



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

Prepared by: April Miller, Director of Public Works

City Manager Approval: _____

TOPIC: AWARD OF PUBLIC WORKS CONTRACTS

SUBJECT: 1) INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 11.50 OF TITLE 11 OF THE SAN RAFAEL MUNICIPAL CODE, TITLED PUBLIC WORKS CONTRACT POLICY

2) RESOLUTION SETTING DOLLAR AMOUNT LIMITS FOR AWARD OF PUBLIC WORKS CONTRACTS

RECOMMENDATION:

1. Waive further reading of the ordinance and refer to it by title only, and introduce an ordinance of the City of San Rafael City Council amending Chapter 11.50 of Title 11 of the San Rafael Municipal Code, titled Public Works Contract Policy.
2. Adopt the resolution setting dollar amount limits for award of public works contracts.

EXECUTIVE SUMMARY:

The proposed ordinance and resolution would increase and set the dollar amount limits for award of the City’s public works (construction) contracts to match those under the Uniform Public Construction Cost Accounting Act (“UPCCAA”).

BACKGROUND:

State laws governing award and bidding requirements for municipal construction contracts are provided in the Public Contracts Code (“PCC”). For charter cities, including the City of San Rafael, the PCC applies only in the absence of an express exemption, a city charter provision, or an ordinance that conflicts with a relevant provision of the code. (PCC § 1100.7.) Municipalities may also opt into the Uniform Public Construction Cost Accounting Act (“UPCCAA”), a subset of the PCC, which sets uniform and simplified bidding procedures for construction contracts. (PCC § 22001, et seq.)

The City’s Public Works Contract Policy is set forth in Chapter 11.50 of the San Rafael Municipal Code (“SRMC”). The policy provides separate bidding and awarding procedures for “minor contracts” and

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

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“major contracts”. The City has not opted into UPCCAA. The City’s charter and ordinance provisions govern over relevant provisions of the PCC.

Under the City’s policy, “minor contracts” are those of \$125,000 or less, or an amount otherwise set by resolution of the City Council. In [November 2017](#), the City Council increased the limit for minor contracts from \$125,000 to less than \$175,000. Minor contracts follow an informal bidding process and may be awarded by the Director of Public Works and do not require City Council award. (SRMC § 11.50.020.)

“Major contracts” are those exceeding \$125,000, or an amount otherwise set by resolution of the City Council. The current limit, adopted in [November 2017](#), is \$175,000 or above. All “major contracts” require formal bidding requirements and City Council award. (SRMC § 11.50.020.)

The City’s policy also permits an exception to the bidding requirements for contracts in an amount not exceeding \$30,000. (SRMC § 11.50.090.)

ANALYSIS:

The City’s dollar amount limits for awarding public works contracts have fallen well behind rising construction cost indexes and those set by the California Uniform Construction Cost Accounting Commission (Commission) under the UPCCAA. The current limit of \$175,000 was set by the City Council in November 2017 which at the time was set to match the UPCCAA limit. The City’s \$30,000 limit to except contracts from competitive bidding was set by ordinance in 1994.

Based on Engineering News-Record’s (ENR) construction cost index history, construction costs have increased over 30% in the last decade. ENR also reported an annual inflation rate of construction costs of 8.5% in May 2022 at the beginning of the last construction season.

The Commission last raised its UPCCAA limits (PCC § 22032), effective January 2019, to the following amounts:

- \$60,000 or less, competitive bidding exception. Public projects of \$60,000 or less may be performed by employees of a public agency by force account, by negotiated contract, or by purchase order.
- \$200,000 or less, informal procedures permitted. Public projects of \$200,000 or less may be let to contract by informal procedures.
- Over \$200,000, formal bidding required. Public projects of more than \$200,000 must be let to contract by formal bidding procedures.

The proposed ordinance would make minor amendments to the City’s public works contract policy to: i) remove the \$125,000 limit for minor construction contracts which is outdated and has since been governed by resolution of the Council; and ii) replace the \$30,000 limit set in 1994 to except contracts from competitive bidding with limits to be set from time to time by resolution of the Council. Gender-neutral language changes are also incorporated.

The proposed resolution would incorporate by reference the UPCCAA dollar limits. The current UPCCAA limits are listed above. Every five years the Commission reviews the monetary limits prescribed under section 22032 based on material changes in public construction costs, and the Commission makes appropriate adjustments to the monetary limits. (PCC § 22020.) The next 5-year cycle update is expected in 2024. Setting the City’s limits to match those under the UPCCAA, instead of specific dollar amounts, will ensure that the City’s limits automatically increase with future adjustments made based on the Commission’s review of rising public construction costs. With this resolution, the City will apply the UPCCAA dollar limits under its current policy, but will not “opt in” to the UPCCAA.

Staff recommends this proposal to operate more efficiently with the City's limited financial and staff resources. It would simplify administration of small construction projects; speed up the award process; reduce the time, effort, and expense associated with bidding projects under the minor project bidding limit; and expedite delivery of important construction projects related to the City's buildings, streets, parks, drainage, and other infrastructure.

Adopting the UPCCAA dollar limits is common practice for municipalities. This policy mirrors the policies of other similarly sized charter cities in the area, including the cities of Novato, Napa, and Alameda. These cities have ordinances or resolutions that incorporate by reference the UPCCAA dollar limits, while not opting into UPCCAA. Marin County and most other small municipalities in Marin County (Towns/Cities of Tiburon, Ross, San Anselmo, Fairfax, Corte Madera, Sausalito, Mill Valley, Larkspur, and Belvedere) have formally opted into UPCCAA.

Lastly, the proposal should not negatively impact the fiduciary oversight of public works contracting. Due to inflation and rising construction prices, the Director of Public Works would have the authority to award the same types of small construction projects envisioned under the existing ordinance and resolution. The City's informal procedures for minor contracts still require bid inquiry to a minimum of three bidders and award to the lowest and most responsible bidder.

FISCAL IMPACT:

There is no fiscal impact. This action only pertains to the bidding requirements and authority limits for the Director of Public Works to award a public works contract without Council approval. The City's policy already requires an unencumbered appropriation to exist prior to contract approval. (SRMC § 11.50.040.)

OPTIONS:

The City Council has the following options to consider on the ordinance:

1. Introduce the ordinance for adoption as proposed.
2. Do not introduce the ordinance and provide alternative direction to staff.

The City Council has the following options to consider on the resolution:

1. Adopt the resolution.
2. Adopt the resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

1. Waive further reading of the ordinance and refer to it by title only, and introduce an ordinance of the City of San Rafael City Council amending Chapter 11.50 of Title 11 of the San Rafael Municipal Code, titled Public Works Contract Policy.
2. Adopt the resolution setting dollar amount limits for award of public works contracts.

ATTACHMENTS:

1. Ordinance
2. Resolution

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 11.50 OF TITLE 11 OF THE SAN RAFAEL MUNICIPAL CODE, TITLED PUBLIC WORKS CONTRACT POLICY

WHEREAS, Chapter 11.50 of the San Rafael Municipal Code (“SRMC”) sets forth the City of San Rafael’s public works contract policy, which includes separate bidding and award procedures for “minor contracts” and “major contracts”; and

WHEREAS, under the City’s policy, “minor contracts” are those of \$125,000 or less, or an amount otherwise set by resolution of the City Council. Minor contracts follow an informal bidding process and may be awarded by the Director of Public Works and do not require City Council award; and

WHEREAS, “major contracts” are those exceeding \$125,000, or an amount otherwise set by resolution of the City Council. All “major contracts” require formal bidding requirements and City Council award; and

WHEREAS, the City’s policy also permits an exception to the bidding requirements for contracts in an amount not exceeding \$30,000; and

WHEREAS, the City Council desires to amend the City’s public works contract policy by replacing the dollar amount limits specified in Chapter 11.50 for the City’s competitive bidding exception, and award of minor (informal) contracts and major (formal) contracts, with dollar amount limits to be set by resolution of the City Council; and

WHEREAS, the City Council further desires to amend Chapter 11.50 to incorporate gender-neutral language; and

WHEREAS, this Ordinance No. _____ was introduced and read by title only at a duly-noticed public meeting of the San Rafael City Council on the 17th day of January 2023.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:

DIVISION 1. Chapter 11.50 of Title 11 of the Municipal Code of the City of San Rafael is hereby amended as follows. Additions are shown in underline and deletions in strikethrough.

Chapter 11.50 – PUBLIC WORKS CONTRACT POLICY

11.50.010 Purpose.

The purpose of this chapter is to establish procedures for the benefit and convenience of the city in the letting of public works contracts, which procedures are and shall be a part of every contract.

11.50.020 Definitions.

As used in this chapter, the following words are defined as follows:

- A. "Contract work" means employment of workers by contract, including change orders. Contract work excludes employment of city employees and day work.
- B. "Day work" means work performed by city employees and/or by the employment of workers paid by the city on a daily basis.
- C. "Department" means the department of public works.
- D. "Director" means the director of public works.
- E. "Force account" means work performed by a contractor on a time and materials basis.
- F. "Major contract" means any contract let by the city for the performance of public works in an amount ~~exceeding one hundred twenty-five thousand dollars (\$125,000.00), or such other amount as may be~~ established from time to time by resolution of the city council.
- G. "Minor contract" means any contract let by the city for the performance of public works in an amount ~~of one hundred twenty-five thousand dollars (\$125,000.00) or less, or such other amount as may be~~ established from time to time by resolution of the city council.
- H. "Public works" or "public works project" means:
 - 1. The construction, improvement, alteration, modification and repair of public buildings, works and facilities;
 - 2. Work in or about streams, bays, waterfronts, embankments or other works for protection against overflow;
 - 3. Construction of streets and related improvements including installation of lighting and signaling systems;
 - 4. Construction of drainage systems;
 - 5. Construction of parks, playgrounds and other recreational improvements, scenic improvements, and enhancement projects;
 - 6. Furnishing materials and supplies for any such project;
 - 7. Maintenance and repair of public works; and
 - 8. Other similar work.
- I. "Professional services" means services such as, but not limited to, the services of attorneys, physicians, architects, engineers, surveyors and other consultants or individuals or organizations possessing a high degree of technical skill.
- J. "Support systems" means any and all work performed or services rendered by independent contractors, with or without the furnishing of material, such as but not limited to: custodial services, building and equipment maintenance, machinery and equipment rental, and telephone, gas, water, electric light and power services.

11.50.030 Professional or support services—Chapter inapplicability.

This chapter has no application to the hiring of or contracting for professional or support services.

11.50.040 Encumbrance of funds.

No public works contract shall be approved for public works unless there exists an unencumbered appropriation in the fund account against which said contract is to be charged.

11.50.050 Contract requirements.

Except as otherwise provided by the San Rafael City Charter or ordinances pursuant thereto, the director or ~~his~~ their authorized representative may establish written requirements to be included in all public works contracts.

11.50.060 Letting of public works contracts.

All contracts for public works shall be let in accordance with this chapter and such rules and regulations as may be adopted by the director, or ~~his~~ their designee, to carry out the purposes of this chapter.

11.50.070 Competitive bidding.

All public works contracts shall be based on competitive bids unless otherwise provided in this chapter.

11.50.080 Emergency contracts.

Emergency contracts for public works may be made free of any of the bidding requirements of this chapter when determined and declared by the city that an emergency exists.

11.50.090 Exception to bidding requirement—Waiver.

- A. Contracts in an amount ~~not exceeding thirty thousand dollars~~ ~~(\$30,000.00)~~ established from time to time by resolution of the city council may be awarded and executed by the director without recourse to the competitive bidding provisions of this chapter.
- B. The city council, after reviewing and considering the facts of a particular public works project, may waive the bidding requirements of this chapter by finding that any one or more of the following circumstances exist:
 - 1. Limitations on the source or the scope and nature of the contract are such that no more than one contractor is available to meet the technical specifications and/or quality considerations of the project;
 - 2. The work is of a highly specialized nature;
 - 3. There would be no competitive advantage to requiring bidding for the contract;
 - 4. The cost of the work would be significantly increased or its completion significantly delayed;

5. There exist other specific considerations justifying the waiver of the bidding requirements.
- C. Contracts may be awarded and executed by the director without recourse to the competitive bidding provisions of this chapter if ~~he or she~~ the director determines that an emergency exists which requires work to be performed within a shortened time frame. For purposes of this section, "emergency" means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

11.50.100 Rejecting bids.

After the bids are received on a particular public works contract, the awarding authority may in its sole discretion reject any and all bids presented and may either readvertise bids or may have the work done by the awarding authority.

11.50.110 Contract award.

- A. Bid Opening. Sealed bids shall be submitted to the city at the location specified in the public notice. The bids shall be so identified on the envelope with reference to the specific request inviting bids to which it relates. Bids shall be opened in public at the time and place stated in the public notice or in the request inviting bids. A tabulation of all bids received 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.
- B. Tie Bids. If two (2) or more bids received are for the same total amount or unit price, the awarding authority may consider factors other than price and accept the one it chooses.
- C. Awarding Authority. Bids on major contracts shall be awarded by the city council. Bids on minor contracts may be awarded by the director.

11.50.120 Bidder's security.

Unsuccessful bidders shall be entitled to the return of their security within thirty (30) days from execution of the contract by the city.

The successful bidder shall forfeit ~~his~~ their security upon ~~his~~ the bidder's failure to execute the contract within ten (10) days after the notice of award has been delivered personally or by mail. If the successful bidder fails to execute the contract, then the award may be made to the next lowest responsible bidder. The amount of the lowest bidder's security may then be applied by the city to the difference between the low bid and the next low bid, and the surplus, if any, shall be returned to the lowest bidder.

11.50.130 Indemnification.

The contractor shall defend, indemnify and hold harmless the city, its officers, agents and employees, from all claims, loss, damage, injury and liability of every kind, nature and description, directly or indirectly arising from the performance of

the contract or work, regardless of responsibility for negligence (including costs and expenses, which include attorney's fees, incurred in connection therewith) and from any and all claims, loss, damage, injury and liability, howsoever the same may be caused, resulting directly or indirectly from the nature of the work covered by the contract, regardless of responsibility for negligence (including costs and expenses, which include attorney's fees, incurred in connection therewith) but excluding liabilities due to the sole negligence or willful misconduct of the city.

11.50.140 Notice inviting bids.

Notice inviting bids shall include a general description of the project, the location where bid blanks and specifications may be secured, and the time and place for opening bids.

11.50.150 Major contracts—Bidding procedures.

- A. Public Notice. Public notice inviting bids shall be published once at least ten (10) days before the date of opening the bids in a newspaper of general circulation printed and published in the city. In addition, the director or ~~his/her~~ their designee may issue public notice to the trade publications. The director or ~~his/her~~ their designee may waive the necessity to publish the invitation to bid in a newspaper published in the city if the scope and nature of the contract is such that contractors are not available in the local area, except that public notice by other appropriate means, including but not limited to notice in trade publications, shall be issued as determined by the director or ~~his/her~~ their designee.
- B. Award of Contract. The contract shall be awarded to the lowest, responsive and responsible bidder.
- C. Bid Security. All bidders shall furnish bidder's security in the amount of ten percent (10%) of the contract price by way of cash, cashier's check, certified check or bid bond in a form acceptable to the city.

11.50.160 Major contracts—Requirements.

- A. Bonds. The successful bidder shall furnish the following bonds to the city within ten (10) days following notification of the award of the contract:
 1. Performance bond in the amount of one hundred percent (100%) of the contract price;
 2. Labor and materials bond in the amount of one hundred percent (100%) of the contract price;
 3. Materials guaranty (maintenance) bond in the amount of fifty percent (50%) of the contract price. This bond shall unconditionally guarantee materials for a period of one year from and after the date of recordation of the notice of completion.

All bonds must be issued by a surety insurer, admitted in California, and must be issued in the form of a bond, not a deposit in lieu of a bond.

However, a certificate of deposit, may be substituted upon approval of the awarding authority.

- B. Insurance. The contractor shall assume all responsibility for damage to property or injury to person(s) caused in any manner by ~~his~~ the contractor's performance under the contract, by any equipment furnished by ~~him~~ the contractor under the contract, or by the operation thereof. The contractor shall obtain and maintain, during the entire life of the contract, such public liability and property damage insurance satisfactory to the city and its attorney, as shall protect ~~him~~ the contractor and the city from loss, liability, or claims for damages or personal injury, including accidental death as well as for claims for property damage, which may arise from or out of performance of the contract, whether such performance be by ~~himself~~ the contractor, ~~his~~ the contractor's subcontractor(s), anyone directly or indirectly employed by ~~him~~ the contractor, or the city, its officers, agents or employees. The amount and requirements of such insurance shall be as follows:
1. Public liability insurance in an amount not less than five hundred thousand dollars (\$500,000.00) per person, one million dollars (\$1,000,000.00) per incident, or one million dollars (\$1,000,000.00) combined single limit;
 2. Professional liability (errors or omissions) insurance in a like amount, if applicable;
 3. Public liability insurance for property damage in an amount not less than five hundred thousand dollars (\$500,000.00);
 4. Such policies shall name the city of San Rafael, its officers, employees and agents as additional insureds; said policies shall be primary insurance;
 5. A current certificate of insurance shall be furnished to the director showing the required insurance coverage and providing for thirty (30) days written notice by registered mail to the city by the insurance company and the contractor, prior to cancellation or any change in policy coverage. Additionally, an endorsement to the policy specifically enumerating the additional insureds as stated in subsection (B)(4) of this section, shall be furnished to the director.
 6. Workers compensation insurance and all employee taxes and employee benefits required by law shall be the sole responsibility of the contractor. Contractor shall provide written evidence of workers compensation insurance coverage.

The contractor's insurer must be an admitted insurer in the state of California. Upon request, contractor shall provide city a copy of any insurance policies mentioned in this section.

- C. Wage Rates. Pursuant to the requirements of California Labor Code, Section 1771, the general prevailing wage rates in the locality in which

the work is to be performed, for each craft or type of worker needed to execute the contract, shall be followed.

D. Payments and Retention.

1. Method of payment may be set forth in the contract, otherwise no payment shall be made to the contractor until the contract is performed satisfactorily and the notice of completion is recorded by the city.
2. Ten percent (10%) of the contract price shall be retained from all contracts for a period of thirty-five (35) days from and after the date of recordation of the notice of completion unless otherwise specified in the contract. The director may determine a higher retention is necessary to cover any unpaid claims, provided proper stop notices, pursuant to the California Civil Code, of said claims have been filed in the office of the city finance director or the public works director.

E. Form of Contract. The contract document shall be the city's standard contract, for public works, as modified to the specifics of the project.

11.50.170 Minor contracts—Bidding procedures.

- A. Public Notice. Proposals shall be solicited from at least three (3) contractors by telephone, written request, or by public notice pursuant to Sections 11.50.140 and 11.50.150(A). The contract shall be awarded to the lowest responsive and responsible bidder and shall be based on at least three (3) bids or proposals where possible.
- B. Bid Security. Bidder's security in the amount of ten percent (10%) of the contract price may be required with the proposal if deemed necessary by the director.

11.50.180 Minor contracts—Requirements.

- A. Bonds. The director or ~~his/her~~ their designee may require a performance bond, a materials and labor bond, and a maintenance bond before awarding a contract, in such amounts as ~~he/she~~ the director determines are reasonably necessary to provide for the best interest of the city. The form and amount of said bond(s) shall be described in the oral or written notice inviting bids.
- B. Insurance. The contractor shall assume all responsibility for damage to property or injuries to person(s) caused in any manner by ~~his~~ the contractor's performance under the contract, by any equipment furnished by ~~him~~ the contractor under the contract, or by the operation thereof. The contractor shall obtain and maintain during the entire life of the contract such public liability and property damage insurance, satisfactory to the city and its attorney, as shall protect ~~him~~ the contractor and the city from loss liability, or claims for damages or personal injury, including accidental death as well as for claims for property damage, which may arise from or out of performance of the

contract, whether such performance be by ~~himself~~ the contractor, ~~his~~ the contractor's subcontractor(s) or anyone directly or indirectly employed by ~~him~~ the contractor, or by the city, its officers, agents or employees. The amount and requirements of such insurance shall be as follows:

1. Public liability insurance in an amount not less than five hundred thousand dollars (\$500,000.00) per person, one million dollars (\$1,000,000.00) per incident, or one million dollars (\$1,000,000.00) combined single limit;
2. Professional liability (errors and omissions) insurance in a like amount, if applicable;
3. Public liability insurance for property damage in an amount not less than five hundred thousand dollars (\$500,000.00);
4. Such policies shall name the city of San Rafael, its officers, employees and agents as additional insureds, said policies shall be primary insurance;
5. A current certificate of insurance shall be furnished to the director showing the required insurance coverage and providing for thirty (30) days written notice by registered mail to the city by the insurance company and the contractor prior to cancellation or any change in policy coverage. Additionally, an endorsement to the policy specifically enumerating the additional insureds as stated in subsection (B)(4) of this section, shall be furnished to the director;
6. Workers compensation insurance and all employee taxes and employee benefits required by law shall be the sole responsibility of the contractor. Contractor shall provide written evidence of workers compensation insurance coverage.

The contractor's insurer must be an admitted insurer in the state of California. Upon request, contractor shall provide copies of all insurance policies mentioned in this section.

- C. Wage Rates. Pursuant to the requirements of California Labor Code Section 1771, the general prevailing wage rates in the locality in which the work is to be performed, for each craft or type of worker needed to execute the contract, shall be followed.
- D. Payments and Retention.
 1. No payment shall be made to the contractor until the contract is performed satisfactorily and the notice of completion is recorded.
 2. Ten percent (10%) of the contract price may be retained as a labor and materials surety for a period of thirty-five (35) days from and after the date of recordation of the notice of completion unless the director, at any time, determines a higher retention is necessary to cover any unpaid claims, provided proper stop notices pursuant to the California Civil Code if said claims have been filed in the office of the city finance director or city public works director.

3. Guarantee. The contractor shall unconditionally guarantee all materials and workmanship for a period of one year following the notice of completion.

E. The contract document shall be the city's standard contract or purchase order, as modified to the specifics of the particular purchase or project.

11.50.190 No waiver.

These procedures are for the benefit and convenience of the city. Failure to follow or enforce or expressly include the provisions of this chapter in the contract shall not be a waiver of the requirements of this chapter.

DIVISION 2.

All former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance or the Codes hereby adopted are hereby repealed.

DIVISION 3.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The City Council of the City of San Rafael hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases shall be declared invalid.

DIVISION 4.

The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act (CEQA), pursuant to 14 CCR Section 15061(b)(3), since it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment.

DIVISION 5.

This Ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published and circulated in the City of San Rafael and shall be in full force and effect 30 days after its adoption. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Council members voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk, a certified copy of the full text of this Ordinance along with the names of those Councilmembers voting for and against the Ordinance.

THE FOREGOING ORDINANCE was first read and introduced at a regular meeting of the San Rafael City Council on the 17th day of January 2023, and was passed and adopted at a

regular meeting of the San Rafael City Council on the 6th day of February 2023 by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

Kate Colin, Mayor

Attest:

LINDSAY LARA, City Clerk

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL SETTING DOLLAR AMOUNT LIMITS FOR AWARD OF PUBLIC WORKS CONTRACTS

WHEREAS, Chapter 11.50 of the San Rafael Municipal Code (“SRMC”) sets forth the City of San Rafael’s public works contract policy, which includes separate bidding and award procedures for “minor contracts” and “major contracts”; and

WHEREAS, the City’s policy at SRMC § 11.50.110(C) permits the Public Works Director to award minor contracts using informal procedures; and

WHEREAS, delegating the award of minor contracts to the Public Works Director saves time, minimizes administration cost, and expedites the completion of smaller public works projects; and

WHEREAS, under the City’s policy at SRMC § 11.50.020(G), the City Council sets by resolution the dollar limit for minor contracts, and in November 2017, the City Council increased the dollar limit for minor contracts from \$125,000 to less than \$175,000; and

WHEREAS, the City’s policy at SRMC § 11.50.090(A), revised by Ordinance _____, will provide an exception to bidding requirements for small contracts in an amount established by resolution of the City Council; and

WHEREAS, construction costs have increased significantly over the last decade and particularly over the last several years; and

WHEREAS, the Uniform Public Construction Cost Accounting Act (“UPCCAA”), Public Contracts Code section 22032, sets dollar amounts for award of public contracts, which are currently set at \$60,000 or less for competitive bidding exception, \$200,000 or less for public projects let to contract by informal procedures, and greater than \$200,000 for public projects let to contract by formal bidding procedures; and

WHEREAS, the dollar amount limits set under the UPCCAA are reviewed by the California Uniform Construction Cost Accounting Commission (Commission) every five years to account for rising construction costs, and

WHEREAS, pursuant to Public Contracts Code section 1100.7, the Public Contracts Code applies to charter cities only in the absence of an express exemption, a city charter provision, or an ordinance that conflicts with a relevant provision of the code, and the City of San Rafael has not elected to be subject to the UPCCAA; and

WHEREAS, pursuant to the City’s public works contract policy, the City Council desires to adopt by reference the dollar amount limits from UPCCAA for the City’s competitive bidding exception, minor (informal) contracts, and major (formal) contracts.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL RESOLVES as follows:

1. The dollar amount limit to except a contract from the competitive bidding provisions under SRMC section 11.50.090(A) shall be the same amount specified in the Public Contracts Code section 22032(a) for public projects that may be performed by force account, by negotiated contract or by purchase order, as that code may be amended from time to time. This provision shall become effective upon the effective date of Ordinance No. _____.
2. The dollar amount limit to define a “minor contract” under SRMC § 11.50.020(G) shall be the same amount specified in the Public Contracts Code section 22032(b) for public projects that may be let to contract by informal procedures, as that code may be amended from time to time.
3. The dollar amount limit to define a “major contract” under SRMC § 11.50.020(F) shall be the same amount specified in the Public Contracts Code section 22032(c) for public projects that shall be let to contract by formal procedures, as that code may be amended from time to time.
4. Unless otherwise indicated, the dollar amount limits set forth herein shall be effective immediately.
5. By adopting this resolution, the City Council is not electing to become subject to the Uniform Public Construction Cost Accounting procedures, pursuant to the Public Contracts Code section 22030.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Tuesday, the 17th day of January 2023, by the following vote, to wit:

AYES: **Councilmembers:**
NOES: **Councilmembers:**
ABSENT: **Councilmembers:**

Lindsay Lara, City Clerk