



STAFF REPORT
SAUSALITO CITY COUNCIL

AGENDA TITLE:

Purchasing Ordinance Amendments

RECOMMENDED MOTION:

Move to wave first reading and to introduce by title only an ordinance amending Chapter 3.30 of the Sausalito Municipal Code regarding the purchasing of supplies, equipment, services and public works contracts.

BACKGROUND

The economy had a significant impact on the City's two year budget for fiscal years 2008-09 and 2009-10. The City's budget for the two years anticipated the downturn in the economy and implemented revenue measures and expenditure saving measures in order to provide adequate resources to continue providing a constant level of services during these lean fiscal times. Also, capital improvements to the City's infrastructure continued to have a high priority. Finally, increasing accountability and transparency in the contracting for purchased services also was a high priority for the City.

Therefore, implementation of the FY10 adopted resource allocation plan anticipated amending the existing purchasing policies and procedures to identify key contracting procedures that could be streamlined, improved or enhanced.

DISCUSSION

Process changes identified included: raising the levels of authority for purchasing, introducing competitive requests for proposals for contracted services, and amending the definitions to include precise instructions for bidding projects where prevailing wages must be included. Staff further identified the business process change of electronic work routing through the new Springbrook upgrade. The following tables specify the revised procedures that result from the proposed changes to the ordinance:

Type of Purchase	Procedure/Municipal Code Section
Supplies, General Services and Equipment	Municipal Code Sections 3.30.100 – 3.30.240 <u>\$ 5,000 or less</u> – Sec. 3.30.160 <ul style="list-style-type: none"> • Negotiated, departmental purchase, no purchase order required, records required.

Type of Purchase	Procedure/Municipal Code Section
	<p>* Staging or separating purchases and/or contracts into separate pieces to evade bidding requirements prohibited – Section 3.30.030</p> <p><u>\$ 5,000 to 25,000</u> – Sec. 3.30.170 Informal bidding –</p> <ul style="list-style-type: none"> • Obtain at least 3 bids or quotes, must be written if greater than \$10,000. • Complete and sign Informal Quote Form summarizing the 3 bids. Check bid selected. <p><u>\$ 25,000 or more</u> – Sec. 3.30.180 Formal competitive bidding –</p> <ul style="list-style-type: none"> • 10 day notice posted and published and sent to bidder’s list, sealed bids. • Bids analyzed by department head and committee if applicable. <p>Sole Source Purchases- Sec. 3.30.190 B Can be commodities or services that can be obtained from only one vendor; sole distributor in the area and/or proprietary items sold direct from the manufacturer.</p> <p><u>\$ 25,000 or less</u></p> <ul style="list-style-type: none"> • Complete the Sole Source/Brand Request Form and use this in place of the Informal Quote Form. • Obtain or prepare contract if needed. <p><u>Over \$ 25,000</u></p> <ul style="list-style-type: none"> • Complete Sole Source/Brand Request Form. • Obtain or prepare contract if needed.
<p>Professional and Special Services</p>	<p>Municipal Code Sections 3.30.500 – 3.30.520.</p> <p>Neither total cost nor hourly rates are the sole criterion in selecting a provider of professional or special services. Proposals will be evaluated based on a combination of factors that result in the best value to the City, including but not limited to:</p> <ul style="list-style-type: none"> • Understanding of the work required by the City • Quality and responsiveness of the proposal • Demonstrated competence and professional qualifications necessary for satisfactory performance of the work required by the City • Recent relevant experience in successfully performing similar services to similar clients • Proposed methodology for completing the work

Type of Purchase	Procedure/Municipal Code Section
	<ul style="list-style-type: none"> • References • Background and related experience of the specific individuals to be assigned to the project • Proposed compensation, rates and the basis of the proposed compensation (e.g., lump sum, time and expenses, reimbursable against a budget, or time and expenses not to exceed, cost plus fixed fee, etc. • Proposed level of effort and schedule • Commitment regarding the continuity and level of involvement of key personnel. <p><u>\$ 25,000 and less</u></p> <ul style="list-style-type: none"> • Proposals from at least three firms will be solicited whenever practical. • Respective department head prepares executive memorandum recommending to City Manager award of a contract based on overall value to City. • Complete City of Sausalito Professional/Consulting Services Agreement or another form of contract if necessary. • Contracts are reviewed by City Attorney for legality, signed and returned to department. • Department obtains signature from vendor and City Manger for contracts \$25,000 or less. <p><u>More than \$25,000</u></p> <ul style="list-style-type: none"> • Develop request for proposal (RFP) documents and submit to City Council Finance Committee for approval (if time is of the essence, the City Manager may approve the RFP and present to the City Council Finance Committee at the next regularly scheduled meeting) • Complete City of Sausalito Professional/Consulting Services Agreement or another form of contract if necessary. • Contracts are reviewed by City Attorney for legality, signed and returned to department. • Department prepares staff report, attaches agreement, contracts obtains Finance Director and City Attorney approval and submits to City Council for approval
Public Works	<p>Municipal Code Sections 3.30.300 – 3.30.340</p> <p><u>Same procedures as above, except for the dollar amount.</u></p> <p><u>\$50,000 or less</u> – Sec. 3.30.320</p> <p>Negotiated, no bidding, work performed by:</p> <ol style="list-style-type: none"> 1. Force account (City labor) 2. Negotiated contract or 3. Purchase order

Type of Purchase	Procedure/Municipal Code Section
	<p>Department head must first obtain a cost estimate from engineer/architect City Manager approves contracts up to and including \$50,000 City Council approval required for contracts over \$50,000</p> <p><u>\$50,000 to \$100,000</u> – Sec. 3.30.330 Informal bidding – 10 day notice mailed to list of qualified contractors and/or trade journals, sealed bids Council awards to lowest bidder</p> <p><u>More than \$100,000</u> – Sec. 3.30.340 Formal Bidding in accordance with Public Contracts Code</p>

FISCAL IMPACT

There is no expense impact to department budgets as a result of adopting these changes; it is anticipated that these changes will result in productivity and efficiency improvement to departmental and administrative operations.

STAFF RECOMMENDATIONS

Staff recommends that the City Council of the City of Sausalito move to wave first reading and to introduce by title only an ordinance amending Chapter 3.30 of the Sausalito Municipal Code regarding the purchasing of supplies, equipment, services and public works contracts.

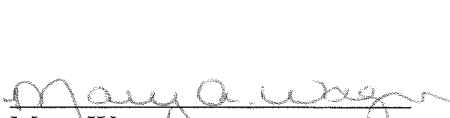
ATTACHMENTS

- Redlined version of Chapter 3.30 of the Sausalito Municipal Code.


PREPARED BY:


Charlie Francis
Administrative Services Director

REVIEWED BY:


Mary Wagner
City Attorney

SUBMITTED BY:


Adam Politzer
City Manager

Chapter 3.30

**PURCHASE OF SUPPLIES, EQUIPMENT AND SERVICES
AND PROCEDURES
FOR PUBLIC WORKS PROJECTS**

ARTICLE 1. GENERAL PROVISIONS

- 3.30.010. Purpose and objectives.
- 3.30.020. Definitions.
- 3.30.030. Staging prohibited.

**ARTICLE 2. SUPPLIES, GENERAL SERVICES AND
EQUIPMENT.**

- 3.30.100. Purchasing officer: powers and duties
- 3.30.110. Requisitions.
- 3.30.120. Purchase orders.
- 3.30.130. Contracts.
- 3.30.140. Encumbrance of funds.
- 3.30.150. Bidding procedures for various purchase amounts.
- 3.30.160. Departmental purchases.
- 3.30.170. Informal bid procedure.
- 3.30.180. Formal bid procedure.
- 3.30.190. Special equipment/supplies; sole source purchases; and bid exceptions.
- 3.30.200. Cooperative purchasing with other agencies.
- 3.30.210. Recycled supply products specification.
- 3.30.220. Emergencies.
- 3.30.230. Inspection and tests.
- 3.30.240. Personal purchases not authorized.

ARTICLE 3. PUBLIC WORKS PROJECTS.

- 3.30.300. Uniform Construction Cost Accounting Procedures.
- 3.30.310. Bidding procedures for various project amounts.
- 3.30.320. Negotiate contract or purchase order procedures.
- 3.30.330. Informal bidding procedures.

3.30.340. Formal bidding procedures.

ARTICLE 4. PROFESSIONAL OR SPECIAL SERVICES.

3.30.500. Award of professional or special service contracts based upon competence.

3.30.510. Requests for Proposals/Qualifications.

3.30.520. Contracting Authority.

ARTICLE 1. GENERAL PROVISIONS.

3.30.010. Purpose and objectives.

The purpose of this chapter is to establish an efficient procedure for the purchase of supplies, equipment, and services, and to establish a procedure for performing or contracting for the construction of public works consistent with state law. These procedures are intended to allow the City to obtain the best professional services, to acquire quality supplies, general services and equipment, to construct public works at the lowest possible cost commensurate with quality needed, and to exercise positive financial control over purchases and also to define authority for the purchasing function.

3.30.020. Definitions.

As used in this chapter:

“Contractor list” means a list of responsible prospective vendors capable of providing the items being bid upon.

“Emergency” means a sudden, unexpected occurrence that poses a clear and eminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

“Equipment” means furnishings, machinery, vehicles, rolling stock, and other personal property used in the City's business.

“General Services” means services such as janitorial, uniform cleaning, maintenance work and other services which do not require any unique skill, special background, or training. Obtaining such services at the lowest cost is the single most important factor in selection, as opposed to personal performance.

“Maintenance” work means:

- (1) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
- (2) Minor repainting.
- (3) Resurfacing of streets and highways at less than one inch.
- (4) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.
- (5) Work performed to keep, operate, and maintain publicly owned water or waste disposal systems.

“Professional or special services” means any work performed by an attorney, doctor, architect, engineer, land surveyor, construction manager, appraiser, expert, accounting firm, planner, instructor, consultant or those services such as computer services and other services which require special performance criteria, specific experience, training, personal judgment, quality of work or factors other than simply obtaining the service at the lowest cost to the City.

“Public works” means a type of public construction project subject to the regulation of the State Public Contract Code or the State Labor Code, such as:

- (1) The erection, construction, reconstruction, alteration, painting, re-painting, repair, alteration, carpet-laying, renovation, improvement or demolition of public buildings, structures, streets, walkways, water facilities, sewer facilities, drainage facilities, or other public facilities, whether owned, leased, or operated by the City, done under contract and paid for in whole or in part out of public funds. For purposes of this paragraph, “construction” includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.
- (2) Furnishing supplies or materials for any of the works or projects described in subsection (1) above.
- (3) For purposes of compliance with the State Public Contracts Code (and the CUPCAC bidding requirements thereunder) Public works does not include maintenance work as defined in this section.
- (4) For purposes of compliance with the State Labor Code, except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages (“prevailing wages”) for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

(5) For purposes of compliance with the State Labor Code (but not the State Public Contract Code), public works does not include:

(1) Any work performed by a volunteer. For purposes of this section, "volunteer" means an individual who performs work for civic, charitable, or humanitarian reasons for a public agency or corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, without promise, expectation, or receipt of any compensation for work performed.

(A) An individual shall be considered a volunteer only when his or her services are offered freely and without pressure and coercion, direct or implied, from an employer.

(B) An individual may receive reasonable meals, lodging, transportation, and incidental expenses or nominal nonmonetary awards without losing volunteer status if, in the entire context of the situation, those benefits and payments are not a substitute form of compensation for work performed.

(C) An individual shall not be considered a volunteer if the person is otherwise employed for compensation at any time (i) in the construction, alteration, demolition, installation, repair, or maintenance work on the same project, or (ii) by a contractor, other than a corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, that is receiving payment to perform construction, alteration, demolition, installation, repair, or maintenance work on the same project.

(2) Any work performed by a volunteer coordinator. For purposes of this section, "volunteer coordinator" means an individual paid by a corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, to oversee or supervise volunteers. An individual may be considered a volunteer coordinator even if the individual performs some nonsupervisory work on a project alongside the volunteers, so long as the individual's primary responsibility on the project is to oversee or supervise the volunteers rather than to perform nonsupervisory work.

(3) Any work performed by members of the California Conservation Corps or of Community Conservation Corps certified by the California Conservation Corps pursuant to Section 14507.5 of the Public Resources Code.

"Public works" means a type of public construction project subject to the regulation of the State Public Contract Code, such as:

(1) The erection, construction, reconstruction, alteration, major painting, repair, alteration, renovation, improvement or demolition of public buildings, structures, streets, walkways, water and sewer facilities, drainage facilities, or other public facilities, whether owned, leased, or operated by the City.

(2) Furnishing supplies or materials for any of the works or projects described in subsection (1) above.

~~(3) Public works does not include maintenance work as defined in this section.~~

“Purchase” means the renting, leasing, purchasing, licensing, or a trade of equipment or supplies.

“Purchasing officer” shall be the City Manager or her designated representative.

“Special equipment/supplies” means unique supplies, machinery, computers, or other equipment which are not generally and regularly ordered in bulk by the City and which must perform complex tasks, or integrate efficiently with existing equipment or supplies.

“Supplies” means office supplies, janitorial supplies, materials, goods, tools, or other commodities used in the general conduct of the City’s business, excepting supplies for a public work which is regulated under the Public Contracts Code Sections 20160, et. seq.

“Uniform construction cost accounting procedures” means those procedures and rules established by the State Uniform Construction Cost Accounting Commission pursuant to the Public Contracts Code Sections 22010, et seq.

3.30.030. Staging prohibited.

Purchases and public works contracts shall not be knowingly staged or separated into smaller units or segments solely for the purpose of evading the competitive formal or informal bidding requirements of this chapter.

ARTICLE 2. SUPPLIES, GENERAL SERVICES AND EQUIPMENT.

- 3.30.100. Purchasing officer: powers and duties
- 3.30.110. Requisitions.
- 3.30.120. Purchase orders.
- 3.30.130. Contracting authority.
- 3.30.140. Encumbrance of funds.
- 3.30.150. Bidding procedures for various purchase amounts.
- 3.30.160. Departmental purchases.
- 3.30.170. Informal bid procedure.
- 3.30.180. Formal bid procedure.
- 3.30.190. Special equipment/supplies; sole source purchases; and bid exceptions.
- 3.30.200. Cooperative purchasing with other agencies.
- 3.30.210. Recycled supply products specification.
- 3.30.220. Emergencies.
- 3.30.230. Inspection and tests.
- 3.30.240. Personal purchases not authorized.

3.30.100. Purchasing officer: powers and duties.

The City Manager is designated as the purchasing officer. The purchasing officer may delegate all or a portion of the purchasing duties to any City officer or employee. The purchasing officer or designee shall have the authority to:

- A. Purchase needed City supplies, general services, equipment and special equipment/supplies which are not included within the construction contract or proposed specifications for a construction contract of a public work being administered by any other City department;
- B. Investigate, keep knowledgeable about, negotiate, and recommend on the execution of contracts or the purchasing of supplies, general services, and equipment pursuant to the procedures of this chapter and such administrative rules and regulations as prescribed by the City;
- C. To keep informed of current developments concerning purchasing, prices, market conditions, and new products;
- D. To prescribe and maintain such forms as necessary for the proper operation of this purchasing system;
- E. To supervise the inspection of all supplies, general services, and equipment purchased under this chapter in order to assure conformance with City specifications;
- F. To supervise the transfer of surplus and unused supplies and equipment or sale or disposal of such in accordance with procedures adopted by separate resolution of the City Council;
- G. To maintain up-to-date contractor list, vendors' catalogs, files and such other records as needed to perform these duties;
- H. To ensure that purchasing specifications are open and non-restrictive to encourage full competition; and
- I. To perform such other tasks as may be necessary for the proper conduct of purchasing of supplies, general services, and equipment.

3.30.110. Requisitions.

Except as authorized under Section 3.30.160, any department requesting supplies, general services, equipment, or special equipment/supplies shall submit to the department

head a requisition on the purchasing officer's approved form prior to initiating any procurement.

3.30.120. Purchase orders.

Except for departmental purchases as authorized in Sec 3.30.160, purchases of supplies, general services, special equipment/supplies and equipment not covered within a construction contract or public work specification, may be made only by purchase orders issued by the purchasing officer and any other contractual document he or she determines is necessary.

3.30.130. Contracting authority.

The City Manager may approve purchases of supplies, general services, special equipment/supplies and equipment not covered within a construction contract or public work specification up to and including ~~\$15,000~~ 25,000. City Council approval shall be required for purchases greater than ~~\$15,000~~ 25,000.

3.30.140. Encumbrance of funds.

Except in case of an emergency or where specific authority is first obtained from the City Council or the City Manager, the purchasing officer shall not issue any purchase order for purchasing of supplies, general services or equipment unless there exists an unencumbered appropriation in the fund account against which the purchase is to be charged.

3.30.150. Bidding procedures for various purchase amounts.

Except as authorized in Sections 3.30.190 and 3.30.200, or in the case of emergencies as described in Section 3.30.220, the purchase of supplies, general services, equipment and special equipment/supplies, not included in a construction contract or bid specification for a public work, shall be made as follows:

A. A purchase of ~~\$1,000~~ 5,000 or less may be made by departmental purchase in accordance with Section 3.30.160.

B. A purchase greater than ~~\$1,000~~ 5,000 to ~~\$15,000~~ 25,000 may be made by an informal bid procedure in accordance with Section 3.30.170.

C. A purchase of more than ~~\$15,000~~ 25,000 shall be made by formal bid procedure in accordance with Section 3.30.180.

3.30.160. Departmental purchases.

A department may purchase specified and limited supplies, equipment, special equipment/supplies and general services independently of the purchasing officer of a value not to exceed ~~\$1,000~~ 5,000, provided such department keeps a record of such purchases and exercises reasonable prudence in seeking price quotes and purchasing such items. All such purchases shall be made with funds in an unencumbered appropriation.

3.30.170. Informal bid procedure.

The purchase of supplies, equipment, special equipment/supplies and general services with the estimated value greater than ~~\$1,000~~ 5,000 but not exceeding ~~\$15,000~~ 25,000 shall be made by a purchase order as required by this article, which at the department head's discretion, based upon a small amount, urgent need and timeliness, may be let without the formal bidding procedures described in Section 3.30.180. In such case, the following procedures shall be followed:

A. **Solicitation of bids.** The purchasing officer or designee, before issuing the purchase order to a specific contractor/vendor, shall obtain at least three bids or price quotes, and the purchasing officer or designee may negotiate to obtain the lowest possible contract amount from any vendor contacted who can provide supplies, general services, or equipment within the time constraints of the department's request. The purchasing officer or designee may solicit or determine bids of prospective vendors by written request, telephone, or may base award recommendations upon current catalogs or advertisements. For purchases from ~~\$1,000~~ 5,000 to \$10,000, bids or price quotes may be oral provided a written record is maintained; for purchases greater than \$10,000 to ~~\$15,000~~ 25,000, bids or price quotes shall be written.

B. **Maintenance of records.** After placing the order, a written record of the contract, bids, quotes or advertisements used or received shall be open public records and maintained by the purchasing officer or the department in accordance with the City's records retention policy.

C. **Award.** The purchasing officer or designee shall award the purchase contract to the lowest responsive and responsible bidder, vendor or offerer whose quote, bid, or proposal fulfills the purpose intended, provided the amount is within the unencumbered appropriation for that item, or reject such bids or proposals, or negotiate further for more acceptable terms to the City.

3.30.180. Formal bid procedure.

For supplies, equipment, special equipment/supplies and general services with an estimated value in excess of \$~~15,000~~ 25,000, purchases shall be made in accordance with the following formal written bid procedures:

A. **Published notices.** A notice inviting bids shall be published at least 10 calendar days before the date of the opening of bids. The notice shall be published at least once in a newspaper of general circulation in the City, and also in appropriate trade publications, if any, circulated within the general area. Such other notice as the purchasing officer or designee deems appropriate shall be made.

B. **Notices inviting bids.** Notices inviting bids shall include a general description of the goods, articles, services or equipment to be purchased, any required bidder's security or performance bonds, state where bid blanks and specifications may be secured and the time and place for the opening of bids.

C. **Contractor list.** The purchasing officer or designee shall maintain a list of responsible contractors for various categories of supplies, equipment, and general services. A solicitation for a bid shall be sent to all responsible prospective contractors or suppliers whose names are on the contractor list for the category of equipment, supplies or general services subject to the bid request.

D. **Bidder's security/failure to sign contract.** If the City requires a bidder's bond or other form of security, the bidder's security shall be prescribed in the notice inviting bids in an amount equal to 10 percent of the amount bid. Bidder's security shall be either a cash deposit with the City, a cashier's or certified check, payable to the City, or a bidder's bond. Unsuccessful bidders shall be entitled to the return of bid security within 60 days of the date of the award. However, the lowest responsive and responsible bidder shall forfeit all or part of its bid security, as may be determined by the City Council, upon the bidder's refusal or failure to execute the contract within 10 days after the date of the award of the contract. On the refusal or failure of the lowest responsive and responsible bidder to execute the contract, the Council may award the contract to the next lowest responsible bidder.

E. **Bid opening procedure.** Sealed bids shall be submitted to the City Clerk's Office and shall be identified as to bidder, project, and "Bid" on the envelope. Bids shall be opened by City staff in public at the time and place stated in the notice inviting bids. A written record and tabulation shall be made at that time of all bids received, and shall be open for public inspection during regular business hours for a period of time designated in the City's records retention policy.

F. **Bid evaluation procedures.** All bids shall be analyzed by the purchasing officer or designee and the responsible department for compliance with bid specifications. The purchasing officer or designee shall prepare a recommendation to the

department for award or rejection; the department shall then prepare a recommendation for award or rejection to the City Council.

G. **Rejection of bids.** If the City Council determines that bids are excessively high or that specifications were unclear, or if no bids are received, the Council may reject all bids presented and use whatever method it deems appropriate, such as rebid, abandon acquisition, or negotiate a contract.

H. **Award of contracts.** Contracts shall be awarded by the Council to the lowest responsive and responsible bidder whose bid fulfills the purpose intended according to criteria designated in the solicitation, provided the award amount is within the unencumbered appropriation for that item. The Council may waive any minor bid irregularities.

I. **Tie bids.** If two or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of re-advertising for bids, the Council may accept either bid or accept the lowest bid made by negotiation with the tied bidders.

J. **Performance bonds.** The City may require a performance bond in such amount as it shall find reasonably necessary to protect the public interest. If the City requires a performance bond, the form and amount of the bond shall be described in the notice inviting bids.

3.30.190. Special equipment/supplies; sole source purchases; and bid exceptions.

A. **Special Equipment/Supplies.** In purchasing any special equipment or supplies needed to be compatible with existing equipment, or to perform complex or unique functions, the purchasing officer may:

(1) Limit bidding to a specific product type, or a brand name product; or

(2) Utilize a request for proposal approach where warranties, servicing obligations, and product performance will be evaluated in addition to the price of the product, and the award of the contract is made by the Council to the proposer it deems is in the best public interest.

B. **Sole Source Purchases.** Commodities or services that can be obtained from only one vendor or one distributor authorized to sell in this area, are exempt from the competitive bidding requirements in Section 3.30.150 and are deemed sole source purchases. Sole source purchases may include proprietary items sold direct from the manufacturer. All sole source purchases shall be supported by written documentation indicating the facts and nature supporting the determination of a sole source, signed by the appropriate department head and forwarded to the purchasing officer. Approval of any sole source acquisition shall be obtained from the City Council for an award of a contract or purchase order of ~~\$15,000~~ 25,000 or more.

C. **Bid exceptions.** The competitive bid process is not applicable to certain purchases. The following are exempt from bid processes of this chapter:

1. Departmental purchases, as defined in Sec. 3.30.160
 2. Subscriptions
 3. Trade circulars or books
 4. Newspaper Advertisements and Notices
 5. Utility Payments
 6. Land
 7. Cooperative purchasing with other agencies (see also Section 3.30.200)
 8. Emergencies, as defined in Section 3.30.020 (see also Section 3.30.220)
- 3.30.200. Cooperative purchasing with other agencies.

The bidding requirements of Section 3.30.150 shall not apply to the purchasing of any equipment or supplies which the purchasing officer decides to obtain through a cooperative competitive bidding procedure prepared by and processed through another public, local, state, or federal governmental agency. If it is determined to be in the best interest of the City, the purchasing officer is authorized to "piggy-back" onto or join into an existing written purchase contract, which contract was obtained within the last 12 months through a competitive bidding process prepared by and awarded by another public, local, state or federal government agency. However, the City Council's consent shall be required prior to and for the joining of a "piggy-back" purchase or cooperative purchase for a purchase of ~~\$15,000~~ 25,000 or more.

- 3.30.210. Recycled supply products specification.

If in procuring supplies a recycled product can achieve the necessary City performance standard, and if such recycled product is readily available, specifications should, if economically feasible, require products made with recycled materials be bid. If the department head determines that (1) a recycled product lacks performance capabilities or needed quality levels, or (2) a sufficient amount of such recycled or reusable product is not currently available in the market, then a reduced percentage can be required, or the supply specification can be limited to non-recycled or virgin materials. When recycled

products are required, reasonable efforts shall be made to label the products as containing recycled materials. As used in this section, recycled products does not mean used products, but is limited to new products made with materials which have been recycled.

3.30.220. Emergencies.

Bidding procedures may be dispensed with in the case of an emergency. The City Council delegates to the City Manager the authority to declare a public emergency subject to confirmation by the City Council at its next meeting for any purchase of \$15,000 or more.

3.30.230. Inspection and tests.

The purchasing officer or designee or department requesting the item shall inspect all deliveries of supplies and equipment to assure conformance with the contract or order specifications. The purchasing officer or designee, at his or her discretion, may require such reasonable chemical and physical tests of samples of supplies and equipment as he or she deems necessary to determine the quality in conformance with those specifications.

3.30.240. Personal purchases not authorized.

No goods or services for personal use or pleasure may be purchased with City funds. The City reserves the right to charge back the responsible party for all costs determined to be personally motivated.

Article 3. Public Works Projects.

- 3.30.300. Uniform Construction Cost Accounting Procedures.
- 3.30.310. Bidding procedures for various project amounts.
- 3.30.300. Negotiate contract or purchase order procedures.
- 3.30.330. Informal bidding procedures.
- 3.30.340. Formal bidding procedures.

3.30.300. Uniform Construction Cost Accounting Procedures.

The City Council has elected to become subject to the California Uniform Public Construction Cost Accounting Act (Public Contracts Code sections 22000 and following) and to provide procedures as established by the California Uniform Construction Cost Accounting Commission.

3.30.310. Bidding procedures for various project amounts.

A. A public work project of ~~\$25,000~~ 50,000 or less may be performed by City force account, by negotiated contract, or by purchase order.

B. A public work project greater than ~~\$25,000~~ 50,000 and less than or equal to \$100,000 may be let to contract by informal bid procedures.

C. A public work project of more than \$100,000 shall, except as otherwise provided in this chapter, be let to contract by formal bidding procedure in accordance with all applicable provisions of the California Public Contracts Code or successor statute.

D. The described project costs limits of subsections A through C shall be increased automatically as authorized pursuant to the adjustments made by the California Uniform Construction Cost Accounting Commission under Public Contracts Code Section 22020 or successor statute.

3.30.320. Negotiate contract or purchase order procedures.

For those projects qualifying under subsection A of Section 3.30.310, the applicable department head shall obtain a cost estimate from the project engineer or architect prior to issuing a purchase order or negotiating a contract with a responsible contractor. For any City force account work, the department head shall first comply with the guidelines established by the California Uniform Construction Cost Accounting Commission in determining the cost of the public work. The City Manager shall have the authority to award and to execute any contract for the public work qualifying under subsection A of Section 3.30.310 in an amount up to and including ~~\$15,000~~ 50,000 and City Council approval shall be required for any contract exceeding ~~\$15,000~~ 50,000.

3.30.330. Informal bidding procedures.

For those projects which qualify under subsection B of Section 3.30.310 for informal bidding, the following procedures shall be used:

A. **Maintenance of Contractor list.** In November of each year, the City Engineer shall mail a written notice to all construction trade journals designated by the California Uniform Construction Cost Accounting Commission inviting all licensed contractors to submit the names of their firms to the City for inclusion on the list of qualified contractors for the following calendar year according to category. The notice shall require that the contractor provide the name and address to which a notice to contractors or proposal should be mailed, a telephone number at which the contractor may be reached, the type or category of work in which the contractor is interested and currently licensed to do, together with the class of the contractor's license or licenses held and the contractor's license number or numbers. The City Engineer may create a new contractor's list starting January 1st of each year which shall include, at a minimum, all contractors who submitted one or more valid bids to the City during the preceding calendar year and all contractors who have properly provided the City Engineer with the information required to be added to the list. A contractor may be added to the list at any time by providing the required information.

B. **Notice.** The City Engineer shall prepare a notice inviting bids.

1. **Contents of Notice.** The notice inviting bids shall include a general description of the project, how to obtain more detailed information, the time and place for the submission of bids, and whether bid deposit or bond and faithful performance bond will be required.
2. **Mailing of Notice.** Unless the product or service is proprietary, all contractors on the City's list for the category of work being bid shall be mailed a notice inviting informal bids, or an announcement/advertisement shall be placed

in all construction trade journals, or both such mailing and advertising. The trade journals shall be those identified by the California Uniform Construction Cost Accounting Commission as appropriate for this area, in accordance with California Public Contract Code Section 22036 or successor statute.

3. 10 day notice. All mailing of notices to contractors and construction trade journals pursuant to subdivision 2 shall be completed not less than 10 calendar days before bids are due.
4. Proprietary Products or Services. 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 bids may be sent exclusively to such contractor or contractors.
5. Other Notice. In addition to notice required by this section, the City may give other notice as it deems proper.

C. Award. The City Council shall award the contract to the lowest responsive and responsible bidder whose bid or proposal fulfills the purpose intended according to criteria designated in the solicitation. The Council may waive any minor bid irregularities.

D. Bids in excess of statutory amount. If all bids received are in excess of \$100,000, or in the amount as automatically increased pursuant to subsection D of Section 3.30.310, the City Council may by passage of a resolution by a four-fifths (4/5) vote, award the contract up to \$110,000, or 110% of the increased amount, to the lowest responsible bidder if it determines the cost estimate of the City was reasonable.

3.30.340. Formal bidding procedures.

For those projects which qualify under subsection C of Section 3.30.310 for formal bidding, the procedures established in the California Public Contracts Code, or successor statute, shall be used.

Article 4. Professional or Special Services.

3.30.500. Award of professional and special service contracts based upon competence.

3.30.510. Requests for proposals/qualifications.

3.30.520. Contracting authority.

3.30.500. Award of professional or special service contracts based upon competence.

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In contracting for those professional and special services as defined in section 3.30.020, such contracts should only be awarded to firms or persons who have demonstrated an adequate level of experience, competence, staffing and other professional qualifications necessary for more than a satisfactory performance of the services required. Once the department requesting the service has determined a firm has an adequate level of competence, the cost of the service may be considered. However, the lowest cost may not be the sole factor in deciding which firm or whom shall be awarded the contract. It may be in the City's best interest to award the contract to a higher priced contractor based on the scope of services available, unique skills, staffing levels, timing, prior experience, past working relationship and other factors required by the department or proposed by that contractor. The information needed for determining that level of competence, other qualifications and the procedure for selecting such services shall be determined by each City department responsible for recommending the professional or special service contract.

3.30.510. Requests for Proposals/Qualifications.

A. Contracting for professional or special services is decentralized and shall be the responsibility of the department head requesting the service.

B. The acquiring of professional or special services less than \$5,000 may be made by departmental purchase in accordance with Section 3.30.160.

C. The acquiring of professional or special services greater than \$5,000 and less than \$25,000 shall be procured through negotiated contract and, in general should ~~may~~ include requests for proposals/qualifications from at least three firms whenever practical. Contracting for professional or special services is decentralized and shall be the responsibility of the department head requesting the service.

D. Contracts for professional or special services estimated to cost more than \$25,000 must be approved by a resolution of the City Council. Recommendation for award should be pursuant to the following guidelines and based on competitive proposals; however, it is recognized that the City's need

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for professional or special services will vary from situation to situation, and accordingly, flexibility will be provided in determining the appropriate evaluation and selection process to be used in each specific circumstance.

- a. The City Council Finance Committee should generally approve request for proposal (RFP) documents before they are issued.
- b. In the event that the timely evaluation and selection of a consultant precludes City Council Finance Committee approval of the RFP before it is issued, the RFP may be approved by the City Manager for issuance by the Department Head. The RFP will be provided to the Finance Committee at its next regularly scheduled meeting.
- c. Neither total cost nor hourly rates are the sole criterion in selecting a provider of professional or special services. Proposals will be evaluated based on a combination of factors that result in the best value to the City, including but not limited to:
 - i. Understanding of the work required by the City
 - ii. Quality and responsiveness of the proposal
 - iii. Demonstrated competence and professional qualifications necessary for satisfactory performance of the work required by the City
 - iv. Recent relevant experience in successfully performing similar services to similar clients
 - v. Proposed methodology for completing the work
 - vi. References
 - vii. Background and related experience of the specific individuals to be assigned to the project
 - viii. Proposed compensation, rates and the basis of the proposed compensation (e.g., lump sum, time and expenses, reimbursable against a budget, or time and expenses not to exceed, cost plus fixed fee, etc.
 - ix. Proposed level of effort and schedule
 - x. Commitment regarding the continuity and level of involvement of key personnel.
- d. If it is determined that it is in the best interest of the City for services to be provided by a specific consultant—with contract terms, work scope and compensation to be determined based on direct negotiations—contract award will be made by the Council.

3.30.520. Contracting Authority.

The City Manager may approve professional service contracts up to and including ~~\$15,000~~ 25,000. The City Council shall approve professional or special service contracts greater than ~~\$15,000~~ 25,000.

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