids presented and re-advertise for bids.

(e) Award of Contracts. All contracts shall be awarded by the Executive Director to the lowest responsible bidder except as otherwise provided in these procedures.

(f) Tie Bids. If two or more bids received are for the same total 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 successful bidder may be determined by the casting of lots with the bidders in public at the time designated by the Executive Director.

(g) Performance Bonds. The Executive Director shall have the authority to require a performance bond in such amounts as the Executive Director shall find reasonably necessary to protect the best interests of the Stadium Authority before entering into a contract. If the Executive Director requires a performance bond, the form and amount of the bond shall be described in the notice inviting bids.”

SECTION 4: That Section 17.30.120 (entitled “Service Contracts – Signature Authority”), of Chapter 17.30 (entitled “Stadium Authority Procurement Policy”) of Title 17 (entitled “Development”) of “The Code of the City of Santa Clara, California” (“SCCC”) is amended to read as follows:

“17.30.120 Service contracts – Signature authority.

The Executive Director is authorized to execute a contract with third parties for services required by the Stadium Authority in an amount up to and including one hundred thousand dollars (\$100,000.00), as allocated to and authorized by the Stadium Authority by adoption of the annual budget, and provided that the third party is specially trained and experienced and competent to perform the services. A contract amount with an allocated value above this dollar limit requires approval by the Stadium Authority Board.”

SECTION 5: That Section 17.30.130 (entitled “Public Works”), of Chapter 17.30 (entitled “Stadium Authority Procurement Policy”) of Title 17 (entitled “Development”) of “The Code of the City of Santa Clara, California” (“SCCC”) is amended to read as follows:

“17.30.130 Public works.

(a) Stadium Project. Government Code Section 6532 authorizes the Stadium Authority to award a contract for the development of the Stadium Project to a qualified design builder under specified conditions. As a requirement of Government Code Section 6532, any subcontracts awarded by the design builder to be funded with either Redevelopment Agency funds or Community Facility District funds must be awarded to the lowest responsible bidder in accordance with procedures consistent with the City Charter. All other subcontracts awarded by the design-builder may be awarded on a best value basis consistent with the Subcontractor Selection and Procurement Plan adopted by the Stadium Authority.

(b) Other Public Works. For all other expenditures required for a public project, but which are not associated with the Stadium Project, the Stadium Authority shall comply with the requirements of Public Contract Code Section 20162 and all applicable City Charter provisions.

(c) The Executive Director is authorized to execute a contract for public works on behalf of the Stadium Authority in an amount up to and including one hundred thousand dollars (\$100,000.00), as allocated to and authorized by the Stadium Authority by adoption of the annual budget. A contract amount with an allocated value above this dollar limit requires approval by the Stadium Authority Board.”

SECTION 6: Ordinances Repealed. With exception of the provisions protected by the savings clause, all ordinances (or parts of ordinances) in conflict with or inconsistent with this ordinance are hereby repealed.

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SECTION 7: Savings clause. The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

SECTION 10: Effective date. This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of "The Charter of the City of Santa Clara, California."
PASSED FOR THE PURPOSE OF PUBLICATION this 7th day of March, 2023, by the following vote:

AYES:	COUNCILORS:	Becker, Chahal, Hardy, Jain, and Park
NOES:	COUNCILORS:	Watanabe, and Mayor Gillmor
ABSENT:	COUNCILORS:	None
ABSTAINED:	COUNCILORS:	None

ATTEST:



NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference: None