

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
RIALTO AMENDING PROVISIONS OF THE CITY'S
PURCHASING ORDINANCE AT CHAPTER 2.48 OF THE
RIALTO MUNICIPAL CODE**

WHEREAS, the City of Rialto has adopted a purchasing ordinance, codified at Chapter 2.48 of the Rialto Municipal Code (“RMC”), which is aimed at achieving various goals for the requisition of City goods and services, including when requests for bids and proposals are appropriate and the process for same, while providing some flexibility so as to achieve efficiency, as such goals are further set forth in RMC Section 2.48.020; and

WHEREAS, in the process of assuring the goals of Chapter 2.48 are carried out, the City periodically reviews whether its provisions remain relevant and best suited for the needs of the City, while continuing to adhere to legal requirements; and

WHEREAS, the City Council finds that it would be in the best interests of the City to update the purchasing policy in order to bring various code sections up to date, and in line with the realities that the City faces in purchasing goods and services; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RIALTO DOES
HEREBY ORDAIN AS FOLLOWS:**

SECTION 1. The City Council finds that the above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Section 2.48.010 of the RMC, entitled “Definition of terms,” and specifically the definitions of “Emergency,” “Formal bid,” “Informal bid or quotation,” and “Professional services,” shall be amended as follows, with all other provisions and definitions of Section 2.48.010 remaining unmodified and in full force and effect (new text in underline, deleted text in ~~strike through~~):

1 “The terms listed herein whenever used in the chapter, unless otherwise indicated,
2 shall be construed as follows:

3 ...

4 "Emergency" means those cases wherein needed supplies or equipment are not on
5 hand and must be procured immediately on the open market at the nearest and earliest
6 available source of supply. In an emergency situation there is insufficient time to
7 follow the bid procedures provided in this chapter because: 1) great public calamity
8 exists, or 2) there is an immediate need to prepare for national or local defense, or 3)
9 there is a breakdown in machinery, equipment or an essential service which requires
10 the immediate purchase of supplies or equipment to protect the public health, safety or
11 welfare, or 4) an essential city operation affecting the public health, safety or welfare
12 would be greatly hampered or disrupted by following the standard purchasing
13 procedure.

14 ...

15 "Formal bid" means a bid that is advertised in a ~~newspaper of general circulation in~~
16 ~~the city~~ manner accessible to the general public, submitted in a sealed envelope,
17 publicly opened, read and recorded at a specified place, date and time.

18 ...

19 "Informal bid or quotation" means a verbal or written bid that is submitted by a bidder
20 for procurement of goods or services for which formal ~~competitive bidding is~~ bids are
21 not required.

22 ...

23 "Professional services" means advisory, consulting, architectural, engineering, data
24 processing, telecommunications, legal, financial, surveying or any service which
25 involves the exercise of professional discretion or independent judgment based on an
26 advanced or specialized knowledge, expertise or training gained by formal studies or
27 experience.”
28

1 **SECTION 3.** Subsection A of Section 2.48.020 of the RMC, entitled “General –
2 Establishment of centralized purchasing division,” shall be amended as follows with all other
3 provisions of Section 2.48.020 remaining unmodified and in full force and effect (new text in
4 underline, deleted text in ~~strike-through~~):

5 “A. To establish efficient policies and procedures for the purchase of city supplies,
6 materials, equipment and contractual services at the lowest possible cost
7 commensurate with quality needed;”

8
9 **SECTION 4.** The first paragraph of Section 2.48.030 of the RMC, entitled “General –
10 Purchasing manager duties,” shall be amended as follows, with all other provisions of Section
11 2.48.030 remaining unmodified and in full force and effect (new text in underline, deleted text in
12 ~~strike-through~~):

13 “The purchasing manager, under the direction and supervision of the ~~chief financial~~
14 ~~officer~~ finance director, shall have the responsibility and authority for the purchasing
15 of supplies, materials, equipment and the administration of contractual services
16 required by any office, department or agency of the city, except as otherwise provided
17 in Section 2.48.070, and shall have the responsibility and authority to:”

18
19 **SECTION 5.** The first paragraph of Section 2.48.040 of the RMC, entitled “General –
20 Central stores warehouse,” shall be amended as follows with all other provisions of Section 2.48.040
21 remaining unmodified and in full force and effect (new text in underline, deleted text in ~~strike~~
22 ~~through~~):

23 “The purchasing manager may, with the approval of the ~~chief financial officer~~ finance
24 director, establish and maintain one or more central storerooms or warehouses for the
25 keeping of city supplies. Adequate stock records shall be kept which, at all times, shall
26 show:”

27 **SECTION 6.** Subsection B of Section 2.48.070 of the RMC, entitled “General – Signature
28 approvals for purchases,” shall be amended as follows with all other provisions of Section 2.48.070

1 remaining unmodified and in full force and effect (new text in underline, deleted text in ~~strike~~
2 ~~through~~):

3 “B. The purchasing manager, with written approval of the ~~chief financial officer~~
4 finance director, may authorize in writing any department to purchase or contract for
5 specified supplies or contractual services, independently of the finance department;
6 but shall require that such purchases or contracts be made in conformity with the
7 procedures established by this chapter, and shall further require periodic reports from
8 the department on the purchases and contracts made under such written authorization.”

9
10 **SECTION 7.** Section 2.48.080 of the RMC, entitled “General – Purchase orders,” shall be
11 amended as follows (new text in underline, deleted text in ~~strike through~~):

12 “Purchases of supplies, equipment and services shall be made only by purchase orders,
13 except as otherwise provided in this chapter, or as outlined in the purchasing policies
14 and procedures manual. Persons authorized to sign purchase orders are the persons
15 authorized to purchase the subject supplies, equipment or services pursuant to Section
16 2.48.070. Purchase orders executed by other persons shall be a nullity and of no legal
17 effect. Purchases and contracts shall not be split, staged or separated into smaller units
18 of work for the purpose of evading the competitive bidding procedures of this chapter
19 or to avoid city council approval.”

20
21 **SECTION 8.** Section 2.48.090 of the RMC, entitled “General – Purchase order change
22 notice,” shall be amended as follows (new text in underline, deleted text in strike through):

23 “The department head may grant authorization for change notices in an amount not to
24 exceed ten percent of the original purchase order, as long as the aggregate total of the
25 purchase order, including the amount of the change notice, does not exceed their
26 signature authority as provided in Section 2.48.070. Any change notice that causes a
27 purchase order to exceed signature authority must be approved by the appropriate
28 person in accordance with Section 2.48.070 or the city council as required by this
chapter.”

1 **SECTION 9.** Section 2.48.120 of the RMC, entitled “General – Local preference,” shall be
2 amended as follows (new text in underline, deleted text in ~~strike through~~):

3 “Preference shall be given to the purchase of supplies, materials, equipment and
4 contractual services from local merchants, quality and price being equal, if the local
5 merchant otherwise meets the requirements of Section 2.48.110 and in accordance
6 with chapter 2.47, Local Business Preference. ~~The city council, may by resolution,~~
7 ~~establish preference criteria and amounts.”~~

8
9 **SECTION 10.** Section 2.48.160 of the RMC, entitled “General – Purchasing for personal use
10 prohibited,” shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

11 “Purchases will not be made for city employees’ or officers’ personal use, using the
12 city’s purchasing personnel or facilities. The city’s credit or name will not be used for
13 personal purposes by city staff, officers or officials.”

14
15 **SECTION 11.** Section 2.48.250 of the RMC, entitled “Materials, supplies and equipment,”
16 including the title thereof, shall be amended as follows (new text in underline, deleted text in ~~strike~~
17 ~~through~~):

18 “2.48.250 – Materials, supplies and equipment – Informal bid procedure.

19 Informal Bids (Purchases for Fifteen Thousand Dollars or Less). Purchases of
20 materials, supplies and equipment of an estimated value in the amount of fifteen
21 thousand dollars or less may be made by the purchasing manager through the informal
22 bidding procedures pursuant to the procedures prescribed in Sections 2.48.260 through
23 2.48.280 and without observing the procedure prescribed in Sections 2.48.290 through
24 2.48.360. All bidding may be dispensed with, however, for purchases of materials,
25 supplies and equipment contained in Section 2.48.370.”

26
27 **SECTION 12.** Section 2.48.280 of the RMC, entitled “Materials, supplies, and equipment –
28 Record of informal bids,” shall be amended as follows (new text in underline, deleted text in ~~strike~~
~~through~~):

1 “The purchasing manager shall keep a written record of all informal bids for a period
2 of one year and for that period the record shall be open to public inspection.”
3

4 **SECTION 13.** Section 2.48.300 of the RMC, entitled “Materials, supplies, and equipment –
5 Notice of inviting formal bids,” shall be amended as follows (new text in underline, deleted text in
6 ~~strike through~~):

7 “Notices inviting formal bids shall include a general description of the goods to be
8 purchased and shall state where bid forms may be obtained and the date, time and
9 place of bid opening. Notices inviting bids shall be ~~published~~ advertised at least once,
10 ten calendar days before the opening of bids. Notices shall be ~~published~~ advertised in a
11 manner assessable to the general public in a newspaper of general circulation in the
12 city.”
13

14 **SECTION 14.** Section 24.48.310 of the RMC, entitled “Materials, supplies, and equipment –
15 Approved vendors list,” shall be amended as follows (new text in underline, deleted text in ~~strike~~
16 ~~through~~):

17 “The purchasing manager shall solicit bids from prospective vendors whose names are
18 on the city's approved bidders list and others requesting to participate in the bid
19 process. It shall be the responsibility of prospective vendors to ensure that current
20 information with respect to the address, service or product of the prospective bidder is
21 updated ~~delivered to the purchasing division~~ prior to solicitation of bids.”
22

23 **SECTION 15.** Section 2.48.320 of the RMC, entitled “Materials, supplies, and equipment –
24 Bidder’s security,” shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

25 “Where required by state law or city ordinance and when not so required but deemed
26 necessary or desirable by the purchasing manager, all bids shall be accompanied by
27 either a certified or cashier's check, or a bidder's bond executed by a corporate surety
28 authorized to engage in such business in California, made payable to the city. Such
security shall be in an amount not less than the amount specified in the notice inviting

1 bids, or in an amount not less than ten percent of the aggregate amount of the bid,
2 whichever is greater.

3 If the successful bidder neglects, fails or refuses to enter into the contract, ~~or to~~
4 ~~provide supplies material, equipment or contractual services according to~~
5 ~~specifications~~ within the time specified in the notice inviting bids or specifications
6 referred to therein, then the amount of the bidder's security shall be declared forfeited
7 to the city.”

8
9 **SECTION 16.** Section 2.48.330 of the RMC, entitled “Materials, supplies, and equipment –
10 Performance bonds,” shall be amended as follows (new text in underline, deleted text in ~~strike~~
11 ~~through~~):

12 “The finance director ~~chief financial officer~~, purchasing manager or their designated
13 representative shall have the authority to require a performance bond for satisfactory
14 completion before awarding a contract in such amount as is reasonably necessary to
15 protect the best interests of the city.”

16
17 **SECTION 17.** Section 2.48.370 of the RMC, entitled “Materials, supplies, and equipment –
18 Exceptions to competitive bidding,” shall be amended as follows (new text in underline, deleted text
19 in ~~strike through~~):

20 “Notwithstanding other provisions of this chapter to the contrary, any of the following
21 purchases may be made without resort to competitive bidding:

22 A. The purchase amount is one thousand dollars or less, and the price is
23 considered to be fair and reasonable.

24 ~~B. The amount involved is within open market purchasing policy limits as stated~~
25 ~~in Section 2.48.250 of this chapter.~~

26 BC. An emergency occurs which requires that materials, supplies or equipment be
27 obtained immediately by purchase, lease, rental or other use arrangement.

28 1. In cases of such an emergency, the city administrator or
designee may authorize the head of any department, with

1 coordination with the purchasing division, to purchase directly
2 any supplies, materials or equipment as needed.

3 2. The head of such department shall, not later than the next
4 regular business day thereafter, submit a report including a
5 requisition, a tabulation of bids received (if any), a copy of the
6 delivery record, and a full written account of the emergency
7 circumstances requiring such action. Copies of this report shall
8 be submitted to the city administrator and attached to the
9 pertinent purchase order. The city administrator shall then
10 present the full report to the city council at the next regular
11 council meeting.

12 ~~D. "Emergency" as used in this chapter means those cases wherein needed~~
13 ~~supplies or equipment are not on hand and must be procured immediately on~~
14 ~~the open market at the nearest and earliest available source of supply. In an~~
15 ~~emergency situation there is insufficient time to follow the bid procedures~~
16 ~~provided in this chapter because: 1) great public calamity exists, or 2) there is~~
17 ~~an immediate need to prepare for national or local defense, or 3) there is a~~
18 ~~breakdown in machinery, equipment or an essential service which requires the~~
19 ~~immediate purchase of supplies or equipment to protect the public health,~~
20 ~~safety or welfare, or 4) an essential city operation affecting the public health,~~
21 ~~safety or welfare would be greatly hampered or disrupted by following the~~
22 ~~standard purchasing procedure.~~

23 CE. The purchase is made in accordance with Section 2.48.210.

24 D. The city receives no bids pursuant to any of the bidding procedures required by
25 this chapter.

26 E. The purchase is made on behalf of the city by the State Department of General
27 Services pursuant to Public Contract Code Section 10299.

28 F. The purchase is from a sole/single source, as defined in Section 2.48.060.

1 1. For a purchase greater than fifteen thousand dollars, the city
2 council shall make a finding that procurement is available from
3 only one source and that there is no permissible substitute. For a
4 purchase of fifteen thousand dollars or less, the purchasing
5 manager shall make said written finding. The purchasing
6 manager shall conduct appropriate negotiations as to price,
7 delivery, and other terms.

8 2. A record of sole/single source procurements shall be maintained
9 as a public record and shall list each vendor's name, local
10 address and principal place of business, the amount and type of
11 each contract, the item(s) procured under each contract, and the
12 identification number of the procurement, if any.

13 G. The city council determines that competitive bidding is not in the best interest
14 of the city. The city council, by a four-fifths (4/5) vote, shall make a written
15 finding that the purchase is more economically and efficiently effected through
16 the use of an alternate procedure.”

17
18 **SECTION 18.** Section 2.48.410 of the RMC, entitled “Professional services – Procedures,”
19 shall be amended as follows (new text in underline, deleted text in ~~strike through~~):

20 “Due to the nature of professional services, the competitive bidding procedures and
21 requirements of this chapter shall not be required for the retention of such services;
22 provided, however, that the city department primarily responsible for the project for
23 which professional services are required shall, ~~if the city council has directed,~~ request
24 a formal or informal written proposal from not less than three available and qualified
25 consultants. ~~Where, notwithstanding the directive of the city council,~~ three consultants
26 cannot be found which could provide the required service or where it is not practicable
27 to obtain proposals from at least three available and qualified consultants, the initiating
28 department head may then select from the available and qualified applicant
 consultants. In such circumstance, selections based on less than three firms must be

1 documented with the names and addresses of consultants contacted by the city
2 department primarily responsible for the project and the reasons why at least three
3 written proposals could not be obtained. ~~the directive of the city council could not be~~
4 ~~met.~~ This documentation shall be maintained in the contract file of the city department
5 primarily responsible for the project, with a copy forwarded to the purchasing
6 division for inclusion in the purchase order file. The proposals received are to be
7 evaluated on the basis of demonstrated competence and on the professional
8 qualifications necessary for the satisfactory performance of the services required and
9 at fair and reasonable prices to the city.”

10
11 **SECTION 19.** Section 2.48.460 of the RMC, entitled “Public works projects,” shall be
12 amended as follows (new text in underline, deleted text in ~~strike through~~):

13 “Procurements for public works projects shall be made in accordance with state law
14 governing such procurements by cities, including, but not limited to, Article 4 of
15 Chapter 1 of Part 3 of Division 2, Chapter 1 (Local Agency Public Construction Act),
16 Articles 1 and 4, Sections 20100 and 20160 respectively of the California Public
17 Contract Code (Section 20160 et seq.).”

18
19 **SECTION 20.** Section 2.48.480 of the RMC, entitled “Federal/state requirements,” shall be
20 amended as follows (new text in underline, deleted text in ~~strike through~~):

21 “Any procurements using federal or state grant funds shall be made in compliance
22 with all applicable federal and state laws governing such procurements, as well as any
23 adopted city policies related to such procurements. In the event of any conflict
24 between applicable federal or state laws governing grant-funded procurements and the
25 provisions of this chapter, applicable federal and state laws shall govern. If any
26 section, subsection, subdivision, sentence, clause or phrase of this chapter conflicts
27 with any federal or state requirements mandated for any grant-funded procurement or
28 otherwise, the applicable federal or state requirements shall be controlling.”

SECTION 21. The City Clerk shall certify to the adoption of this Ordinance, and cause the same to be published in the local newspaper, and the same shall take effect thirty (30) days after its date of adoption.

PASSED, APPROVED, AND ADOPTED this 12th day of February, 2019.

Deborah Robertson, Mayor

ATTEST:

Barbara McGee, City Clerk

APPROVED AS TO FORM

Fred Galante, City Attorney