

**CITY OF EDNA BAY
ORDINANCE NO. 2016-09CO**

**AN ORDINANCE OF THE CITY OF EDNA BAY AMENDING TITLE 4, CHAPTERS
4.01, 4.04, 4.08, 4.12, 4.16, AND 4.17 OF THE EDNA BAY MUNICIPAL CODE.**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF EDNA BAY, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and the code section amended hereby shall become part of the city code.

Section 2. Severability. If any provisions of this ordinance or any application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Penalty. Violations of the section herein enumerated shall be punishable as specified in the Edna Bay Municipal Code.

Section 4. Effective Date. This ordinance is effective upon adoption.

Section 5. Amendment of Title 4, Chapters 4.01 Budget generally, Chapter 4.04 Budget procedures; 4.08 Annual financial statement; 4.12 Management of funds; Chapter 4.16 Purchasing; and Chapter 4.17 Contracts. These chapters of the Edna Bay Municipal Code shall be amended to read as follows with the language ~~struck through~~ being repealed and the language **underlined and bold** adopted:

**TITLE 4
REVENUE AND FINANCE**

Chapters:

- 4.01 Budget Generally**
- 4.04 Budget Procedures**
- 4.08 Annual Financial Statement**
- 4.12 Management of Funds**
- 4.16 Purchasing**
- 4.17 Contracts**

CHAPTER 4.01 BUDGET GENERALLY

Sections:

| | |
|------------------|-----------------------|
| Section 4.01.010 | City obligations |
| Section 4.01.020 | Scope of budget |
| Section 4.01.030 | Budgeted revenues |
| Section 4.01.040 | Budgeted expenditures |

Section 4.01.010 City obligations.

- ~~(a) A contract or lease may be renewed for up to a maximum of two (2) annual contract extensions after completion of the initial specified performance period, as approved by the city council by motion. **(removed and placed under 4.17.120)**~~
- (a) A bond, contract, lease, or other obligation requiring the payment of funds from the appropriations of a later fiscal year, or of more than one fiscal year, shall be made by non-code ordinance and approved by the voters.
- (b) No payment may be authorized or made and no obligations may be incurred except in accordance with an appropriation made by non-code ordinance. The city council may make supplemental and emergency appropriations by non-code ordinance.
- (c) The council may authorize contracts for capital improvements to be financed wholly or partly by the issuance of bonds.

Section 4.01.020 Scope of budget.

- (a) The budget shall be a complete financial plan for the operation of the city during the next fiscal year, showing dollar reserves, anticipated revenues and proposed expenditures.
- (b) Adoption of the budget, together with appropriation of the required funds, constitutes the commitment and authorization of each sum identified therein to be expended by the mayor and the city's appointed officials for the specified purpose.
- (c) Proposed expenditures shall not exceed anticipated revenues and reserves.

Section 4.01.030 Budgeted revenues.

Budgeted revenues shall be itemized as needed for proper accounting purposes, and may be composed of taxes, licenses, and permits, intergovernmental revenues, charges of services, fines, and forfeitures, miscellaneous revenue, cash reserves, and others as needed for proper accounting purposes.

Section 4.01.040

Budgeted expenditures.

- (a) Budgeted expenditures shall be itemized as needed for proper accounting purposes. Separate provisions shall be included **in the budget for at least:**

- (1) interest charges on the public debt for which the faith and credit of the city is pledged;
- (2) **expenditures proposed for** administration, operation and maintenance for each committee, department or agency of the city;
- (3) ~~report on~~ the council's budgetary reserve; and
- (4) expenditures proposed for capital projects, including provision for down payments on capital projects.

- (b) **In a parallel column opposite the items of proposed expenditures, there shall be placed the amount of each such item actually spent in the preceding fiscal year and the budget for the current fiscal year.**

CHAPTER 4.04 BUDGET PROCEDURE

Sections:

| | |
|-----------------|--|
| 4.04.010 | Fiscal year. |
| 4.04.040 | Proposed budget. |
| 4.04.050 | Budget hearing. |
| 4.04.060 | Amendment of proposed budget, adoption, appropriation of funds. |
| 4.04.070 | Amendment – in general. |
| 4.04.080 | Encumbrance. |
| 4.04.085 | Excess liability - lapse of appropriation. |
| 4.04.090 | Transfers. |

Section 4.04.010 Fiscal year.

The fiscal year of the city government shall begin on the first day of July of each calendar year and end on the last day of June of the following calendar year. The fiscal year shall also constitute the budget and accounting year.

~~Section 4.04.020 – Reserved.~~

~~Section 4.04.030 – Reserved.~~

Section 4.04.040 Proposed budget.

The mayor, council, clerk and committees of the city shall meet to form an estimate of anticipated expenses and goals for the next fiscal year, and must prepare these items no later than May 1st of each year. The budget shall be submitted as an ordinance. The council may amend the budget estimate at any time prior to adoption.

- (a) **The mayor, council, clerk and committees of the city shall meet to form an estimate of anticipated expenses and revenues for the next fiscal year.**
- (b) **The mayor shall prepare and submit to the council no later than May 1st of each year, the proposed budget for the following fiscal year.**
- (c) **The proposed budget shall set out estimates of all revenues expected to be received, and provide and appropriate for all anticipated expenditures of money, including contract and other commitments, except expenditures of construction funds derived from bonds or from special assessment.**
- (d) **The proposed budget shall include in parallel column opposite the items of anticipated revenues the amount of each such item actually received in the preceding fiscal year and the budget for the current fiscal year.**

- (e) The proposed budget shall include in parallel column opposite the items of proposed expenditures, the amount of each such item actually spent in the preceding fiscal year and the budget for the current fiscal year.
- (f) The budget shall be submitted as an ordinance. The council may amend the budget estimate at any time prior to adoption and at any time during the current fiscal year.

~~Section 4.04.050 – Reserved.~~

Section 4.04.050 Budget hearing.

The council shall post the time and place for a public hearing on the proposed budget. Notice of the hearing, together with a summary of the proposed budget, shall be posted in three (3) places in the city not less than five (5) days prior to the time fixed for the hearing. At the hearing all interested persons shall be given an opportunity to be heard.

Section 4.04.060 Amendment of proposed budget, adoption, appropriation of funds.

After the conclusion of the public hearing on the proposed budget, the council may insert new items or may increase or decrease the items of the budget in proposed expenditures fixed by law. The council shall adopt the budget and make the appropriation by ordinance not later than the fifteenth (15th) day of June. The council shall then appropriate the money required for the approved budget.

- (a) After the conclusion of the public hearing on the proposed budget, the council may insert new items or may increase or decrease the items of the budget in proposed expenditures.
- (b) The council shall adopt the budget and make the appropriation by ordinance not later than the fifteenth (15th) day of June. The council shall then appropriate the money required for the approved budget.
- (c) If no budget has been adopted by the council by the last day of the present fiscal year, the proposed budget that is submitted or amended shall be deemed appropriate for the new fiscal year.

Section 4.04.070 Amendment – in general.

The budget can be amended by the council at any time after adoption provided no such amendment shall be made until after a public hearing.

Section 4.04.080

Encumbrance.

No budget appropriations may be encumbered without prior confirmation by the mayor that there are sufficient funds available to meet the expenditure.

Section 4.04.085

Excess liability - lapse of appropriation.

- (a) During any budget year, the mayor, clerk and treasurer shall not allow expenditures or contracts to incur a liability in excess of the amount appropriated. To resolve the liability, the council may adopt a budget amendment.
- (b) All appropriations covered by the budget shall lapse at the end of the budget year to the extent that they have not been expended or lawfully encumbered.

Section 4.04.090

Transfers.

The mayor may approve intra-department transfers of appropriated funds; provided however, that appropriations may not be transferred between departments except by ordinance amending the budget as provided by section 4.04.070 of this chapter.

CHAPTER 4.08 ANNUAL FINANCIAL STATEMENT

Sections:

4.08.010 Annual financial statement.

4.08.020 Audit.

Section 4.08.010 Annual financial statement.

- (a) The treasurer shall prepare and submit for review and approval of the council an annual financial statement. The statement shall contain the same basic information and accounts as the city treasurer's monthly financial report.
- (b) The mayor shall arrange for the preparation of a statement of annual income and expenditures and shall deliver the statement to the city council before October 1st of each year. The council shall authorize the certified financial statement.

Section 4.08.020 Audit.

- (a) The city council may require that an audit be conducted in place of or in addition to the statement of annual income and expenditures. The audit shall be completed and transmitted to the city council prior to April 1st of the following year for which the audit has been prepared.
- (b) The audit shall be made by an accountant, designated by the council, who has no personal interest, direct or indirect, as defined in the rules of professional ethics of the American Institute of Certified Public Accountants, in the fiscal affairs of the city or any of its departments. The designated accountant shall be a certified public accountant licensed to practice in the State and shall be a member of the American Institute of Certified Public Accountants. The accountant shall submit his or her report to the mayor and council no later than ninety (90) days following the end of the fiscal year under audit.

CHAPTER 4.12 MANAGEMENT OF FUNDS

Sections:

| | |
|------------------|--------------------------|
| Section 4.12.010 | Treasurer |
| Section 4.12.020 | Deposits and withdrawals |
| Section 4.12.030 | Investments |

Section 4.12.010 Treasurer.

- (a) There shall be a city treasurer appointed by the mayor and confirmed by the city council.
- (b) The treasurer is the custodian of all municipal funds and shall be responsible for their management and shall develop and maintain such records, systems, and procedures as may be necessary for that purpose.
- (c) All accounting functions for all city departments and offices are the responsibility of the treasurer. The treasurer shall provide the following **financial** statements to the council on a monthly basis:
 - (1) ~~a summary of itemized statement of revenues and expenditures showing the originally budgeted amount, financial activity of current month, total year-to-date amount, and the balance between the year-to-date amount and the budgeted amount~~ **a summary statement of revenues and expenditures showing the financial activity of the current month;**
 - (2) reconciliation statements from banks, investments, and funds **if requested by the council.**
- ~~(1) Profit and loss budget overview.~~
- ~~(2) Balance sheet.~~
- (d) The city council may combine the office of the clerk with that of treasurer.

Section 4.12.020 Deposits and withdrawals.

- a) The treasurer is authorized to deposit city funds in such federally insured commercial banks, savings and loan associations, or investment accounts as the council may authorize. All such deposits shall be held in the name of the City of Edna Bay.
- b) All checks written on city funds shall have two signers consisting of the mayor and clerk or treasurer.

- c) No check may be drawn unless there are sufficient funds in the account to cover the amount.

Section 4.12.030 - Investments.

~~The council may determine when to invest excess cash balances.~~

~~All transactions shall be made and held in the name of the City of Edna Bay, or its designate.~~

- (a) **The city may invest money in investment pools for public entities as authorized under AS 37.23.**
- (b) **The council shall authorize investment of public funds by ordinance.** All transactions shall be made and held in the name of the City of Edna Bay.

~~Chapter 4.13 [RESERVED]~~

~~Chapter 4.14 [RESERVED]~~

~~Chapter 4.15 [RESERVED]~~

CHAPTER 4.16 PURCHASING

Sections:

Section 4.16.010

Definitions-Purchases.

Section 4.16.020

Purchasing agent – authority.

Section 4.16.040

Purchase order procedure.

Section 4.16.010

Definitions-Purchases.

City: City of Edna Bay.

Purchasing agent: The mayor.

All purchases of supplies and contractual services in excess of two thousand dollars (\$2,000.00) shall be based wherever possible on competitive sealed bids and shall be awarded to the lowest qualified bidder.

Purchase of all personal property of the city in excess of five hundred dollars (\$500.00) will require the prior approval of the council. All personal property when the estimated cost exceeds five hundred dollars (\$500.00) will require the prior approval of the council. If emergency expenditures are required in the event an emergency council meeting cannot be held, Written permission must be given by the city clerk/treasurer and the mayor/vice mayor.

- (a) All purchases of supplies in excess of five thousand dollars (\$5,000.00) shall be based wherever possible on request for quote or request for proposal and shall be awarded to the lowest qualified respondent.
- (b) All purchases of contractual services in excess of five thousand dollars (\$5,000.00) shall be based wherever possible on competitive sealed bids and shall be awarded to the lowest qualified bidder.
- (c) Any purchase of supplies or services under five thousand dollars (\$5,000.00) shall be approved by the Council and under the terms of this section.
- (d) All personal property except as otherwise provided in this chapter shall be purchased while considering the highest quality at the least expense to the city.

Section 4.16.020

Purchasing agent's authority.

- a) The purchasing agent or their designee may carry out any of the following: Purchase or issue purchase authorizations for all supplies, materials, equipment, and services for the offices, departments and committees of the city;

b) ~~The purchasing agent may purchase personal property only as authorized by the council, except as follows: Budgeted personal property or professional services in the amount of five hundred dollars (\$500.00) or less.~~

(a) **The mayor or their designee shall serve as the purchasing agent.**

(b) **The purchasing agent or their designee may carry out any of the following shall have the following authority and responsibilities:**

(1) **Purchase or issue purchase authorizations for all supplies, materials, equipment, and services for the offices, departments and committees of the city.**

(2) **Administer or supervise the sale, trade, or other disposal of surplus supplies belonging to the city.**

(3) **Join with other units of government in cooperative purchasing ventures where the best interest of the city would be served thereby.**

(4) **Maintain all records pertaining to the purchase of supplies, services and construction, and the disposal of supplies, by the city in accordance with the city's most recent retention schedule or the retention schedule for the funding source, whichever is later.**

(5) **Purchase personal property or professional services without council's approval only when the purchase is five hundred dollars (\$500.00) or less.**
The purchasing agent may purchase personal property or professional services only as authorized by the council, except as follows: when purchase budgeted of personal property or professional services is in the amount of five hundred dollars (\$500.00) or less.

(c) **The city may find it necessary to temporarily appoint a highly qualified construction management professional as construction procurement officer for that project when faced with an exceptionally complex purchase, such as a complex construction project. As an alternative, the city may choose to contract for the services of a construction management firm to oversee all phases of the project. As a city contractor, this firm shall be closely supervised in its performance by the purchasing agent or other city official as the city manager deems appropriate. In selecting and utilizing such a project management firm, the city will ensure that the contractors providing this management function are independent of those contractors providing construction or other project services to the city. Consistent oversight will be essential for the successful completion of such complex construction projects.**

Section 4.16.040

Purchase order procedure.

- (a) Purchase order forms are required for any expenditure and shall be completed by the clerk.
- (b) The purchase order form must ~~then~~ be signed by two (2) officials; ~~the mayor and one (1) other council member,~~ **the mayor and one other council member,** excluding the clerk or treasurer.
- (c) Purchases may be made under the following conditions:
 - (1) Debit card use is only authorized for the mayor, clerk or treasurer.
 - (2) If the purchase is completed by check it requires two authorized signers. Authorized signers are the mayor, clerk and treasurer.
- (d) All financial transactions shall be reconciled by the treasurer monthly.
- (e) If the clerk and treasurer are a combined office, the mayor will conduct a monthly financial review of the reconciliation process.

CHAPTER 4.17 CONTRACTS

Sections:

- Section 4.17.010 - Definitions
- Section 4.17.020 - Competitive ~~contract bidding required; exceptions~~
- Section 4.17.030 - ~~General~~ Prior approval by the council required
- Section 4.17.040 - Bid invitation
- Section 4.17.050 - ~~Exceptions to competitive contract requirements~~
- Section 4.17.050 - Bid package
- Section 4.17.060 - Pre-bid conference
- Section 4.17.070 - Changes and addenda in contract documents
- Section 4.17.080 - Bid submittal
- Section 4.17.090 - Bid opening
- Section 4.17.100 - Bids—No response or unsatisfactory bid
- Section 4.17.110 - Rejection of bids
- Section 4.17.120 - Award of contract
- Section 4.17.130 - Contractor bonding
- Section 4.17.140 - Professional services contracts
- Section 4.17.150 - Construction contracts — Letting
- Section 4.17.160 - Construction contracts — Administration
- Section 4.17.170 - Disbursement set-offs
- Section 4.17.180 - Local preference

Section 4.17.010 Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings given to them in this section. Except where the context clearly indicates a different meaning.

“City” means the City of Edna Bay.

“Competitive contract” means any contract that opens a bidding process, or competition, wherein the winning entity is awarded the contract and such contract is Consideration of more than one (1) source ~~bid~~, as may be evidenced by competitive requests for proposals, to insure full and free competition consistent with the types of services required and necessary to meet the needs of the city. Also known as competitive bidding.

“Construction” means the on-site erection, ~~alternation~~ alteration, extension, repair of or improvements to real property ~~or other improvement under contract or owned by~~ for the city.

“Contract” refers to all types of agreements for the purchase, lease or disposal of personal and real property, of goods, services and construction needed by the city. ~~professional services, services and construction.~~

"Contract amendment" **amendment means** any change in the terms of the contract accomplished by agreement of both parties, including change orders.

"Emergency purchases" **refers to a requirement awarding a contract for supplies, services or construction without competition, formal advertising or other formal procedure due to** which arises from an **emergency** situation where a threat to public health, welfare or safety such as may arise by reason of flood, epidemics, riots, equipment failure, earthquake, or tidal wave, or such other reason as may be proclaimed by the mayor or his/her delegate. The existence of such condition creates an immediate and serious need for supplies, services or construction that cannot be met through normal public bidding methods and the lack of which would seriously threaten (a) the health or safety of any person, **and** (b) the protection of property.

"Invitation to bid" **means** the complete assembly of a bid package or related documents whether attached or incorporated by reference ~~that is~~ **and** furnished to prospective bidders for the purpose of bidding. The notice to bidders is a means of publicizing the invitation for bids.

"Personal property" **refers to** everything that is subject to ownership by the city but not coming under the denomination of real estate, ~~normally being movable~~ **such as land and buildings.**

"Professional services" **means** those advisory, consulting, architectural, engineering, research or developmental services which involve the exercise of discretion and independent judgment together with ~~an~~ advanced or specialized knowledge, expertise or **training gained** having good by formal studies or experience.

"Project manager" **is** the mayor, the departmental head or a person approved by the council. The minutes of the council meeting relating to the matter may be used as written consent by the council.

"Public improvement" as used in this chapter, and only for the purpose of competitive bidding, includes the erection, building, construction, placement, creation and expansion of an improvement to land.

"Purchasing agent" **is** the mayor or the mayor's designee.

"Responsible Bidder" **is a bidder who has met the standards of responsibility, including but not limited to having the appropriate financial, material, equipment, facility and personnel resources and expertise, or has the ability to obtain the resources and expertise, necessary to meet all contractual responsibilities, demonstrating completion of previous contracts of a similar nature with a satisfactory record of performance, having a satisfactory record of integrity, being legally qualified to contract with the city, and supplying all necessary information in connection with the inquiry concerning responsibility.** whose submittal is determined to be in conformance with the conditions, completion or delivery requirements and specifications detailed, are in compliance with applicable laws, holds appropriate insurance and bonding where applicable; and has a positive performance history.

"Responsive Bidder" whose bid submittal is a bidder who meets the requirements set forth in the invitation to bid and the bid package.

"Services" means labor, professional services and consulting services.

"Supplies" means all supplies, materials and equipment.

Section 4.17.020

Competitive contract bidding required; exceptions.

- (a) All contractual services **contracts** in excess of ~~two~~ **five** thousand dollars (~~\$2,000.00~~ **\$5,000.00**) shall be based wherever possible on competitive **sealed** bids **and shall be awarded to the lowest qualified bidder.** ~~except as specifically provided in section 4.17.050.~~
- (b) When competitive sealed bids are not deemed to be practical, ~~a contract may be entered into if the council~~ **shall** ~~certify in writing~~ by resolution that competitive bids are impractical by reciting the reasons therefore, and ~~specifies~~ **specifying** how the contract shall be entered. The following is a list of authorized exceptions describing situations in which competitive **sealed** bidding is not practicable
 - (1) negotiated procurement following unsuccessful efforts to obtain a qualified bid through competitive bidding;
 - (2) small procurement, ~~below~~ **of less than** ~~two~~ **five** thousand dollars (~~\$2,000.00~~ **\$5,000.00**);
 - (3) emergency procurement;
 - (4) procurement of consultant, technical, real estate, architect, engineer or audit services;
 - (5) interagency agreements;
 - (6) utilization of state or local government contracts;
 - (7) specialized equipment for enterprise funds where standardization is a primary criteria;
 - (8) sole-source procurement
- (A) procurement resulting from competitive sealed proposals;

- (B) contracts for electronic data processing and system control software and hardware systems and other software systems shall be by professional services contract; provided, however
 - i) to be exempt from competitive bidding the service in question must be truly a "system" which is professionally designed;
 - ii) the purchase of hardware which is not an inextricable part of the system and can be bid separately shall be competitively bid.
- (C) procurement resulting from competitive sealed proposals.
- (c) The purchasing agent may recommend joint purchases with other units of government when the best interest of the city would be served.

Section 4.17.030

General Prior approval by council required.

All contracts ~~for~~ except as otherwise provided in 4.17.020 **supplies, materials, equipment, or contractual services for an amount estimated to exceed** ~~more than two~~ **five** thousand dollars (\$2,000.00 **\$5,000.00**) shall be authorized by **require the prior approval of** the council and shall be signed on behalf of the City of Edna Bay by the mayor and the city clerk.

Section 4.17.040

Bid invitation.

- (a) **When competitive sealed bidding is used, the city shall issue an invitation to bid. Notice inviting bids shall be published in a newspaper of general circulation in the Prince of Wales Island and also posted in three separate places in Edna Bay** for at least ten (10) working days prior to the last day set for the receipt of bids. The notice shall ~~state~~ include the general description of the work, materials or service, a statement where bid forms and specifications may be secured, the closing time for submission of bids and the time and place of opening of bids.
- (b) **All** contracts authorized by Section 4.17.020 having an estimated value that exceed ~~two~~ **five** thousand dollars (\$2,000.00 **\$5,000.00**) shall be based on the solicitation of at least two competitive sealed ~~written~~ bids. **Notwithstanding section 4.17.150(c) of this chapter, all contracts shall** be awarded to the lowest responsive and responsible bidder, as determined by Section 4.17.130(c), unless otherwise provided by reason of the Council, and without observing the procedure prescribed for the award of formal sealed bids.
- (c) **All** contracts having an estimated value that does not exceed **for an amount estimated to be less than** ~~two~~ **five** thousand dollars (\$2,000.00 **\$5,000.00**) or less may ~~may~~ be made in **on** the open market **by written quotation observing the procedure prescribed for the award of formal bid purchase and** with such competition as is reasonable and practical in the circumstances.

- (d) All specifications for projects must be submitted to the council for approval prior to the notice to bid being published. The budgeted amount shall accompany the request to the council.
- (e) Contracts authorized by Section 4.17.020 having an estimated value that exceeds two thousand dollars (\$2,000.00) shall be based on the solicitation of at least two competitive written bids and be awarded to the lowest responsive and responsible bidder as determined by Section 4.17.130(c), unless otherwise provided by reason of the Council, and without observing the procedure prescribed for the award of formal sealed bids.
- (f) A notice inviting bids shall be posted at least ten (10) working days prior to the last day set for the receipt of proposals. The notice will include a general description of the work, or materials or service, a statement where bid forms and specifications may be secured, the closing time for submission of bids and the time and place of opening of bids.

Section 4.17.050 – Exceptions to competitive contract requirements.

Unless otherwise authorized by law, all procurement actions shall be by competitive bidding. The following is a list of authorized exceptions describing situations in which competitive bidding is not practicable

- (A) negotiated procurement following unsuccessful efforts to obtain a qualified bid through competitive bidding;
- (B) small procurement, below two thousand dollars (\$2,000.00);
- (C) emergency procurement;
- (D) procurement of consultant, technical, real estate, architect, engineer or audit services;
- (E) interagency agreements;
- (F) utilization of state or local government contracts;
- (G) specialized equipment for enterprise funds where standardization is a primary criteria;
- (H) sole source procurement
 - i. procurement resulting from competitive sealed proposals;
 - ii. placement of insurance coverage;

- iii. ~~contracts for electronic data processing and system control software and hardware systems and other software systems shall be by professional services contract; provided, however~~
- i. ~~to be exempt from competitive bidding the service in question must be truly a "system" which is professionally designed;~~
- ii. ~~the purchase of hardware which is not an inextricable part of the system and can be bid separately shall be competitively bid.~~

Section 4.17.050

Bid package.

- (a) The bid package shall contain all information contained in the bid invitation, and may include additional drawings, specifications, estimates, bid forms and documents relevant to the proposal as necessary.
- (b) A bid package shall be provided by the clerk at the request of any prospective bidder.

Section 4.17.060

Pre-bid conference.

The project manager upon her/his own initiative or at the request of a bidder may provide for a pre-bid conference at least seven (7) working days prior to the time for submission of bids ~~or upon request of any bidder~~. All points of clarification and questions answered at the conference which may affect the bid, will be issued in the form of an addenda.

Section 4.17.070

Changes and addenda in contract documents.

No official or officer of the city shall make any oral interpretations that may affect the substance of the contract documents. **The bids documents shall so state this.** Addenda will be issued to all bidders when questions arise **which might affect the bids. The city clerk shall** ~~Addenda will be delivered- the addendum by certified mail,~~ via email which states, in part, that the bidder shall notify the city of receipt of addenda by email or by certified mail with a return receipt requested, or by hand delivery with a written receipt obtained. When an addendum is issued less than four (4) working days before the time for receipt of bids, the addendum shall contain a new bid date of at least four (4) working days from the original receipt of bids date. Receipt of all addenda should be acknowledged by bidder as part of the bid ~~summary~~ **submitted.**

Section 4.17.080

Bid submittal.

- (a) **Sealed** bids must be submitted by mail **or personally** to the city clerk ~~designated in the notice inviting bids~~. The bid invitation number must be clearly identified on the outside of the sealed envelope.
- (b) An application providing evidence of requirements being met shall be submitted along side **with** the sealed bid.

- (c) The council shall determine whether a bidder meets all requirements based on the following criteria:
- (1) the skill and experience demonstrated by the bidder in performing contracts of a similar nature;
 - (2) the bidder's record based on references;
 - (3) the bidder's capacity to perform in terms of facilities, personnel and financing;
 - (4) The bidder's past performance under city contract, if applicable. If the bidder failed in any material way to perform its obligations under any contract with the city, the bidder may be deemed a non-responsible bidder.
- (d) At all times, the best interests of the city shall be recognized in awarding bids.

Section 4.17.090

Bid opening.

- (a) Bids will be opened in public by **All bid openings are open to the public.** The city clerk **shall open bids** designated at the time and place so stated in the public notice. ~~That~~ **The** opening will follow immediately after the closing time for submission of the bids. Bids shall be opened so as to avoid disclosing their contents to competing proponents **bidders**.
- (b) At the time the bids are opened, **the project manager and/or** the city clerk shall review all bids for irregularities, errors and exceptions. If it appears that minor irregularities or errors were made through inadvertence, the city clerk may authorize the bidder to make changes, or may waive the errors and irregularities. In the event of significant errors and irregularities, the bid shall be rejected and the bid price not disclosed.

Section 4.17.100

Bids - no response or unsatisfactory bid.

If, after opportunity for competitive bidding no bids are received or ~~bids~~ **those** received are not satisfactory to the council, the council may authorize the **project manager** to negotiate for a contract in the open market.

Section 4.17.110

Rejection of bids.

- (a) The council may consider a bidder "not responsible" and reject the bid of a bidder who is in arrears on taxes, permits, special assessments and/or any other monies or who failed to perform on a previous contract.
- (b) The council shall have the authority to reject all bids or parts of bids or to negotiate when it is in the best interest of the city.

- (2) Accept cash, certified check, bank check, letter of credit, guaranty, or other form of security (not including any interest in real property), as a payment bond or performance bond in lieu of sureties meeting the standards of AS 36.25.010(a).
- (3) Accept a surety payment bond or performance bond in an amount less than that set forth in paragraph (b) above;
- (4) Require the contractor to meet the following criteria:
 - (i) for two (2) years immediately preceding the award of the contract, the contractor has been a licensed contractor having his principal office in the state;
 - (ii) the contractor certifies that he has not defaulted on a contract awarded him during the period of three (3) years preceding the award of the contract for which the bid is submitted;
 - (iii) the contractor has submitted financial statements, prepared within a period of nine (9) months preceding the submission of a bid for the contract, demonstrating that the contractor has a net worth of not less than seventy-five (75) percent of the amount of the contract for which a bid is submitted.

Section 4.17.140

Professional services contracts.

- (a) A contract for consultant, technical, real estate, engineering, architectural, legal, medical, or other professional services shall not be binding and effective until it has been approved by the council.
- (b) The selection of professional assistance shall be based on competence, skill and experience. The council shall not award a contract to an individual, a partnership, or a corporation that is not registered, not qualified, or not authorized under Alaska Statutes.
- (c) No professional services contract shall be subdivided to avoid the requirements of this chapter.
- (d) Professional services contracts may be renewed per **section 4.17.120 (f) of the City of Edna Bay Code of Ordinances.** ~~se Section 4.01.010, City obligations.~~

Section 4.17.150

Construction contracts - letting.

- (a) For the purpose of this section contract means and includes construction contracts **only.** The term shall not include professional services as listed in ~~Section 4.17.150(a)~~

section 4.17.140(a) of this chapter, which are in their nature unique and not subject to competition.

- (b) All contracts shall be awarded by formal, written contract to the lowest responsive and responsible bidder as defined in section 4.17.~~010~~ after due notice inviting proposals following procedures established in section 4.17.~~040~~.
- (c) Upon awarding a construction contract the city clerk shall:
 - (1) immediately notify the State Commissioner of Labor of the amount of the contract, the identity of the contractor and all subcontractors, the site or sites of construction and provide a project description; and
 - (2) verify that the bonding requirements of AS 36.25 have been met and that the requirements of AS 08.18 have been met.
- (d) All contracts shall be based whenever possible on competitive bids.

Section 4.17.160

Construction contracts - administration.

All contracts, as defined in section 4.17.150 shall be administered by the **project manager or city council** in accordance with the following provisions:

- (a) Any change required in the work shall be made after receiving a written change order proposal from the contractor for additions to or deduction from the original contract sum and the original contract time for changes proposed.
- (b) Upon receipt of a change order and after determination that the contractor's proposal is reasonable and approved by the council, the city clerk shall issue a written change order.
- (c) The council ~~will~~ **shall** be notified of contract completion including the following information:
 - (1) contract completion date;
 - (2) scope of work completed;
 - (3) total cost of contract.
- (d) No payment for work completed shall be made to a contractor without:
 - (1) approval of the council; or
 - (2) pre-approval by the council giving the mayor authority of approval.

- (e) **Partial payment for work completed shall not be made to a contractor without approval of the city council of the quantities and values submitted by the contractor. Reductions in retained percentage not called for in the contract shall not be made without prior approval of the city council.**

Section 4.17.170

Disbursement setoffs.

- (a) Disbursement of monies to a person, firm or corporation will be made only after the various receivable accounts of the city have been reviewed for outstanding balances owed. The disbursement will be reduced by the outstanding balances due the city from such person, firm or corporation.
- (b) All contracts to which the city is a party to, **and which** ~~that will or may~~ involve the disbursement of city funds shall contain the following clause or its substantial equivalent: "Disbursement of monies by the City of Edna Bay hereunder shall be subject to set-off pursuant to the provisions of section 4.17.170 of the Code of Ordinances."

Section 4.17.180

Local preference.

The council may include local preference criteria for contracts, to be included in the bid announcement. The local preference would go to a responsible bidder who maintains a business within the City of Edna Bay, if that bid does not exceed the lowest responsible bid by more than five (5) percent.

Introduction:

02/29/2016

Public Hearing:

03/14/2016

PASSED AND APPROVED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL THIS DAY OF 14th, 2016.

ATTEST:

Heather Richter

Mayor of Edna Bay

Tyler M. Poelstra

City Clerk

Voting:

Yea ☒ Nay ☐ Heather Richter

Yea ☒ Nay ☐ Karen Williams

Yea ☒ Nay ☐ Tyler Poelstra

Yea ☒ Nay ☐ Myla Poelstra

Yea ☒ Nay ☐ Donis Greif

~~Yea~~ ~~Nay~~ (Absent) Carleigh Fairchild

~~Yea~~ ~~Nay~~ (Absent) Paul Haag



