

**ORDINANCE NO. MC-1605**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL  
OF THE CITY OF SAN BERNARDINO, CALIFORNIA,  
AMENDING CHAPTER 3.04 OF THE CITY OF SAN  
BERNARDINO MUNICIPAL CODE RELATING TO  
PURCHASING**

**WHEREAS**, the City San Bernardino, California (“City”) is a chartered city and municipal corporation, duly organized under the California Constitution and laws of the State of California; and

**WHEREAS**, the City is dedicated to operating efficiently, effectively and streamlining operations where possible; and

**WHEREAS**, the City’s current purchasing system is outlined in Chapter 3.04 of the City of San Bernardino Municipal Code; and

**WHEREAS**, the City’s Purchasing Division has conducted a review of the City’s purchasing system and has identified areas of improvement; and

**WHEREAS**, one such improvement is to streamline the current purchasing system by also establishing a formal purchasing policy; and

**WHEREAS**, the implementation of a purchasing policy will allow the City to quickly update certain aspects of the purchasing system in order to address issues; and

**WHEREAS**, as part of this purchasing system overhaul includes an increase in spending authority for the City Manager, allowing the City Manager to enter into agreements up to a value of \$100,000; and

**WHEREAS**, this increased flexibility will allow the City to more quickly respond to needs and increase the level of services provided.

**THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO DO  
ORDAIN AS FOLLOWS:**

**SECTION 1. Incorporation of Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

**SECTION 2. Amendment of Chapter 3.04.** Chapter 3.04 of Title 3 of the San Bernardino Municipal Code is hereby amended in its entirety to read as follows:

**“Chapter 3.04  
PURCHASING SYSTEM**

**Sections:**

<b>3.04.010</b>	<b>Adoption of Purchasing System</b>
<b>3.04.020</b>	<b>Purchasing Division</b>
<b>3.04.030</b>	<b>Bidding Requirements</b>
<b>3.04.040</b>	<b>Approval Authority</b>
<b>3.04.050</b>	<b>Purchase Orders and Procurement Cards</b>
<b>3.04.060</b>	<b>Encumbrance of Funds</b>
<b>3.04.070</b>	<b>Emergency Purchases</b>
<b>3.04.080</b>	<b>Surplus Supplies and Equipment</b>
<b>3.04.090</b>	<b>Penalty for Split Purchases</b>
<b>3.04.100</b>	<b>Local Bidders</b>
<b>3.04.110</b>	<b>Reserved</b>
<b>3.04.120</b>	<b>Reserved</b>
<b>3.04.130</b>	<b>Reserved</b>
<b>3.04.140</b>	<b>Reserved</b>

### **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, 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 Agency or Department shall be authorized to purchase, or contract for the purchase of supplies, services or equipment independently of the 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 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 the purchase. The Purchasing Policy shall be developed by staff and adopted by the 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.

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 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.

3. Purchases approved by the Mayor and City Council.

4. Purchases 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 Bernadino 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.

### **3.04.020 Purchasing Division**

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.

### **3.04.030 Bidding Requirements**

The procurement process used to purchase supplies, material, 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.

**3.04.040 Approval Authority**

The authority to purchase supplies, material, 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.

**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.

**3.04.060 Encumbrance of Funds**

The Purchasing 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 Budget Division of the Finance Department.

**3.04.070 Emergency Purchases**

In case of an emergency, which is so urgent as to preclude advance action by the Mayor and City Council and which requires purchase of supplies, materials, equipment or contractual services,

the City Manager shall have the authority to authorize securing in the open market 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 Municipal Code. An explanation of the emergency circumstances shall be filed with the Mayor and City Council within forty-eight (48) hours of the emergency purchase.

### **3.04.080 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.

### **3.04.090 Split Purchases**

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

### **3.04.100 Local Bidders**

Any formal or informal bid submitted by a local bidder for goods or materials pursuant to this Chapter shall receive a five percent (5%) credit for comparison purposes with other bidders when a local credit is allowable under the law. 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.

**3.04.110      Reserved**

**3.04.120      Reserved**

**3.04.130      Reserved**

**3.04.140      Reserved"**

**SECTION 3. CEQA.** The City Council determines that the Ordinance is categorically exempt from further review per State CEQA Guidelines (14 Cal. Code Regs., § 15000 et seq.). The whole of the Ordinance is exempt, because the code amendment is an administrative activity which will not result in a direct or reasonably foreseeable indirect physical change to the environment. (§ 15060(c)(2).) The whole of the Ordinance is also exempt because the code amendment is not a "project" as defined by section 15378, since it has no potential for resulting in a direct or indirect physical change to the environment. (§ 15060(c)(3).) The City Council hereby directs City staff to file a Notice of Exemption within five days of the adoption of this Ordinance.

**SECTION 4. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional. If for any reason any portion of this ordinance is found to be invalid by a court of competent jurisdiction, the balance of this ordinance shall not be affected.

**SECTION 5. Effective Date.** This Ordinance shall take effect thirty (30) days after its adoption.

**SECTION 6. Notice of Adoption.** City Clerk of the City of San Bernardino shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under section 36933 of the Government Code of the State of California.

**APPROVED** and **ADOPTED** by the City Council and signed by the Mayor and attested by the City Clerk this \_\_\_\_ day of \_\_\_\_\_ 2022.

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John Valdivia, Mayor  
City of San Bernardino

Attest:

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Genoveva Rocha, CMC, City Clerk

Approved as to form:

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Sonia Carvalho, City Attorney

**CERTIFICATION**

STATE OF CALIFORNIA )  
COUNTY OF SAN BERNARDINO) ss  
CITY OF SAN BERNARDINO )

I, Genoveva Rocha, CMC, Acting City Clerk, hereby certify that the attached is a true copy of Ordinance No. MC-1605, introduced by the City Council of the City of San Bernardino, California, at a regular meeting held the 7<sup>th</sup> day of December, 2022. Ordinance No. MC-\_\_\_\_\_ was approve passed and adopted at a regular meeting held the XX day of \_\_\_\_\_, 2022 by the following vote:

<u>Council Members:</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SANCHEZ	_____	_____	_____	_____
IBARRA	_____	_____	_____	_____
FIGUEROA	_____	_____	_____	_____
SHORETT	_____	_____	_____	_____
REYNOSO	_____	_____	_____	_____
CALVIN	_____	_____	_____	_____
ALEXANDER	_____	_____	_____	_____

WITNESS my hand and official seal of the City of San Bernardino this \_\_\_\_ day of \_\_\_\_\_ 2022.

\_\_\_\_\_  
Genoveva Rocha, CMC, City Clerk