

3.04.010 Adoption of Purchasing System

- A. Establishment. In order to establish efficient procedures for the purchase of supplies, materials and equipment, and contracted services, to secure for all departments or agencies of the City ~~excepting the Municipal Water Department and the Free Public Library,~~ supplies, materials, equipment, and services at the lowest possible cost commensurate with the quality needed, to exercise positive financial control over purchases, to clearly define authority for the purchasing functions and to assure that quality of purchases, a centralized purchasing system is adopted. Except as specified herein, there shall be no exemption from centralized purchasing and no ~~A~~agency or ~~De~~partment shall be authorized to purchase, or contract for the purchase of supplies, services or equipment independently of the ~~administrative office~~Purchasing Division. ~~The Municipal Water Department and the San Bernardino Public Library shall not be subject to this centralized purchasing system; however; the~~ Board of Water Commissioners and the Board of the ~~San Bernardino Free~~ Public Library shall employ procedures substantially in compliance with the provisions of this Chapter as such may be applicable.
- B. Purchasing Policy. All purchases of goods, supplies, equipment and services shall be made in accordance with the formal Purchasing Policy in effect at the time of purchase. The Purchasing Policy shall be developed by staff and adopted by mayor and City Council. The Purchasing Policy may be changed from time to time by City Council Resolution in order to remain in compliance with necessary law and to address the evolving procurement needs of the City.
- C. Vendor Lists. The City may utilize the processes of this Chapter and Purchasing Policy to procure vendors who will be eligible or preferred to provide goods or services to the City on an as-needed basis.
- ~~B~~D. Exemptions. This Chapter shall not apply to the following:
1. Purchases from, or sales to a government or governmental agency, or through any advantageous governmental contract approved by the Council, or to the purchase of election supplies, or to purchases and/or services or service contracts relating to litigation or prosecution or investigations thereof, or to purchases and/or services or service contracts relating to fire and police investigations, or to the purchases and/or services or service contracts relating to board up or demolition of buildings or structures.
 2. Purchases from a vendor or manufacturer which, through the City's bidding procedure, or other ~~California~~-government or governmental agency's bidding procedure, has established a price at which such a vendor or manufacturer is willing to sell to the City. During such a bid procedure more than one responsive bid must have been received, ~~and the bid award must have occurred within one year at the City's issuance of a purchase order.~~
 3. Purchases approved by the Mayor and Common Council.
 4. Purchases ~~for less than \$500.00~~of less than ten thousand dollars (\$10,000).

5. Public Works Projects. Procurement procedures for Public Works Projects are defined in Chapters 12.20, 12.21 and 12.24 of the San Bernardino Municipal Code.

6. Sole Source procurements as more defined in the Purchasing Policy.

7. Emergency Procurements as more defined in Section 3.04.070 of the Municipal Code and the Purchasing Policy.

8. Federal/Grant-Funded Procurement to the extent that this Chapter and Purchasing Policy is inconsistent any federal, grant or other funding source requirement for a particular purchase. In that event, the federal, grant or other funding source procurement requirements shall control.

9. Inadequate competition as more defined in the Purchasing Policy.

(Ord. MC-983, 9-24-96; Ord. MC-858, 1-12-93; Ord. MC-608, 9-22-87; Ord. MC-513, 4-22-86; Ord. MC-431, 1-25-85; Ord. 2588, 6-23-64)

3.04.020 Purchasing ~~Officer~~ Division

~~The purchase and sale of all supplies, materials and equipment and services, shall be the responsibility of the purchasing agent under the direction and supervision of the administrative officer. Unless otherwise exempted under this Chapter, the purchase and sale of all supplies, materials, equipment, and services shall be the responsibility of the Purchasing Division. The Purchasing Division is part of the Finance Department, which is responsible for carrying out written administrative procedures adopted by the City Council related to Procurement. The Purchasing Division Manager is responsible for the Purchasing Policy, and will develop, advise, review, audit and ensure compliance throughout the Purchasing process as the City's subject matter expert.~~

(Ord. MC-858, 1-12-93 ; Ord. 2588, 6-23-64)

3.04.030 ~~Estimates of requirements~~Bidding Requirements

~~All using departments and agencies shall file detailed estimates of their requirements for supplies, materials and equipment in such manner, at such time, and for such future periods as the City Administrative office shall prescribe. The procurement process used to purchase supplies, materials, equipment, and contracted services is dependent upon the total dollar amount of the goods or services to be purchased and the type of purchase.~~

A. Purchases up to \$10,000

Purchases up to \$10,000 may be purchased using a Purchasing Card or through a check request with no requirement for formal bids or quotes.

B. Purchases between \$10,001 and \$40,000

Purchases between \$10,001 and \$40,000 are processed informally, through vendor quotations and may be processed directly by the department making the purchase. The informal bidding process is more particularly described in the Purchasing Policy.

C. Purchases above \$40,000

Purchases in this category are subject to formal competitive bidding or competitive selection depending on the type of purchase. The formal competitive bidding process is more particularly described in the Purchasing Policy.

~~(Ord. 2588, 6-23-64)~~

3.04.040 RequisitionsApproval Authority

~~Using departments and agencies shall submit requests for supplies, materials and equipment to the Purchasing Agent by standard requisition forms. The authority to purchase supplies, materials, equipment, and contracted services is dependent upon the total dollar amount of the goods or services to be purchased and the type of purchase. Purchasing authority are based on the following amounts:~~

A. Purchases up to \$50,000

Purchases in this category may be authorized by the Agency/Department Directors and/or the City Manager.

B. Purchases between \$50,001 and \$100,000

Purchases in this category may only be authorized by the City Manager or their designee.

C. Purchases over \$100,000

Purchases in this category may only be authorized by the Mayor and City Council.

~~(Ord. 2588, 6-23-64)~~

3.04.050 Purchase ~~Orders~~ and Procurement Cards

~~Purchase of supplies, materials, and equipment shall be made only by purchase order or procurement card, whichever is appropriate, and signed by the Purchasing Agent or administrative officer or his or her designee.~~

(Ord. MC-858, 1-12-93; Ord. 2588, 6-23-64)

3.04.060 Encumbrance of funds

The Purchasing ~~Agent~~Division shall not issue any purchase order for supplies, materials or equipment unless there exists an unencumbered appropriation in the account against which the purchase is to be charged, and until the same has been approved by the ~~finance division~~Budget Division of the ~~administrative office~~Finance Department.

(Ord. 2588, 6-23-64)

3.04.070 Formal contract procedure

~~Except as otherwise provided in this Chapter, purchases and contracts for supplies, materials and equipment of a value greater than fifty thousand dollars shall be by a written contract with the lowest possible and best bidder, pursuant to the procedures described in this section.~~

- ~~A. Notice Inviting Bids. Notices inviting bids shall include a general description of the articles to be purchased, shall state where bid blanks and specifications may be secured, and the time and place for opening bids.~~
- ~~B. Notice, Publication and Mailing. Notice inviting bids shall be published at least ten days before the opening of bids in a newspaper of general circulation printed and published in the City. The Purchasing Agent may establish and maintain a list of prospective bidders. The prospective bidders shall be listed on said list according to the service or product provided as indicated by the prospective bidder. It shall not be the responsibility of the Purchasing Agent to ensure that the list contains current information in respect to the address, service or product of the prospective bidder. The Purchasing Agent is authorized to mail invitations to bid directly to appropriate prospective bidders appearing on said list and to other prospective bidders.~~
- ~~C. Bidder's Security. Each bid or proposal may be required by the Purchasing Agent to be accompanied by a bidder's bond, certified or cashier's check, or cash in an amount not more than ten percent of the total bid. The City Administrator shall establish standards for determining under what circumstances a bidder's security shall be required in order to protect the interests of the City. When deemed necessary by the City Manager, bidder's security may be prescribed in the public notices inviting bids. When bid security is required, bidders shall be entitled to return of bid security, provided that a successful bidder shall forfeit his bid security upon refusal or failure to execute the contract within ten days after the notice of award has been mailed, unless and to the extent the City is responsible for the delay. The Common Council may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest and best bidder. If the Common Council awards the contract to the next lowest and best bidder, the amount of the lowest bidder's required 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.~~
- ~~D. Bid Opening Procedure. Sealed bids shall be submitted to the Purchasing Agent and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notices. A record of the bids received shall be available for public inspection after bids have been opened, indicating the amounts bid by the various bidders and the basis for awarding the contract or purchase order if other than the lowest bidder. Such list shall be available for thirty days after the award has been made.~~
- ~~E. Rejection of Bids. At its discretion, the Mayor and Common Council shall have the power to reject any and all bids presented and readvertise for bids.~~
- ~~F. Award of Contracts. Contracts shall be awarded by the Mayor and City Council, by resolution or minute action, to the lowest and best bidder except as otherwise provided herein.~~
- ~~G. 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 readvertising for bids, the Mayor and Common Council may accept the one it chooses or accept the lowest bid made by negotiation with the tie bidders at the time of the bid opening~~

~~H. Performance Bonds. The Mayor and Common Council shall have authority to require a performance bond before executing a contract in such amount as it shall find reasonably necessary to protect the best interests of the City. If the Mayor and Common Council require a performance bond, the form and amount of the bond shall be described in the notice inviting bids.~~

~~I. Negotiated Purchases. At the discretion of the City Manager, the Purchasing Agent may authorize the purchase of technical or specialized supplies and equipment by competitive negotiation when such a method of purchase would be more advantageous to the City, and any one of the following conditions exists:~~

- ~~1. The supplies or equipment are such that suitable technical or performance specifications are not readily available;~~
- ~~2. The City is not able to develop descriptive specifications; or,~~
- ~~3. The quality of the supplies and equipment cannot be accurately determined by reference to their specifications alone.~~

~~At the completion of such a negotiated purchase a written report thereon shall be made to the City Administrator.~~

~~(Ord. MC-1569, 2-02-22; Ord. MC-1413, 4-06-15; Ord. MC-858, 1-12-93; Ord. MC-646, 12-07-88; Ord. MC-602, 6-02-87; Ord. MC-491, 1-22-86; Ord. MC-183, 7-07-82; Ord. 3893, 1-09-80; Ord. 3723, 5-04-78; Ord. 3514, 8-06-75; Ord. 2588, 6-23-64)~~

3.04.075 3.040.070 Emergency Ppurchases

In case of an emergency, which is so urgent as to preclude advance action by the Mayor and ~~Common City~~ Council and which requires purchase of supplies, materials, equipment or contractual services, the City ~~Administrator~~ Manager shall have the authority to authorize ~~the Purchasing Agent to secure~~ ing in the open market ~~at the lowest obtainable price~~ any such supplies, materials, equipment or contractual services. This emergency authority shall extend to all purchases, irrespective of the fact that the amount might exceed the authorized thresholds outlined in Section 3.05.020 of the Muicipal Code. ~~limitation for open market purchases. In all instances a full An~~ explanation of the emergency circumstances shall be filed with the Mayor and ~~Common City~~ Council within forty-eight (48) hours of the emergency purchase.

(Ord. 3893, 1-09-80; Ord. 2588, 6-23-64)

3.04.080 Open market procedure Surplus Supplies and Equipment

A. All Agencies and Departments shall submit to the Purchasing Division reports showing all supplies, materials and equipment which are no longer used or usable or which may have become obsolete, unsuitable or worn out. The Purchasing Division Manager shall have authority to sell said supplies, materials and equipment, or to exchange the same for, or trade in the same on, new supplies, materials and equipment. Such sales, exchanges or trade-ins shall be made to the highest and best bidder pursuant to the procedures in the Purchasing Policy, or shall be made at a public auction as hereinafter set forth in this Section 3.04.100.

B. Public Auction. A notice describing the property in sufficient detail for its identification shall be prepared by the Purchasing Division and shall be given at least five days before the

time fixed therefore by publication once in an established newspaper or other publication of general circulation published in the City.

C. City officers shall not be purchasers at any such public auction authorized, conducted, or administered by them in their official capacity, nor shall any City officer or employee directly or indirectly submit a bid at the auction if they have participated in the preparation or conduct of the auction in their official capacity.

D. The property so offered for sale shall be sold to the highest bidder for cash, provided that the Purchasing Manager may, at their discretion, fix a minimum sale price and may refuse to sell unless the minimum price is offered, and may further refuse to sell unless a deposit of security is immediately made.

E. Any property sold at public auction shall be provided to the purchaser upon full payment of the purchase price.

F. The proceeds of the auction sale or sales shall immediately be deposited with the Department of Finance and deposited into the General Fund of the City.

~~Purchase of supplies, materials, and equipment of a value in the amount of fifty thousand dollars or less may be made by the Purchasing Agent in the open market, in accordance with the following procedure:~~

- ~~A. Minimum Number of Bids. Open market purchases shall wherever possible, be based on at least three bids, and shall be awarded to the lowest and best bidder.~~
- ~~B. Notice inviting bids. The Purchasing Agent shall solicit bids by written requests or by telephone to prospective vendors.~~
- ~~C. Written Bids. Sealed written bids shall be submitted to the Purchasing Agent who shall keep a record of all open market orders and bids for the required period of time after the submission of bids or the placing of orders. This record while so kept shall be open to public inspection.~~
- ~~D. Open Market Purchases For Which No Bids Are Required. For open market purchases not exceeding twenty-five hundred dollars, the Purchasing Agent shall have the authority to select a specific vendor and place an order without obtaining additional competitive bids.~~

~~(Ord. MC-1413, 4-06-15; Ord. MC-858, 1-12-93; Ord. MC-646, 12-07-88; Ord. MC-602, 6-02-87; Ord. MC-183, 7-07-82; Ord. 3893, 1-09-80; Ord. 3531, 10-07-75; Ord. 2588, 6-23-64)~~

~~3.04.085 Services~~

~~A. The Purchasing Agent may contract for services of a value of fifty thousand dollars or less in accordance with the following procedure:~~

- ~~1. Minimum Number of Proposals. Contracts for services shall, whenever possible, be based on at least three proposals, and shall be awarded to the provider who can best meet the needs of the City. Although cost shall be considered by the Purchasing Agent in entering into such contracts, it shall not be the sole determining factor.~~

- ~~2. Request For Proposals (RFP). The Purchasing Agent shall solicit proposals by written requests or by telephone to prospective providers.~~
 - ~~3. Written Proposals. Sealed written proposals shall be submitted to the Purchasing Agent who shall keep a record of all such proposals for not less than 180 days. This record while kept shall be open to public inspection.~~
 - ~~4. Contractual Services For Which No Proposals Are Required. For contractual services not exceeding twenty-five hundred dollars in value, the Purchasing Agent shall have the authority to select a specific provider and enter into a contract without obtaining additional proposals.~~
- ~~B. Contractual services with a value in excess of fifty thousand dollars must be approved by the Mayor and Common Council pursuant to Requests For Proposals as authorized by the Mayor and Common Council.~~
- ~~C. The provisions of Subsection A above shall not apply to contracts for special counsel services which are provided for pursuant to Chapter 2.20 of this Code.~~

~~(Ord. MC-1413, 4-06-15; Ord. MC-858, 1-12-93)~~

3.04.100 Surplus supplies and equipment

- ~~A. All using agencies and departments shall submit to the purchasing agent, at such times and in such form as he shall prescribe, reports showing all supplies, materials and equipment which are no longer used or usable or which may have become obsolete, unsuitable or worn out. The purchasing agent shall have authority to sell said supplies, materials and equipment, or to exchange the same for, or trade in the same on, new supplies, materials and equipment. Such sales, exchanges or trade-ins shall be made to the highest and best bidder pursuant to the procedures of Section 3.04.070 or 3.04.080, whichever is applicable, or shall be made at a public auction as hereinafter set forth. The Purchasing Agent, when directed by the Mayor and Common Council, shall restrict the sale of surplus supplies, materials and equipment of a value in an amount of three thousand dollars or less to local nonprofit tax exempt corporations, associations or organizations pursuant to Section 3.04.080, or shall negotiate and consummate a sale to a governmental agency, including any domestic or foreign sister City. Each restricted or negotiated sale under this Chapter shall be consummated at the fair market value of the surplus supplies or equipment.~~
- ~~B. Public Auction. A notice describing the property in sufficient detail for its identification shall be prepared by the City administrator and shall be given at least five days before the time fixed therefore by publication once in a newspaper of general circulation published in the City.~~
- ~~C. City officers shall not be purchasers at any such public auction authorized, conducted or administered by them in their official capacity, nor shall any City officer or employee directly or indirectly submit a bid at the auction if he has participated in the preparation or conduct of the auction in his official capacity.~~

- ~~D. The property so offered for sale shall be sold to the highest bidder for cash, provided that the City administrator may, at his discretion, fix a minimum sale price and may refuse to sell unless the minimum price is offered, and may further refuse to sell unless a deposit of security is immediately made.~~
- ~~E. Any property sold at public auction shall be delivered to the purchaser upon payment of the purchase price.~~
- ~~F. The proceeds of the auction sale or sales shall immediately be deposited with the Treasurer of the City and placed in the general fund thereof.~~

~~(Ord. 3531, 10-07-75; Ord. 3370, 8-22-73; Ord. 2588, 6-23-64)~~

~~3.04.105 Sale of surplus City property~~

~~Notwithstanding anything in this Chapter to the contrary, the Purchasing Agent shall select appropriate items with an estimated value of \$1,000 or less, and shall make them available for retail sale by private parties pursuant to written agreements approved by the Mayor and Common Council, or by direct retail sale by the City. Such items need not be sold to the highest bidder, and may be sold at a predetermined price and may be discounted from time to time in keeping with retail practices. Any items not sold within a reasonable time shall be returned to the Purchasing Agent for disposal according to normal procedures as provided in this Chapter. The private party may be authorized to retain a percentage of the sales price in an amount authorized by such written agreements.~~

~~(Ord. MC-968, 6-04-96)~~

~~3.04.110 Surplus vehicles and equipment~~

~~Upon direction by resolution of the Mayor and Common Council, the Purchasing Agent may dispose of surplus vehicles and equipment by sealed bid sale with or without newspaper advertising, but pursuant to the regulations contained in the resolution.~~

~~(Ord. MC-608, 9-22-87)~~

~~3.04.115 City Manager~~

~~Any duty or responsibility given to the Purchasing Agent by this Chapter may likewise be performed or fulfilled by the City Manager or his or her designee.~~

~~(Ord. MC-1413, 4-06-15; Ord. MC-858, 1-12-93)~~

~~3.04.1203.04.090 Penalty To Split Purchases~~

It shall be unlawful to split or separate into smaller purchases, a purchase so as to bring the purchase within the provisions of any exemption or less stringent procedure provided herein.

(Ord. MC-858, 1-12-93)

~~3.04.125~~ 3.04.100 Local ~~B~~ bidders

Any formal or informal bid submitted by a local bidder for goods or materials pursuant to this Chapter shall receive a ~~one~~ five percent (~~5~~ 4%) credit for comparison purposes with other bidders. For the purpose of this Section, "local bidders" shall be bidders with (1) fixed facilities

with employees within the City of San Bernardino's jurisdiction (a PO Box or residential address is insufficient unless it is a home-based business, in which case the residential address may be used) and (2) an appropriate City of San Bernardino Business License. ~~for which the point of sale of the goods or materials shall be within the City of San Bernardino.~~

(Ord. MC-903, 5-05-94)