

## Chapter 3.16

### PURCHASING AND PURCHASING CONTRACTS

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\* Prior ordinance history: Ords. 120 and 425.

#### **3.16.010 Purpose.**

The purpose of this chapter is to:

- A. Provide for the authority of city officers to enter into certain contracts in which funds have been appropriated without a formal city council approval of the specific contract or transaction and to set forth procedural requirements; and
- B. Establish efficient procedures for the purchase of supplies, equipment, general services, and public projects at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases to clearly define authority for the purchasing function, and to assure the quality of purchases; and
- C. To inform those wishing to contract with the city of the authority of the city employee or official to create a binding contract; and
- D. To assist the city treasurer in carrying out his or her duties under Government Code Section 41001. (Ord. 972 § 1, 2012; Ord. 832, 2001)

#### **3.16.020 Limitations.**

The authority created by this chapter applies only to contracts, the predominant purchase of which is the purchase by the city of goods or services; and the city's primary performance under such

contract is the payment of money. This chapter does not confer authority to authorize the payment of money for grants, gifts, or other expenditure that is without consideration.

Authority conferred in this chapter upon the city manager applies to situations in which an interim city manager is serving or in situations in which the city manager has appointed an acting city manager. (Ord. 972 § 1, 2012; Ord. 832, 2001)

### **3.16.030 General procedural requirements.**

All contracts must be in writing and be signed in the name of the city. They may be transmitted by facsimile, electronic mail, or digital signature consistent with the City's electronic signature [policy](#). (Ord. 972 § 1, 2012; Ord. 832, 2001)

### **3.16.040 Definitions.**

For the purposes of this chapter, the following definitions shall apply:

A. "Best value" means the best value to the city based on all factors, including, but not limited to, the following:

1. Cost;
2. The ability, capacity, and skill of the contractor to perform the contract or provide the supplies, services or equipment required;
3. The ability of the contractor to provide the supplies, services, or equipment promptly or within the time specified without delay or interference;
4. The character, integrity, reputation, judgment, experience, and efficiency of the contractor;
5. The quality of the contractor's performance on previous purchases or contracts with the city;
6. The ability of the contractor to provide future maintenance, repair, parts, and services for the use of the supplies purchased;
7. The contractor's ability to supply or act in a timely manner;
8. Compliance by the contractor with federal acts, executive orders, and state statutes governing nondiscrimination in employment;
9. The results of any evaluation relating to performance and price, such as testing, life-cycle costing, and analysis of service, maintenance, and technical data.

B. "Change order" means a change or addendum of an executed contract.

C. "Consultant or professional services" means the services of an attorney, engineer, doctor, financial consultant, planning or environmental consultant, investment advisor, bank, or trustee officer, or other professional.

D. "Contract" means any agreement to do or not do a certain thing. "Contract" and "agreement" are synonymous. The term "contract" includes, but is not limited to, a purchase order, a contract for services, an addendum or change order or a letter agreement.

E. “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, or proclaimed pursuant to Section 8.08.060.

F. “General services” means and includes any work performed or services rendered by an independent contractor, with or without the furnishing of materials, including, but not limited to, the following:

1. Maintenance work as defined in Section 22002(d) of the Public Contract Code.
  - a. Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes,
  - b. Minor repainting,
  - c. Resurfacing of streets and highways at less than one inch,
  - d. Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinklers systems,
  - e. Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, power plants, and electrical transmission lines of two hundred thirty thousand volts and higher;
2. Repair, modifications and maintenance of city equipment and software;
3. Cleaning, analysis, testing, moving, removal, or disposal (other than by sale) of city supplies and equipment;
4. Providing temporary personnel services;
5. Providing other miscellaneous services to facilitate city operations;
6. Performing repair, demolition or other work required to abate nuisances under this code;
7. Licensing software;
8. Leasing or rental of equipment (personal property) for use by the city;
9. A maintenance agreement for equipment owned or leased by the city.

“General services” does not include:

- a. Work defined as public projects that must be put out to bid pursuant to Public Contract Code Section 22002(c);
- b. Items such as meals or transportation, which personally are consumed or utilized by the individual who contracts for the item.

G. “Public project” is defined by Section 22002(c) of the Public Contract Code as construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operating facility. It also includes painting or repainting of any publicly owned, leased, or operated facility. Section 20002(d) does not include maintenance work included in subsection (F)(1).

H. “Supplies and equipment” means and includes all such items purchased on behalf of the city except for supplies or materials finished for a public project. (Ord. 972 § 1, 2012; Ord. 832, 2001)

**3.16.045 Contractors list.**

A list of contractors shall be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code. (Ord. 972 § 1, 2012)

**3.16.050 City manager authority.**

A. The city manager is authorized to enter into and sign for and on behalf of the city, without the prior approval of the city council, a contract:

1. Which contains an initial maximum compensation figure of fifty thousand dollars or less, or a change order not exceeding fifty thousand dollars. (Cumulative additional orders exceeding fifty thousand dollars must be approved by the city council);
2. Contracts for single capital equipment purchases that do not exceed seventy-five thousand dollars; which are clearly defined and identified in the budget;
3. For which moneys have been appropriated; and
4. For which he or she determines the city has made reasonable efforts to obtain the best value.

B. In an emergency (as defined in Section 3.16.040), the city manager may authorize the expenditure of any unencumbered moneys in the emergency reserve fund, notwithstanding the fact that such moneys may not have been appropriated for such purpose, to the extent that other moneys have not been appropriated or are otherwise unavailable therefor.

C. Contracts wherein all the city’s costs will be reimbursed pursuant to an existing separate contract. (Ord. 972 § 1, 2012; Ord. 832, 2001)

**3.16.060 City manager delegation of purchasing authority.**

Providing the city manager first establishes written procedures, the city manager may delegate the purchasing authority for other city employees to enter into contracts for purchases of general services or supplies and equipment for twenty-five thousand dollars or less. (Ord. 972 § 1, 2012; Ord. 832, 2001)

**3.16.070 Informal purchases General services, supplies, and equipment – Purchases under five thousand dollars.**

Purchases under five thousand dollars may be made by persons authorized by Section 3.16.060 in the open market. There are no specific bidding requirements for these purchases; however competitive bidding should be used whenever practical. Quotations for these purchases may be

written or verbal. All purchases subject to this section will be awarded by the department either by voucher or purchase order. (Ord. 972 § 1, 2012; Ord. 832, 2001)

**3.16.075 Open market purchases - General services, supplies, and equipment – Purchases between five thousand dollars and twenty-five thousand dollars.**

The purchase of supplies, equipment, and general services of a value from five thousand dollars to twenty-five thousand dollars may be made by persons authorized by Section 3.16.060 in the open market, following the procedure prescribed in this section and the city manager’s procedures.

A. Request for Quotes or Proposals.

1. Supplies, Equipment, and General Services Between Five Thousand Dollars and Twenty-Five Thousand Dollars. Open-market purchases shall, whenever feasible, be based on at least three quotations. The purchasing employee shall solicit quotations by written request or telephone to prospective vendors. Telephone quotations shall be memorialized in a contemporaneous writing.

2.

2. Exceptions. The quotation procedure under this section may be dispensed with for purchases between five thousand dollars and twenty-five thousand dollars where supplies and equipment are purchased through cooperative purchasing arrangements with the state or other group of multiple governmental entities.

B. Quotes / Proposals – Retention. Quotations and proposals shall be submitted to the finance director who shall keep a record of all open-market orders and quotes for a period of one year after the submission of quotes or placing of orders. This record is open to public inspection. For a purchase in an amount between five thousand dollars and twenty-five thousand dollars, the quotations shall be written (including facsimile and electronic mail).

C. Rejection. The purchasing authority may reject:

1. Any quotations or proposals which fail to meet the specific purchase requirements in any respect; or

2. All quotations or proposals, for any reason whatsoever, and may invite new quotations or proposals.

D. Award of Contract. A contract shall be awarded to the quotation or proposal representing the best value as defined in Section 3.16.040. The basis upon which the award is made shall be in writing.

**3.16.080 Formal purchases – General services, supplies, and equipment greater than twenty-five thousand dollars.**

A. Request for quotes or proposals shall include, but not be limited to, the following:

1. A general description of the item(s) or services to be purchased;

2. The location where quote or proposal specifications may be secured;

3. The location and deadline for submission of quote or proposal.

B. Notices requesting quotes or proposals shall be made as follows:

1. For supplies, general services, and equipment, notices inviting quotes or proposals shall be published on the City's website.

2. The city may also give such other notice as it deems appropriate.

C. Rejection of quotes or proposals. The purchasing authority may reject:

1. Any quote or proposal that fails to meet the bidding requirements in any respect; or

2. All quotes or proposals, for any reason whatsoever, and may readvertise for new bids or abandon the purchase;

F. Quotes or Proposals – None Received. If no quotes or proposals are received the purchase may be made through negotiated contract or other process approved by the finance director.

G. Contract Award. Subject to the approval of the city manager, contracts shall be awarded by the purchasing authority to the quote or proposal which represents the best value to the city as defined in Section 3.16.040, except as follows:

1. If two or more quotes or proposals received are for the same total amount or unit price, quality and service being equal, and if the discretion of the purchasing authority the public interest will not permit the delay of readvertising for quotes or proposals, then the purchasing authority may accept the one he or she chooses or the lowest quote or proposal obtained through subsequent negotiation with tied submitters.

2. Exceptions. The quotation procedure under this section may be dispensed with for purchases greater than twenty-five thousand dollars where supplies and equipment are purchased through cooperative purchasing arrangements with the state or other group of multiple governmental entities.3. Sellers, vendors, suppliers, and contractors who maintain places of business located within the limit of the city shall be given preference, if quality, price, service, and all other factors are equal.

The basis upon which the award is made shall be in writing.

I. Insurance. Insurance requirements will be provided via purchase order terms and conditions, or request for proposal terms and conditions information, or city contract. (Ord. 972 § 1, 2012)

### 3.16.085 – Alternative Bid Procedures for Public Projects

Public projects, as defined by the Uniform Public Construction Cost Accounting Act, Section 22000 et seq., of the [Public Contract Code](#), may be let to contract alternative bidding procedures, in a manner consistent with the applicable dollar thresholds, as set forth in Section 22032 of the [Public](#)

[Contract Code](#), as may be amended from time to time and as set forth in Section 3.16.090 and 3.16.095.

### 3.16.090 Public Projects – Informal Bid Procedures

Where a public project is to be performed, and is eligible to utilize the informal bidding provisions of subsection (b) of Section 22032 of the [Public Contract Code](#), as may be amended from time to time, the following procedures shall apply:

(a) A notice inviting abbreviated bids shall be mailed or emailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section [4.04.071](#), and to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the [Public Contract Code](#), unless the product or service is proprietary. Additional contractors and/or construction trade journals may be notified at the discretion of the department soliciting bids; provided however:

(1) If there is no list of qualified contractors maintained by the city for the particular category of work performed, the notice inviting bids shall be sent only to the construction trade journals specified by the commission.

(2) If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting abbreviated bids may be sent exclusively to such contractor or contractors.

(b) All mailing of notices to contractors and construction trade journals pursuant to subsection (a) shall be completed not less than ten calendar days before bids are due.

(c) The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project and state the time and place for the submission of bids.

(d) For public projects that are under seventy-five thousand dollars and have followed these informal bidding procedures, the city manager may award the contract.

(e) If all bids received are in excess of two hundred thousand dollars, or the limits established by subsection (d) of Section 22034 of the [Public Contract Code](#), whichever is higher, the city council, by adoption of a resolution by a four-fifths vote, may award the contract, at no more than two hundred twelve thousand five hundred dollars, or the limit established by subsection (d) of Section 22034 of the [Public Contract Code](#), whichever is higher, to the lowest responsible bidder, if it determines the cost estimate was reasonable.

### 3.16.095 Public Projects – Formal Bid Procedures

Contracts for public projects as defined by the Uniform Public Construction Cost Accounting Act, Section 22000 et seq., of the [Public Contract Code](#), in an amount exceeding the current limit as

specified in subsection (c) of Section 22032 of the [Public Contract Code](#), as may be amended from time to time, shall be accomplished using the formal bidding procedure described in this section.

(a) Notice Inviting Bids. Notices inviting bids shall distinctly describe the project, shall state where bid blanks and specifications may be secured, and shall state the time and place for the receiving and opening of sealed bids.

(1) Published Notice. Notice inviting bids shall be published at least fourteen calendar days before the date of opening the bids in a newspaper of general circulation, printed, and published in the city.

(2) Construction Trade Journals. The notice inviting formal bids shall also be mailed, and emailed to all construction trade journals, and posted on the city's website, or other website used for bidding on public projects, as specified by the California Uniform Construction Cost Accounting Commission in accordance with the requirements of Section 22036 of the [Public Contract Code](#).

(b) Bidder's Security. All bids presented in connection with the public project shall be accompanied by bidder's security in the form and amount prescribed by [Public Contract Code](#) Section 20170 et seq., which security shall be dealt with as prescribed therein. In all cases bidders shall be entitled to return of bid security provided that a successful bidder shall forfeit his or her bid security upon refusal or failure to execute the contract within ten days after the notice of award of contract has been mailed unless the city is responsible for the delay. The city council may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. If the city council awards the contract to the next lowest bidder, the amount of the lowest bidder's security shall be applied by the city to the difference between the low bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder.

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

(d) Rejection of Bids or No Bids Received. In its discretion, the city council may reject any and all bids presented and readvertise for bids. If no bids are received, the city council may award the project by negotiated contract.

(e) Award of Contracts. Contracts shall be awarded by the city council to the lowest responsible bidder except as otherwise provided herein.

(f) Tie Bids. If two or more bids received are for the same amount or unit price, quality and service being equal, and if the public interest will not permit the delay of readvertising for bids, the city council may accept the one it chooses or accept the lowest bid made by negotiation with the tie bidders or may utilize a public drawing.

(g) Performance Bonds. The department head shall have authority to require a performance bond before entering into a contract in such amount as he or she finds reasonably necessary to



protect the best interests of the city. If the department head requires a performance bond, the form and amount of the bond shall be described in the notice inviting bids.

3.16.100 Federal Award ProjectsFederal Procurement: Any procurement made pursuant to a federal award or subject to reimbursement, in whole or in part, with federal funds must comply with the City's procurement procedures, state law, and the applicable Federal Procurement Requirements, including 2 CFR § 200.322 ("Procurement of recovered materials"), 2 CFR § 200.323 ("Contract cost and price"), 2 CFR § 200.324 ("Federal awarding agency or passthrough entity review"), 2 CFR § 200.325 ("Bonding requirements"), and 2 CFR § 200.326 ("Contract provisions"). In the event of any conflict between City, state, or federal requirements, the most stringent requirement must be used. (See 2 CFR § 200.318.) City employees must comply with funding agency requests for review of technical specifications or procurement documents as provided in 2 CFR § 200.324.