



City of Sierra Madre Agenda Report

*Rachelle Arizmendi, Mayor
Denise Delmar, Mayor Pro Tem
John Capoccia, Council Member
Gene Goss, Council Member
John Harabedian, Council Member*

*Melinda Carrillo, City Clerk
Michael Amerio City Treasurer*

TO: Honorable Mayor and Members of the City Council

FROM: Marcie Medina, Assistant City Manager 

REVIEWED BY: Gabriel Engeland, City Manager

DATE: October 24, 2017

SUBJECT: **SECOND READING OF ORDINANCE 1392 - AMENDING CHAPTER 3.08 OF THE CITY OF SIERRA MADRE MUNICIPAL CODE REGARDING PURCHASING PROCEDURES TO PROVIDE NEW PURCHASING LIMITS AND PROVIDE INFORMAL BIDDING PROCEDURES UNDER THE UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT**

SUMMARY

At the October 3, 2017 Special City Council Meeting, City Council introduced for first reading of Ordinance No. 1392, amending the City's purchasing policy to establish efficient purchasing procedures by adopting Informal bidding procedures and increasing bidding limits.

STAFF RECOMMENDATION

Staff recommends the City Council read by title only for second reading, waiving further reading and adopt Ordinance 1392 amending Chapter 3.08 of the City of Sierra Madre Municipal Code regarding Purchasing Procedures to provide new purchasing limits and provide Informal Bidding Procedures under the Uniform Public Construction Cost Accounting Act.

FINANCIAL REVIEW / SOURCE OF FUNDING

Amending the City's Purchasing Procedures would provide cost savings as a result of reduced staff time required for bidding and award of contracts, and reduction of public notice costs.

ANALYSIS

The City Purchasing Procedures would benefit from increase purchasing limits and streamlining of the procedures. For Public Projects the City is subject to bid limits set by Public Contract Code and required to follow various bidding procedures. The formal bid process is time intensive and costly.

The Uniform Public Construction Cost Accounting Act (Act) allows local agencies to elect to be subject to the Act and follow the cost accounting policies and procedures. By participating in the act, the City would benefit from the raised Force Account limit and the Informal Bidding Procedures. The raised Force Account limit allows the City to perform Public Project work of up to \$45,000 with its own workforce, through negotiated contract or a purchase order. The City would be allowed to use Informal Bidding Procedures for Public Projects greater than \$45,000 and up to \$175,000. This would result in more projects completed in a timely manner as a result of the streamlined award process and the reduction in paperwork related to advertising and report filing.

The Act requires that an agency that elects to become subject to the Uniform Construction Cost Accounting Procedures enact an Informal Bidding Procedure that complies with the requirements set by the Act. The City is amending the Purchasing Procedures, Chapter 3.08 of the SMMC in order to be in compliance with such requirement and at the same time revising the entirety of its Purchasing Procedures to increase limits and streamline purchasing processes.

PUBLIC NOTICE PROCESS

This item has been noticed through the regular agenda notification process. Copies of this report are available at City Hall, at the Sierra Madre Public Library, and can be accessed on the City's website at www.cityofsierramadre.com.

Attachment(s): Ordinance 1392 - Amending Purchasing Procedures and establishing alternative bidding procedures

ORDINANCE NO. 1392

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE AMENDING CHAPTER 3.08 OF THE CITY OF SIERRA MADRE MUNICIPAL CODE REGARDING PURCHASING PROCEDURES TO PROVIDE NEW PURCHASING LIMITS AND PROVIDE INFORMAL BIDDING PROCEDURES UNDER THE UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT

SECTION 1. Chapter 3.08 of the City of Sierra Madre Municipal Code is hereby deleted in its entirety and amended to read as follows Chapter 17.10 of the Sierra Madre Municipal Code is amended to read as follows:

Chapter 3.08 PURCHASING PROCEDURES

Sections:

3.08.010	Definitions
3.08.020	Purchasing Officer – Powers of & Duties
3.08.030	Purchasing Policies & Procedures
3.08.040	Bidding, Purchasing, and Contracting
3.08.050	Direct Competitive Pricing Procedure
3.08.051	Sierra Madre Formal Competitive Pricing Procedure
3.08.060	Public Project Bidding, Purchasing, and Contracting
3.08.070	Public Project Informal Competitive Purchasing Procedure
3.08.080	Public Project Formal Competitive Purchasing Procedure
3.08.090	Using Alternative Purchasing Procedures
3.08.100	Surplus Supplies and Equipment

3.08.010 Definitions

Unless otherwise indicated, the following definitions shall apply to all provisions of this chapter:

- A. "Act" means the Uniform Public Construction Cost Accounting Act found at Public Contract Code Section 22000 et seq.
- B. "Authorized contracting party" means the city official or body provided with authority under this chapter to approve a contract or to make a purchase.

- C. "City manager" means the city manager or person designated by the city manager to perform all or some of the duties prescribed in this chapter.
- D. "Commission" means the California Uniform Construction Cost Accounting Commission created by Division 2, Part 3, Chapter 2, Article 2 of the California Public Contracts Code (commencing at Section 22010).
- E. "Emergency" for purposes of public projects shall have that meaning provided in Public Contract Code Sections 22035 and 22050. Emergency for all other purchasing purposes means a situation which makes competitive bidding, either formal or informal, impractical or not in the best interests of the city.
- F. "Facility" shall have that meaning provided in Section 22002(e) of the Act, as that section may be amended from time to time. In this light, facility shall include any plant, building, structure, ground facility, utility system, subject to the limitation found in Section 3.08.010(O)(4) of this chapter, real property, streets and highways, or other public work improvements.
- G. "General services" means all services performed by persons not in a professional occupation, including but not limited to, contract services for park, electrical and computer repair; building, facility and vehicle maintenance; recreation programs; and other similar services which are not professional services.
- H. "Maintenance work" shall have that meaning provided in Section 22002(d) of the act, as that section may be amended from time to time. In this light, maintenance work shall include, but shall not be limited to, all of the following:
 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. Street and highway maintenance, including utility patching, skin patching, crack filling, filling of pot holes, slurry sealing, edge grading, street striping, resurfacing of streets and highways at less than one inch, sign replacement, sidewalk repair and replacement, curb and gutter repair and replacement, and street and traffic light repair and replacement.
Maintenance work shall not include striping of a new street or highway;
 4. Sewer maintenance, including foaming, video taping, cleaning and manhole restoration;
 5. Traffic signal maintenance. Maintenance work shall not include installation of a new traffic signal;
 6. Storm drain related maintenance;
 7. Landscape maintenance, including mowing, watering, trimming, tree pruning, planting, tree and plant replacement, irrigation and sprinkler system servicing, retrofit and repair, and landscape rehabilitation;
 8. Maintenance of facilities, including roof repairs, heating and air conditioning repairs, and electric repairs;
 9. Vehicle and equipment maintenance and repairs;

10. 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.
- I. "Negotiated contract" shall mean a letter of agreement, vendor agreement, contract, professional services agreement, maintenance services/public works projects agreement or written documentation which details terms and conditions of the purchase.
- J. "Professional services" means all services performed by persons in professional occupations, including, but not limited to, consulting and performance services for accounting, auditing, computer hardware and software support, engineering, architectural, planning, redevelopment, financial, economic, personnel, social services, animal control, legal, management, environmental, cable television, communication and other similar professional functions which may be necessary for the operation of the city.
- K. "Public project" shall have that meaning provided in Section 22002(c) of the Act, as that Section may be amended from time to time. In this light, public project shall not include maintenance work. In addition, public project shall include, but shall not be limited to, all of the following:
 1. Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.
 2. Roof replacements for publicly owned, leased or operated facilities.
 3. Painting or repainting of any publicly owned, leased, or operated facility.
 4. In the case of a publicly owned utility system, "public project" shall include only the construction, erection, improvement, or repair of dams, reservoirs, power plants, and electrical transmission of two hundred thirty thousand volts and higher.
- L. "Purchasing officer" means the city manager or his or her designee(s). The city manager may change his or her designation at any time.

3.08.020 Purchasing officer - Powers and Duties

The purchasing officer (or designee), in accordance with the policies set forth in this chapter and in any written procedures approved by the city manager consistent with this chapter, shall have the power to:

- A. Purchase or contract for supplies, services and equipment required by the city;
- B. Negotiate and recommend to the city council execution of contracts for the purchase of supplies, services and equipment;

- C. Prepare and implement policies and procedures governing the bidding, contracting, purchasing, storing, distribution and disposal of supplies, services and equipment for the city;
- D. Prescribe and maintain such forms as may be reasonably necessary for the proper implementation of this chapter and any other policies and procedures approved by the city manager consistent with this chapter;
- E. Review the working details, drawings, plans and specifications for any projects or purchases requiring such review in this chapter;
- F. Inspect or supervise the inspection of purchased supplies, services and equipment to ensure conformity with any specifications established or required by the city;
- G. Transfer among departments any supplies, services and equipment not needed by one such department, but which are necessary for the operation of one or more other departments;
- H. Sell any supplies and equipment not needed for public use or that may become unsuitable for their intended use;
- I. Develop and maintain any bidder's list, contractors list or vendor's catalog file necessary to the operation of this chapter and any other policies and procedures approved by the city manager consistent with this chapter.

3.08.030 Purchasing Policies and Procedures

- A. The city shall secure supplies, services, and equipment at the lowest total cost commensurate with the quality and scope needed, and subject to any limitations imposed by state law. Notwithstanding the foregoing, the city shall secure professional services based upon demonstrated competence, professional qualifications and suitability for the project in general. The city should consider cost of professional services if the authorized contracting party determines it to be a relevant factor under the circumstances. The rationale for selecting a vendor other than the lowest bidder must be approved by the city manager.
- B. The purchasing officer shall develop, for approval by the city manager, such policies and procedures as are necessary to implement the provisions of this chapter. The policies and procedures shall be written and implemented in such a way to encourage open and competitive bidding, provide equal opportunity based on merit, make each selection process free of discrimination, provide for efficient and timely acquisition of needed supplies, services and equipment, and provide effective fiscal controls.

- C. In purchasing, supplies, services, and equipment, the city shall make use of competitive bidding, either direct, formal, or informal, whenever required by law, this chapter or any policies and procedures approved by the city manager consistent with this chapter.
- D. Direct, formal or informal competitive bidding is not required, for instance, when an "emergency" is declared pursuant to Section 3.08.080(A) of this chapter. With respect to emergencies involving public projects of forty-five thousand dollars or more, however, this waiver of competitive bidding shall last only so long as the emergency exists in the determination of the city council.

3.08.040 Purchasing and Contracting for Goods and Services (Non-Public Projects)

- A. Up to Two Thousand Dollars. Any purchase up to and including two thousand dollars may be awarded by the director of the department responsible for the project by direct purchase.
- B. Two to Five Thousand Dollars. Any purchase from two thousand dollars or less than or equal to five thousand dollars may be awarded by the director of the department responsible for the purchase by any direct competitive pricing procedure set forth in Section 3.08.050.
- C. Five Thousand Dollars to Forty-Five Thousand Dollars. Any purchase of more than five thousand dollars or less than or equal to forty-five thousand dollars may, except as otherwise provided in this chapter or the act, be awarded by the city manager pursuant to the any direct competitive pricing procedure set forth in Section 3.08.050.
- D. Forty-Five Thousand Dollars to One Hundred Seventy-Five Thousand Dollars. Any purchase of more than forty-five thousand dollars or less than or equal to one hundred seventy-five thousand dollars may, except as otherwise provided in this chapter or the act, be awarded by the City Council pursuant to the direct competitive pricing procedure in Section 3.08.050.
- E. Over One Hundred Seventy-Five Thousand Dollars. Any purchase over one hundred Seventy-five thousand dollars shall, except as otherwise provided in this chapter, be awarded by the City Council pursuant to the Sierra Madre formal competitive pricing procedure in Section 3.08.051.

3.08.050 Direct Competitive Pricing Procedure

- A. At least three vendors shall be contacted to provide quotes.
- B. Quotes may be submitted in electronic format.

3.08.051 Sierra Madre Formal Competitive Pricing Procedure (Non-Public Projects)

- A When a purchase is expected to exceed \$175,000 formal competitive pricing procedures should be used. The Purchasing Officer should determine the Request for Proposal (RFP) and noticing procedures.
- C. Request for Proposals. A request for proposals should be sent out.
- D. Sealed Proposals. Sealed proposals should be submitted as specified in the Request for Proposals/Bids.

3.08.060 Bidding, Purchasing and Contracting for Public Projects

- F. Up to Two Thousand Dollars. Any purchase up to and including two thousand dollars may be awarded by the director of the department responsible for the project by direct purchase.
- G. Two to Five Thousand Dollars. Any purchase from two thousand dollars or less than or equal to five thousand dollars may be awarded by the director of the department responsible for the purchase by any direct competitive pricing procedure set forth in Section 3.08.050.
- C. Five Thousand Dollars to Forty-Five Thousand Dollars. Any purchase of more than five thousand dollars or less than or equal to forty-five thousand dollars may, except as otherwise provided in this chapter or the act, be awarded by the city manager pursuant to the any direct competitive pricing procedure set forth in Section 3.08.050.
- D. Forty-Five Thousand Dollars to One Hundred Seventy-Five Thousand Dollars. Any purchase of more than forty-five thousand dollars or less than or equal to one hundred seventy-five thousand dollars may, except as otherwise provided in this chapter or the act, be awarded by the City Council pursuant to the informal bidding procedure set forth in Section 3.08.060.
- E. Greater than One Hundred Seventy-Five Thousand Dollars. Any purchase over one hundred seventy-five thousand dollars shall, except as otherwise provided in this chapter or the Act, be awarded by the City Council pursuant to the formal competitive purchasing procedure set forth in Section 3.08.070.

3.08.070 Public Project Informal Bidding Procedure

- A. Informal Bidding Procedures. Public projects, as defined by the Act and in accordance with the limits listed in Section 22032 of the Public Contract Code, may be let to contract by informal procedures as set forth in Section 22032, et seq., of the Public Contract Code.

- B. Contractors List. A list of contractors shall be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.
- C. Notice Inviting Informal Bids. Where a public project is to be performed which is subject to the provisions of this Ordinance, a notice inviting informal bids shall be circulated using one or both of the following alternatives:
 1. Notices inviting informal bids may be mailed, faxes, or emailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section 22034
 2. Notices inviting informal bids may be mailed 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. Additional contractors and/or construction trade journals may be notified at the discretion of the department/agency soliciting bids, provided however:
 - (1) 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 informal bids may be sent exclusively to such contractor or contractors.

3.08.080 Public Project Formal Competitive Purchasing Procedure

- A. Uses of Formal Competitive Purchasing Procedure. This formal purchasing procedure shall be used for purchases greater than one hundred seventy-five thousand dollars (Informal Bid Limit (Pursuant to PCC 22032) or whenever formal competitive purchasing is otherwise required by this chapter or law.
- B. Required Process. The formal competitive purchasing procedure shall comply with all aspects of state and local law governing formal competitive bidding, including, but not limited to, the Public Contract Code, Government Code, Labor Code, resolutions of the city council as may be adopted from time to time, and policies and procedures as the city manager may approve from time to time.
- C. Distribution of Notice Inviting Formal Bids. The notice inviting formal bids shall comply with Section 22037 of the Act, as such section may be amended from time to time. For public projects only, the notice inviting formal bids shall also be sent to all construction trade journals specified in Section 22036 of the Act at least 15 calendar days before the date of bids opening and published in a newspaper of "general circulation." Any other notice as may be deemed proper may also be given for any particular project.

- D. **Contents of Notice Inviting Formal Bids.** At a minimum, the notice inviting formal bids shall: (1) describe the project in general terms; (2) state how to obtain more detailed information about the project; (3) state the date, time, and place for the bidders' conference and the submission of sealed bids; and, (4) include any other information required by state or local law, as determined by the city attorney.
- E. **Contents Of Remaining Bid And Contract Documents.** The contents and form of the remaining bid and contract documents shall be approved by the director of the using department, as well as the city attorney.
- F. **City's Authority.** The city may reject any or all bids received, and may waive any minor irregularities in each bid received.
- G. **Proposal Submittal.** Contractors shall submit original proposals in writing. Electronic transmissions of proposals will not be accepted.
- H. **No Bids Received.** If no bids are received, the authorized contracting party may award the contract by any alternative purchasing procedure.

3.08.090 Alternative Purchasing Procedures

For non-public projects and other situations provided in this section, an alternative purchasing procedure which results in a negotiated contract, purchase order or any other procedure determined by the authorized contracting party to be in the best interests of the city and in compliance with the city's policies and procedures may be used. The city manager must approve all purchases processed through the alternative purchasing procedure.

- A. **Emergencies.** In situations determined by the city manager to constitute an emergency for a public project pursuant to Section 22035 of the Act and Public Contract Code Section 22050. The city council hereby delegates to the city manager the power to declare a public emergency and take any directly related and immediate action required by the emergency up to a total of one hundred seventy-five thousand dollars, pursuant to Section 22035 of the Act and Public Contract Code Section 22050. Emergency expenditures of more than one hundred seventy-five thousand dollars shall first be approved by the city council. Work shall be performed without the benefit of competitive purchasing, either formal or informal, only so long as necessary under those sections.

For projects of more than forty-five thousand dollars, a report on the emergency and work performed shall be provided at the next regular meeting of the city council, and then at every meeting thereafter required by Section 22050. At such meetings, the city council shall determine, by a four-fifths vote, that there is a need to continue the action without the benefit of informal or formal competitive purchasing in accordance with Section 22035 of the Act and Public Contract Code Section 22050. The city council shall terminate the emergency action at the

earliest possible date that conditions warrant, so that the remainder of the emergency action may be completed pursuant to a formal competitive purchasing procedure.

For projects of forty-five thousand dollars or less, the city manager shall determine, on his or her own as the action continues, whether there is a need to continue the action without the benefit of public project informal competitive purchasing. The city manager shall terminate the emergency action at the earliest possible date that conditions warrant, so that the remainder of the emergency action may be completed pursuant to an informal competitive purchasing procedure.

- B. Professional Services. When purchasing professional services.
- C. Computers. When purchasing computer software, hardware maintenance services or software maintenance services.
- D. Competitive Bidding Already Completed. When the authorized contracting party determines that a competitive bid procedure has been conducted by another public agency (e.g. through CMAS or GSA) and the price to the city is equal to or better than the price to that public agency.
- E. State Purchases. When the purchase is made on behalf of the city by the State Department of General Services.
- F. No Bids Received. When no bids are received pursuant to either the public project informal competitive purchasing procedure or the formal competitive purchasing procedure.
- G. No Competitive Market. When the authorized contracting party determines that a competitive market does not exist, such as, but not limited to, with memberships in certain professional organizations, meetings, conventions, some forms of travel, legal advertising and when the needed supplies, services and equipment are proprietary and can only be provided by one source.
- H. Best Interests of the City. When the city council, on recommendation of the city manager, determines that an alternative procedure will be in the best interests of the city and the policies set forth in this chapter.

3.08.100 Surplus Supplies and Equipment

- A. All departments are required to submit a report to the purchasing officer which lists the supplies and equipment which are no longer used or which have become obsolete or worn out. The purchasing officer shall have authority to sell all supplies and equipment which cannot be used by any department, or which have become unsuitable for city use.

- B. The purchasing officer shall have the authority to make transfer between departments of any usable surplus supplies or equipment.
- C. All surplus equipment shall be sold at a public auction to ensure that fair market value is obtained for the equipment. City manager approval is required to sell any surplus equipment.

SECTION 2. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, phrases, or portions be declared invalid or unconstitutional.

SECTION 3. Continuity. To the extent the provisions of this ordinance are substantially the same as previous provisions of the Sierra Madre Municipal Code, these provisions shall be construed as continuations of those provisions and not as new enactments.

SECTION 4. CEQA. This ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines §§ 15060(c)(2), 15060(c)(3), and 15061(b)(3). The Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment; the ordinance does not involve a "project" as defined by Section 15378; and the ordinance is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. It may be seen with certainty that there is no possibility this ordinance will have a significant effect on the environment.

SECTION 5. Effective Date. This ordinance shall take effect 30 days after adoption.

SECTION 6. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED, APPROVED AND ADOPTED, this _____ day of _____, 2017

AYES:

NOES

ABSTAIN:

ABSENT:

Rachelle Arizmendi, Mayor

ATTEST:

Melinda Carrillo, City Clerk

I, Melinda Carrillo, City Clerk of the City of Sierra Madre, California, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Sierra Madre held on the _____ day of _____ 2017, and was adopted at its regular meeting of _____, 2017 by the following vote: