



# Purchasing Manual

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## **CHAPTER 1 - OVERVIEW**

### **Policy and Purpose**

- A. Policy Statement: to secure services, supplies and equipment at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases and to assure the quality of purchases.
- B. Purpose: The purpose of this Manual is to provide the City of South El Monte a means of assuring continuity and uniformity in its purchasing practices, provide departments with guidelines to assist them so that they are operating purchasing practices within legal regulations, and to define responsibilities of the Purchasing Office and operating departments. This Manual implements Chapters 3.16 and Chapter 3.18 of the South El Monte Municipal Code (SEMMC"). In the event of any conflict between the SEMMC and this Manual, the provisions of the SEMMC shall control.

### **What are the goals of this Manual?**

The Purchasing Manual ("Manual") documents the procedures and associated roles and responsibilities for purchasing/contracting with consultants/ contractors/vendors for the provision of goods and services to the City of South El Monte ("City") and its residents. These guidelines aim to increase the accuracy and efficiency of implementing and monitoring the purchasing and contracting processes.

### **Who is the Manual for?**

The Manual are distributed to all departments and should be used as a reference by anyone responsible for purchasing or contracting with consultants/ contractors/vendors. The South El Monte Municipal Code (SEMMC") sets the City Manager or his or her designee with the authority and responsibility for purchasing. This Manual also defines the roles and responsibilities of the Initiator/Project Manager, the Contract Administrator, the Purchasing Coordinator/Alternate, and the City Clerk in the purchasing and contracting process.

- The City Manager has designated the Director of Finance as the "Purchasing Officer."
- The City Manager has designated the City Clerk as the "Contract Administrator."

### **How often is the Manual updated?**

The Manual is to be reviewed regularly and updated as needed. All changes to the Manual are subject to the written approval of the City Manager and the City Council.

### **What is the City's Purchasing Philosophy?**

The City's purchasing philosophy is procuring goods and services that represent the best quality and value in an open and competitive market. The City strongly encourages broad participation in the procurement process and invites all businesses to register with the City to be notified of upcoming bids and proposals. Opportunities are advertised regularly through the City's website and other means to encourage a wide range of respondents.

### **Applicability of Manual When Grants Funds are Used to Fund or Partially Fund the Purchase**

If grant funding will be used, it is the Project Manager's responsibility to insure that all applicable requirements of that funding are included in any contract/agreement/amendment/change order. Additionally, it is the responsibility of the Project Manager to insure compliance with all applicable requirements of that funding, including securing approval of grant prior to incurring any expenditures, approval of eligible expenditures, reporting requirements, etc.

### **Responsibilities of Purchasing Office**

The Purchasing Office is responsible for the procurement of supplies, general services, equipment, and special equipment (which are not included within a construction contract); review of construction, professional, and management services; establishing and administering purchasing and procedures; and for the management of surplus City property. To perform these functions efficiently and assist operating departments, the Purchasing Office shall:

1. Recommend the execution of contracts for the purchase of supplies, general services, special equipment, and services.
2. Keep informed of the current developments concerning purchasing, prices, market conditions and new products and recommend revisions to purchasing procedures when necessary.
3. Prescribe and maintain all forms and records necessary for the efficient operation of the purchasing system.
4. Supervise and coordinate the process with operating departments for the inspection of all supplies, general services, special equipment, and services purchased to assure conformance with City specifications.
5. Supervise the transfer of surplus and unused supplies and equipment or sale/disposal of such.
6. Maintain an up-to-date bidder list, vendors' catalogs, files and such other records as needed to perform these duties. Coordinate vendor relations,

locate sources of supply, maintain vendor listing, and evaluate and document vendor performance.

7. Assist operating departments with research and recommendations in developing specifications; review specifications for completeness of information, and ensure that purchasing specifications are open and non-restrictive to encourage full competition.
8. Identify, evaluate, and utilize purchasing agreements that best meet the City's needs (i.e., cooperative purchases, blanket purchase orders, contractual agreements, etc.).
9. Perform such other tasks as may be necessary for the proper conduct of purchasing supplies, general services, and equipment.

### **Purchasing Officer**

The Purchasing Officer is the designated representative of the City Manager per SEMMC (South El Monte Municipal Code) 3.16.020. The City Manager has designated the Finance Director as the Purchasing Officer. The Purchasing Officer may delegate duties to a city employee, provided the City manager has approved the delegation. The Purchasing Officer shall:

1. Be charged with the responsibility and authority for coordinating and managing the procurement of the City's supplies, general services, equipment, and special equipment according to these policies.
2. Negotiate, purchase and contract for supplies, general services, equipment, and special equipment/services in accordance with the City of South El Monte' Municipal Code and the policies prescribed herein.
3. Purchase or contract for the City the needed general services, supplies, equipment, and special equipment/services from the lowest responsive and responsible bidder.
4. Ensure full and open competition on all purchases; if sole source, ensure proper documentation is on file signed by the requesting Department Director.
5. Ensure that there exists an unencumbered appropriation in the fund account against which any purchase is to be charged, except in cases of urgency.
6. Make purchase award recommendations to the appropriate authority.
7. Review the purchase of services and construction for compliance with policies, procedures, laws, and communicates any policy deviations to the Finance Director, Department Director, and City Attorney.

### **Responsibilities of Finance Department**

1. Ensure that there exists an unencumbered appropriation in the fund accounts against which any purchase is to be charged.
2. Prepare and issue purchase orders.
3. Relieve purchase orders when an invoice is processed for payment that involves a purchase order.
4. If an invoice is presented for payment that should have a purchase order and does not have a purchase order, contact the ordering department and resolve the deficiency prior to processing for payment.
5. If a payment exceeds the purchase order limit notify the issuing department and the City Manager. Do not process the invoice for payment until the deficiency has been resolved by the department submitting the invoice and the City Manager.
6. Provide on-line access to each department so they can check the status of a purchase order.
7. Review open purchase orders the first week of May and, in consultation with the department that requested the purchase order, close any open purchase orders that are no longer necessary. Additionally, in preparation for the closing of the fiscal year, perform this same review in the third week of June.

### **Responsibilities of Operating Departments**

1. Provide at the beginning of each fiscal year, an updated authorized signature list to the Purchasing Officer designating those individuals who are delegated the authority to make purchases pursuant to the Manual as described herein.
2. Departments may purchase a specified and limited amount of supplies, equipment, special equipment/supplies, and services independently of the Purchasing Officer in accordance with the dollar thresholds established for each type of purchase (listed in the respective chapter of each type of purchase). Departments must keep a record of such purchases and exercise reasonable prudence in seeking price quotes when purchasing such items. All such purchases shall be made with funds in an unencumbered appropriation.
3. Communicate and coordinate all purchases (\$2,500 and over) with the Finance Department and the Purchasing Officer.

4. Anticipate requirements sufficiently in advance to allow the Purchasing Officer adequate time to obtain goods in accordance with the best purchasing practices.
5. Inspect all supplies, general services, special equipment, and services purchased to assure conformance with City specifications.
6. Provide detailed, accurate specifications to ensure goods obtained are consistent with requirements and expectations.
7. Submit to the Purchasing Officer a purchase requisition form prior to initiating any procurement greater than \$2,500. Prepare purchase requisitions in accordance with instructions to minimize the processing effort.
8. Inform the Purchasing Officer of any vendor relations problems, shipping problems (i.e., damaged goods, late delivery, wrong items delivered, incorrect quantity delivered, etc.) and any situations which should be brought to the attention of Purchasing.
9. Minimize urgent and sole source purchases and provide written documentation signed by the Department Director when such purchases may be necessary.
10. Follow the bidding limits and procedures as established by the Municipal Code and this Manual.
11. Assist Purchasing with the review of all bids received for compliance with specifications, and provide Purchasing with written documentation regarding findings. After purchasing review, prepare a recommendation to City Council for award of the bid.
12. Notify vendors of purchase award when authorized by the Purchasing Officer.

### **Vendor Relations**

It is to the City's advantage to maintain and promote good relations with suppliers of goods and services. Purchasing and operating department staff shall conduct their dealings with vendors in a professional manner and shall promote equal opportunity and demonstrate fairness, integrity, and courtesy in all vendor relations.

The Purchasing Office maintains a list of registered vendors for purchases of goods and services. A list of registered vendors can be obtained by commodity and sub-commodity code from the Purchasing Office. If a City employee is contacted by a potential vendor, please refer the vendor to the Purchasing page of the City's website for registration instructions or have vendor contact the Purchasing Office so the vendor can be registered if qualified.

Operating departments may make direct contact with vendors for such purposes as obtaining price quotes, developing service contracts, utilizing RFP/Q's, obtaining technical information, obtaining cost estimates for budgeting or purchasing purposes, for preparing purchase requisitions and for placing orders for authorized purchases. The Purchasing Office will be the main contact in bid situations. The Purchasing Office will normally serve as an intermediary between operating departments and vendors when requested by the operating department and in conflict resolution situations.

### **Consultant Payments and Reimbursable Expenses**

1. The City shall not pay a consultant more often than monthly, except when the payment represents final payment on an agreement/contract.
2. Payments are for work performed, therefore there shall be no advance payments. Payments are permitted for progress on tasks within an agreement/contract, but only in an amount that does not exceed an amount based upon the percentage of completion and total amount for that specific task provided this payment method is a part of the agreement/contract.
3. The City may reimburse consultant for out-of-pocket expenses provided those expenses are included in the agreement/contract or there is written approval by the City Manager before the out-of-pocket expense is incurred. The "overhead" rate (that is the amount the consultant adds to the out-of-pocket expense) cannot exceed fifteen percent (15%) of the actual out-of-pocket expense.

### **Contracts**

The Manual use the terms "contract" and "agreement" interchangeably throughout this document. It is intended that both terms have the same meaning. Contracts shall be prepared for professional, management, general or special services, and construction services for \$2,500 and over. All City contracts shall be prepared by the City Attorney. Executed contracts and amendments shall be submitted to City Clerk Department for final processing.

### **Local Preference**

To promote economic development and maintain a healthy economic base in the City of South El Monte, as well as encourage businesses to move into the City's jurisdiction, the City supports employment and local business opportunities, which in turn promotes the City's economic growth (SEMMC 3.16.140). The City Council has adopted procedures to be used in determining if a vendor can receive the local preference and the amount of the local preference.

This local vendor preference is expressly made **inapplicable to:**

1. Bids for public projects as defined by Public Contracts Code Sections 20161 and 22002.

2. Bids funded by grants, which prohibit its use.
3. Contracts for professional, management, and special services.

### **Ethical Standards and Conflict of Interest**

#### A. Overview

The City is extremely sensitive to what constitutes unethical purchasing behavior and what, while legal, constitutes the appearance of unethical behavior. Specific dollar limits have been established in regard to acceptance by City staff of gifts from vendors, disclosure of employee financial interest in companies doing business with the City, the employment of present and former employees, and the use of confidential information.

Conflicts of interest occur when a conflict exists between the public interest and the private monetary interest of the public official or employee. Conflicts of interest can also occur with regard to individuals who have left government employment. When former public officials are able to exert undue influence over the purchasing process because of their past personal connections inside government, the situation is called “the revolving door.” The term also applies to situations in which contractors have some influence that would gain them a competitive advantage in purchasing.

#### B. Ethical Standards

In general, City employees shall not make any attempt to realize personal gain directly or indirectly through a purchase or service provided to the City, including the following:

1. The employee or any member of the employee’s immediate family has a financial interest in the purchase or service.
2. A business or organization, in which the employee or any member of the employee’s immediate family has a financial interest, is involved in the purchase or service.
3. Any other person, business or organization, with whom the employee or any member of the employee’s immediate family is negotiating or has an arrangement concerning prospective employment, is involved in the purchase or service.
4. No City employee operating a business outside of their current City employment shall do business or provide a service for the City through their outside employment.

#### C. Employee Conflict of Interest

1. **Employee Disclosure Requirements.** The City Council (under guidelines established by the Political Reform Act) has identified specific City positions required to disclose financial interests.

2. **Kickbacks.** Kickbacks are “financial payments for receiving a contract.” Kickbacks are illegal.
3. **Restriction on Employment of Present or Former Employees.** Employees who participate in selection, review or approval or who have influence over selection or approval in the purchasing process should not become employees of a firm contracting with the City. An employee should not act as a principal or as an agent for a firm that does business with the City for six months after the termination with the City
4. **Use of Confidential Information.** Purchasing Officers are frequently made privy to confidential information in the course of their duties, and the prohibition against the misuse of confidential information is just as fundamental to ethical purchasing as it is to any other sphere of government. Employees and former employees should not knowingly use confidential information for actual or anticipated personal gain or for the gain of any other person.

### **Debarment**

The City has a Debarment Policy which applies to purchase of good(s) or service(s) funded in whole or in part by Federal Funds. The purpose of Debarment Policy is to exclude purchases of goods(s) or service(s) from a vendor who has been placed on the Federal Debarment list. Additional details can be found in the City’s Debarment Policy.

## CHAPTER 2 - SUPPLIES, EQUIPMENT, AND NON-PROFESSIONAL SERVICES

Non-professional services/equipment/supplies - include those activities which do not require a high degree of professional certification, specialized expertise, or unique skill, such as maintenance services. When purchasing/contracting non-professional services/equipment/supplies, the contract/agreement is awarded to the best qualified consultant/contractor/vendor.

### Dollar Thresholds

Value of Purchase	Purchase Method	PO Required	Level of Approval	Agreement Format
under \$2,500	Small dollar	No	Department Director	As required by Purchasing Officer
\$2,500 - \$15,000	Verbal quotes	Yes	Finance	As required by Purchasing Officer
\$15,000 - CAM <sup>1</sup>	Written quotes	Yes	City Manager	City Manager approved contract
over CAM	Formal bid	Yes	City Council	City Council approved contract

How does the City select the best qualified vendor for commodities (i.e., equipment and supplies) and non-professional services?

In determining the best qualified vendor, the South El Monte Municipal Code (“SEMMC”) specifies consideration will be given to quality and performance of the equipment or supplies or non-professional services. The criteria to be considered including but not limited to the following:

- Cost
- Ability, capacity and skill to perform the contract or provide the supplies or services
- Ability to provide the commodity or services promptly without delay or interference
- Character, integrity, reputation, judgment, experience and efficiency of the vendor
- Performance on previous purchases or contracts with the City
- Ability to provide future maintenance repair parts and services

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<sup>1</sup> CAM = “Currently Adjusted Maximum” - This amount (\$25,000 when the Purchasing Ordinance was adopted) is adjusted annually, based on the CPI, by the Finance Director.

- Current compliance with Federal and State law
- In some cases, the City participates in multiple award contracts, such as CALNET 2 for telecommunications services, to obtain reduced pricing.

### **Small Dollar**

This is the purchase of supplies or services using an open market procedure, however, the aggregate amount of purchases cannot exceed the small dollar purchase threshold. Additionally, the person making this type of purchase needs to determine that the price to be paid is reasonable. South El Monte uses this in order to expedite the completion of its small dollar purchase transactions and minimize the associated administrative burden and cost. All quotes are to be written (email, letter, fax) and submitted to the initiating department's Department Director. It is encouraged, but not required, to secure quotes from more than one vendor. Efforts should be made so that these types of purchases are from vendors located in the City of South El Monte.

### **Verbal (telephone) Quotes**

The employee making purchases are to secure at least three quotes via telephone contact with vendors. The quotes are to be written on the Telephone Quote Form and attached to the purchase requisition submitted to Finance.

### **Informal (written) Quotes**

Based on the estimated cost of goods or services the employee is to secure three written (vendor can submit their quote via letter, fax, or email). The quotes are to be attached to the purchase requisition submitted to Finance.

### **Formal Bid Process**

1. To initiate the bid process, operating department staff, under the direction of their department director, shall provide specifications for the item to be purchased, and documentation showing the existence of an unencumbered appropriation for the item in the current approved budget. The Purchasing Office shall solicit formal bids as prescribed by SEMMC 3.16.040 and this Policy/Procedures Manual. The department initiating the purchasing will coordinate with City Clerk a bid opening date and publication of the bid in the local newspaper. See City Clerk for publication deadlines.
2. Notices inviting formal bids shall be posted at City Hall, distributed electronically by email to prospective bidders, posted on the Purchasing bidding website, and shall be published once in a newspaper of general circulation printed and published in the City, and in appropriate trade publications at least fourteen (14) days before the date of the opening of the bids.

3. Notices inviting bids shall include a general description of the goods, articles, services or equipment to be purchased, bonding requirements, state where bid plans and specifications may be secured and the time and place for opening the bids.
4. The City may require bidders' security equal to ten (10%) of the bid amount, and/or a performance bond, and/or a payment bond in such amount as it shall find reasonably necessary to protect the public interest. If the City requires either or both such security and bond, the form and amount of the security and bond shall be described in the notice inviting bids.
5. Bid Opening. Sealed bids shall be submitted to the City Clerk Department and shall be identified as the bidder, bid item, and "bid" on the envelope. Bids shall be opened by City Clerk staff in public at the date, time, and place stated in the notice inviting bids. A written record and tabulation shall be made at the time all bids are received.
6. A representative of the requesting department shall review all bids received for compliance with specifications. All deviations from the specifications shall be fully documented by the requesting department, and the impact of the deviations on the performance or suitability of the bid item evaluated and detailed. The requesting department shall review its findings with the Purchasing Office staff. Upon concurrence with the department's recommendation by the Purchasing Office, the department will prepare and send out a Notice of Intended Award to all persons who submitted a response to the City's solicitation.
7. If no protests have been received after five business days from the date on the Notice of Intended Award, the department will prepare a report and recommendation to City Council for award of bid. If a protest has been received, please refer to the Appeal's Section, Chapter 4.
8. The City Council may reject all bids or award the purchase contract to the lowest responsive and responsible bidder whose bid fulfills the intended purpose according to criteria designated in the solicitation, provided that an unencumbered appropriation exists for the purchase. The City Council may waive any minor bid irregularities. If bids are rejected, the City Council may authorize Purchasing staff to negotiate a contract for the purchase, initiate the rebid, or abandon the purchase.
9. Quality and service being equal, a local preference of 5 percent (5%) shall be given to local vendors within the City of South El Monte (SEMMC 3.16.140). See Local Preference Policy for implementation of the local preference. The 5 percent (5%) preference is not applicable to construction or purchases funded by the Federal Government, grant funds, public works projects or for obtaining consultants.

10. If two or more bids are received 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 City Council may accept either bid (SEMMC 3.16.040).

### **Lowest Responsive and Responsible Bidder**

Bids shall be awarded to the "responsive" and "responsible" bidder who submits the lowest bid that is most advantageous to the City.

#### **Responsive**

The term "responsive" as used in the City's bid documents shall mean a bidder whose bid is in substantial conformance with the requirements of the invitation to bid, including specifications and the City's contractual terms and conditions. Bidders who substitute terms and conditions or who qualify their bids in such a manner as to nullify or limit their liability may be considered non-responsive bidders.

Conformance with the requirements of the invitation to bid may also include providing insurance requirements and bonds, completion of all forms, inclusion of references and/or additional information as requested in the bid document.

#### **Responsible**

Responsible: refers to the ability of the bidder to successfully fulfill a contract, including rendering of subsequent and continuing service.

The Purchasing Office may request proof of a prospective bidder's responsibility and reliability before placing a name on the bidder's list. Prospective bidders may be requested to furnish proof of financial resources, a list of current or previous customers, and other pertinent data. Such action may also be taken after receipt of bids.

A bidder may be determined to be non-responsible based upon certain criteria. Such determination may be made if a prospective bidder fails to furnish proof of responsibility when requested. Previous documented incidents of unsatisfactory performance and/or unsatisfactory delivery, materials, or services may also result in a determination of non-responsible. Before making a final determination that a vendor is non-responsible, discuss with attorney in City Attorney's Office.

In determining the lowest "responsible" bidder, the following elements shall be considered in addition to price:

- a. The ability of the product offered to provide the quality, fitness, and capacity for the required usage.

- b. The ability, capacity, and skill of the bidder to perform the contract or provide the service required.
- c. The character, integrity, reputation, judgment, experience and efficiency of the bidder, particularly with reference to past purchases by the City.
- d. Whether the bidder can perform the contract or deliver the material within the time required.
- e. The quality of performance and/or quality of products provided in previous contracts or services.

When a firm or individual is determined to be non-responsible, their name may be removed from the bidders' list and the firm or individual may be prohibited from bidding for those goods/services for a reasonable period of time. Vendors removed from the bidders' list or prohibited from bidding shall be notified in writing. Written notifications shall include a statement of cause for the action taken.

#### **Bid Awarded to other than the Low Bidder**

When a bid is awarded to other than the low bidder, written justification is required. The written statement signed by the Department Head shall be attached to the purchase requisition.

#### **Rejection of Bids**

The Purchasing Office may recommend rejection of any or all bids if it is determined to be in the best interest of the City. If all bids are rejected, the Purchasing Office may be authorized to re-solicit bids, negotiate a contract for the purchase, or abandon the purchase.

Reasons for rejection may include, but are not limited to, the following:

- 1. A bid is determined to be non-responsive.
- 2. The number of bids received is inadequate.
- 3. All bids received are uniform in price, or the lowest bid received is deemed to be too high.
- 4. A bidder is determined to be non-responsible.

Rejection of bids for purchases of an amount that is not more than CAM shall be made by the Purchasing Officer. Rejection of bids for purchases in excess of CAM shall be made by the City Council in accordance with SEMMC 3.16.040G.

**Tie Bids**

If two or more bids are received, which are in all respects equal, City Council may accept the one deemed to be in the best interest of the City SEMMC 3.16.040H.

## CHAPTER 3 - PROFESSIONAL/CONSULTANT SERVICES

Professional services - those activities to be performed by specially trained persons or firms who provide services in connection with financial, economic, accounting, engineering, administrative or other matters involving specialized expertise or unique skills. There is no bidding requirement for this type of service, since the person or firm is being hired based on their qualifications, not lowest price. The price, however, should be reasonable.

### Dollar Thresholds

Value of Purchase	Purchase Method	Agreement Required	PO Required	Level of Approval	Agreement Format
under CAM	Small dollar	Yes	Yes, unless under \$2,500	City Manager	As required by Purchasing Officer (PO or Small Dollar Consultant Agreement)
over CAM	Request for Proposal (RFP)	Yes	Yes	City Council	City Council approved contract

### How does the City determine the best qualified vendor for professional services?

The City is required by State law (GC § 4526) to select vendors for architectural, landscape architectural, engineering, environmental services, land surveying, and construction project management services based on demonstrated competence and professional qualifications, rather than competitive bidding, and at fair and reasonable prices. The City shall use a request for proposal procedure to determine the best qualified vendor for professional services, including those listed above, by using the procedures outlined in this Manual. Vendors are evaluated based upon three criteria which are consistent with state law:

- A. Mandatory Elements
  - a. the firm is properly licensed to practice in California, has no conflict of interest, adheres to the proposal instructions and includes a Letter of Transmittal
  - b. Qualitative Evaluation - expertise and experience, response to the scope of work, and allocation of resources as expressed in the written proposal.
- B. Oral Presentation/Interview
- C. Once firms are ranked based upon quality, the staff determines if the highest ranking firm's cost proposal is reasonable prior to making a recommendation for selection. If the cost proposal is found to be unreasonable, staff evaluates the next highest ranked firm's cost proposal. Determining a reasonable cost is based

upon comparison of proposals, project budget, prior experience, comparative project costs in neighboring cities and professional judgment.

### **Small Dollar**

This is the purchase of professional/consultant services using an informal process provided, the aggregate amount of which does not exceed the small dollar purchase threshold. South El Monte uses this in order to expedite the completion of its small dollar purchase transactions and minimize the associated administrative burden and cost. All quotes are to be written (email, letter, fax) and submitted to the initiating department's Department Director. It is encouraged, but not required, to secure quotes from more than one vendor.

### **Selection Process**

Prior to issuing a RFP, a department may conduct a prequalification of professionals (Statement of Qualifications [SOQ]) to streamline the evaluation and selection process. The prequalification process should include a review of the statement of qualifications, interviews (if necessary), and reference checks. Once a prequalification of professionals is conducted, notices for subsequent RFPs are sent only to the list of prequalified consultants.

The standard form RFP has been written for flexibility and fits almost all services. However, if needed, a modified RFP can be developed subject to approval by the City Manager. Any changes to the standard form RFP must be submitted in red-line form to the City Manager and City Attorney for review and approval prior to scheduling the item for City Council consideration.

The RFP will require information relating to a professional service provider's qualifications as they relate to the particular project, in addition to the prequalification information. If no prequalification has occurred, the RFP will require general and project-specific qualifications.

## Request for Proposal (RFP)

The department responsible for monitoring the project or activity shall utilize a sealed Request for Proposal process. A Department Director will submit a written recommendation of award of contract to the City Council after completion of the following process.

1. The department staff member will use the formal RFP template. Be sure to develop a detailed scope of work and selection criteria to be included in the document. The scope of work documents the tasks and duties to be performed by the contractor/vendor and is one of the key performance measures for the contractor/vendor. It is important that the solicitation clearly state the City's needs to ensure that each contractor has a fair opportunity to present their proposal and that the City receives well developed proposals.
2. The department staff member shall prepare an agenda report to City Council, which should include:
  - Fiscal impact using the following:  
There is no immediate fiscal impact associated with approval of the RFP and authorization to solicit proposals. Funding for the [INSERT PROJECT NAME] Project, including the recommended professional services, has been appropriated in the City Council-approved FY [insert correct years, for example 20015-16] Budget. The current project schedule anticipates staff recommendation of contract award in [INSERT MONTH AND YEAR]. At that time, staff will advise the Council of the proposed not-to-exceed contract amount and confirm funding availability.
  - Service description
  - Scope of service (Including any changes from previous services)
  - Justification
  - Key dates in the RFP
  - Proposed term
  - Documentation of any modifications
  - Proposed Request for Proposal (RFP)
  - If issuing RFP to prequalified consultants, include a list of prequalified consultants
  - Request for approval

- Request for authorization to solicit
3. Notice must be published in the newspaper, posted on the City's website, and distributed (email, mail, or fax) to those consultants who have completed previous acceptable work for the City or who have requested they be placed on a "bidder's list" 14 days prior to the date of submittal. Project Managers will need to coordinate the notice of publication dates with the City Clerk Department. Department may also mail, email or fax the Notice to additional vendors if they know of specialists who are not on the City's list. Please encourage consultants/firms to register with Purchasing and download the full RFP document from the website as this will ensure that they are emailed any addenda or other notifications staff may need to alert potential responders to. However, if the City has established a pre-qualified list then the notice is sent to only those on the approved pre-qualification list.
  4. The Project Manager will receive all submittals and will create a listing of all those received. Any proposals received after the date and time stated on the notice will be returned unopened.
  5. Establish an Evaluation/Selection Committee  
The initiating department's department director shall propose a selection committee consisting of at least three members, one of which cannot be a member of the initiating department. The proposed selection committee shall be approved by the City Manager prior to the initiation of the selection process. Any individual or firm that has an interest in one or more of the firms submitting a proposal cannot be part of the selection process or on the selection committee.
  6. The Project Manager shall set up evaluation criteria in advance of receiving the submittals. Each committee member will evaluate and rank the proposals using the following method:  
  
For each of the criteria there are two options, pass/fail or a numerical ranking. The numerical ranking shall, for each item, be ranked by consultant/vendor with 1 the top ranking and X (X represents the total number of proposals being evaluated, for example if there are 4 proposals the ranking will be 1, 2, 3, 4) being the lowest ranking.
  7. The Project Manager will receive and tally the committee member's results of their evaluation and will create a "short list" of consultants to be interviewed.
  8. The Project Manager will call references of those on the "short list" and will set up interviews.

9. Consultants who are on the “short list” will be invited to meet with the committee. Meeting may be any or all of the following formats: interview, demonstration of product, oral presentations and clarification of RFP response if needed. During the interview process the committee will individually rank the consultants. At the conclusion of all the interviews, the committee members will discuss their opinions of the consultants, the Project Manager will share the results of reference checks, the committee will rank the candidates and come to a consensus of the top candidate.
10. Negotiate contract: Once the top candidate has been determined to be the most qualified, the project scope of work and price can be further negotiated. At this point it is appropriate to open the dollar cost proposal and compare the price quotes. The comparison is for the purpose of determining if the selected consultant’s dollar cost proposal is reasonable. If the cost proposal is found to be unreasonable, staff evaluates the next highest ranked firm’s cost proposal. Determining a reasonable cost is based upon comparison of proposals, project budget, prior experience, comparative project costs in neighboring cities and professional judgment. If the selected consultant’s pricing exceeds the budget or what the City has determined to be a reasonable price for the job, the City may end negotiations with the first consultant and begin negotiations with the next most qualified consultant, and so forth.
11. Details about one proposal cannot be revealed to the other proposers. It is important that all proposers be treated fairly and that the discussion and negotiations do not disadvantage any proposer.
12. The contract along with a written recommendation for award of the contract discussing the selection process and the determining factors for selecting the consultant must be submitted to City Council for approval and award. This documentation should be submitted to the Purchasing Officer as part of the purchase order process.

**Exceptions:** A recommendation may be made to the City Council to waive the sealed RFP requirement in these circumstances:

- a. Interview only one firm if authorized or directed to do so by City Council. Documentation by department involving confirming action by City Council required.
- b. Use of another Public Agency’s RFP and Contract (piggybacking onto another Contract) must be approved by City Council for purchases exceeding CAM. Documentation that must be submitted to support this include: contract, copy of the RFP document used by awarding agency, list of vendors who responded to RFP (at least three), staff report and minutes of the governing body’s meeting showing award. The other agency’s contract must still be valid,

with a termination date consistent with City policy of not more than three years. The piggybacking onto another agency's contract would be rare since most RFPs are specific to the City's needs and "piggybacking" requires use of other agency's contract as is with no amendments or modifications.

### **Contract/Agreement Amendments**

- Any change order/amendment with a total contract/agreement cost in the amount of the CAM or less, or which does not affect compensation, may be approved by the City Manager.
- Any change orders/amendments with a total contract/agreement cost greater than the CAM must be approved by the City Council.
- Any change orders/amendments to a contract/agreement, which involve significant changes such as additions to scope or reductions to scope and/or compensation, must be approved by the City Council if the City Council originally approved the contract/ agreement and/or change order/amendment(s). Otherwise, change orders/amendments may be approved by the City Manager.
- All requests for change orders/amendments must be reviewed by the Director of Finance to ensure available budget and/or identify need for an additional appropriation.

## CHAPTER 4 - PUBLIC WORKS PROJECTS

Public project – as defined by the California Public Contract Code, is a project for the construction, reconstruction, erection, alteration, renovation, improvement, demolition, painting, repainting, or repair of any publicly owned, leased or operated facility.

When contracting for public projects, the contract is awarded to the lowest responsible bidder.

### Dollar Thresholds

Value of Purchase	Purchase Method	PO Required	Level of Approval	Agreement Format
under - \$45,000	Written quotes	Yes	City Manager	City Manager approved contract
\$45,000 - \$175,000	Informal bid process	Yes	City Manager	City Manager approved contract
over \$175,000	Formal bid	Yes	City Council	City Council approved contract

### How does the City determine the best qualified vendor for public projects? (i.e., public works projects)

The City elected to become subject to the Uniform Public Construction Cost Accounting Act, set forth in Public Contract Code Sections 22000 et seq. Accordingly, SEMMC 3.18.010A allows public projects under \$45,000 to be performed by City employees by force account, negotiated contract or purchase order. For public projects between \$45,001 and \$175,000, the City selects the lowest responsible bidder after obtaining bids using the informal bid procedures outlined in SEMMC 3.18.020. For public projects in excess of \$175,000, contracts shall be awarded by the City Council to the lowest responsible bidder. In the event of any conflict between the provisions of this Manual and the Public Contract Code, the latter shall control.

### Less than \$45,000

1. A public works project less than Forty-five Thousand and no/100ths (\$45,000) Dollars may be performed by City employees by force account, by negotiated contract, or by purchase order.
2. City Manager has authority to award and execute any contract for public works projects under the informal limits (<\$45,000).
3. Solicit three (3) written quotes from qualified contractors.
4. Negotiate price and contract terms with the selected contractor.
5. Determine insurance and bond requirement after meeting with City Attorney. Note: Payment Bonds (Labor and Material Bonds) are required pursuant to

Civil Code 9550. Performance bonds are required for any public works contract in excess of \$25,000.

6. Prepare a contract as required for any project of \$2,500 or more. Contract to be signed by Contractor, Department Head, City Manager, City Attorney, and City Clerk attest. Original contract to be maintained by the City Clerk Department.
7. A purchase order is required for purchase of \$2,500 or over.
8. City is exempt from bidding requirements if this work is performed by City employees.
  - a. Records must be kept as outlined in the Cost Accounting Policies and Procedures Manual of the California Uniform Public Construction Cost Accounting Commission (Commission), available from the State Controller, Division of Accounting and Reporting.
  - b. When determining the total cost of the project, the Commission has determined that all elements of the cost must be considered and documented: personnel costs, materials, supplies, subcontracts, equipment and overhead.

#### **\$45,000 but less than \$175,000 (Informal Bidding Procedures)**

1. Prepare the bid package using the most current standardized forms. Coordinate bid opening date with City Clerk Department. Forward a copy of your bid to Purchasing for filing. Bidders Security/failure to sign contract is required in an amount of 10% of the bid price. Payment Bonds (Labor and Material Bonds) are required pursuant to Civil Code 9550. Performance bonds are required for any public works contract in excess of \$25,000. The City engineer is delegated authority to approve and adopt plans, specifications, and working details for all public works projects less than \$175,000.
2. Notice
  - a. A notice shall be mailed (at least 10 days prior to bid opening date) to all contractors on the City's Vendor list for the category of work being bid or an announcement/advertisement shall be placed in all construction trade journals or both the above processes may be done.
  - b. Notice to be posted on City website (procedural requirement not required by law).

3. Notice Content

- a. Bidders Security/failure to sign contract shall be prescribed in the notice inviting bids and in an amount equal to 10% of the amount of the bid.
  - i. If a Performance Bond is required, this must be specified in the notice.
  - ii. Payment Bonds shall be prescribed in the notice inviting bids in the amount pursuant to the Civil Code.
  - iii. The notice shall describe the project in general terms, how to obtain more detailed information about the project and state the time and place for the submission of bids.

4. Bid Bond/Bidder's Security

- a. Bidder's security is required.
  - i. Bidder's security shall be prescribed in the notice inviting bids.
  - ii. Shall be in the amount equal to 10% of the amount bid and submitted with the bid.
  - iii. Bidder's security shall be in one of the following forms: cash, cashier's check, certified check, or bidders bond.
  - iv. Bidder's security will be returned to unsuccessful bidders within 60 days of the date of the award of bid.
  - v. Lowest responsive/responsible bidder shall forfeit all or part of his bid security, as determined by City Manager, upon the bidder's refusal or failure to execute the contract within 10 days after the award date.

5. Bid opening procedures

- a. Sealed bids must be received in the City Clerk Department prior to the date and time specified in the bid.
- b. City Clerk staff will time stamp all bids received.
- c. Sealed bids shall be opened by City Clerk staff in public at the time and place stated on the notice inviting bids.
- d. City Clerk staff shall verify receipt of required bonds.

- e. A written tabulation shall be made at that time and shall be open for public inspection for a period of two years after bid opening.
- f. Project Manager shall make an analysis of the bids for compliance with bid specifications and make a recommendation for award or rejection.

6. Award of Bid

- a. City Manager (or delegated authority) shall award the contract or reject the bids if less than \$175,000.
- b. A memo should be completed describing the project, including cost of the project and budget information, bidding process, and recommendation of award of contract.
- c. City Manager (or delegated authority) may waive minor bid irregularities.
- d. City Council may approve bids in excess of statutory amount, if all bids received are in excess of \$175,000 the City Council by passage of a resolution by 4/5 vote, may award the contract up to \$187,500 to the lowest responsible bidder, if City Council determines the cost estimate was reasonable.
- e. Forward to Purchasing a copy of City Clerk staff's written tabulation of the bids and name of the contractor the bid has been awarded to.

**\$175,000 and above (Formal Bidding Procedures)**

1. Authorize to advertise/solicit bids

The City Council shall authorize staff to advertise/solicit bids. A staff report must be developed describing the background of the project, the funding sources for the project, the preliminary budget/cost summary, and the tentative project schedule.

2. Bid Package

- a. Prepare bid package using standardized forms. Coordinate bid opening date with City Clerk Department. Bidders Security/failure to sign contract is required in an amount of 10% of the bid price.
- b. Performance Bonds shall be required from an acceptable surety, in such amounts and in such a form as the City finds reasonably necessary to protect the public interest.

- c. Payment Bond (Labor and Material Bond) is required in an amount pursuant to Civil Code 9550.

3. Notice

- a. Notice shall be published in newspaper of general circulation at least 14 days prior to bid opening date.
- b. Notice shall be mailed to all construction trade journals as identified by the California Uniform Construction Cost Accounting Commission as appropriate for this area at least 30 calendar days prior to the date of opening of the bids.
- c. Notice may be mailed to vendors on vendor list, this is not required by law.
- d. Notice must be posted on City website (procedural requirement, not required by law).

4. Notice Content

- a. Bidder's security/failure to sign contract shall be prescribed in the notice inviting bids and in an amount equal to 10% of the amount of the bid.
- b. Performance and Payment Bonds (labor/material bond) are required; requirement and amount must be specified in the notice. Please verify with City Attorney on amount of Performance Bond required. Required Payment Bond amount is specified in Civil Code 9550. Contracts up to \$5 million require bonds of 100% of the amount of the contract.
- c. The notice shall state the time and place for receiving and opening of sealed bids and distinctly describe the project. In addition to notice required by this section, the City may give such other notice as it deems proper.

5. Addendums

Bidders should have 72 hours to receive and incorporate addendums. All potential bidders should be given at least 72 hours of notice of any addendum to a bid. If the addendum is sent out within the last 72 hours of the scheduled bid opening, Public Contracting Code Section 4104.5 requires the City to extend the bid opening by a minimum of 72 hours if a material change is issued. A material change is any change that substantially changes the cost of the bids in the opinion of the City.

6. Bonds and Bidder's Security

- a. Bidder's security/failure to sign contract is required.
  - i. Bidder's security shall be prescribed in the notice inviting bids.
  - ii. Shall be in the amount equal to 10% of the amount bid and submitted with the bid.
  - iii. Bidder's security shall be in one of the following forms: cash, cashier's check, certified check, or bidders bond.
  - iv. Bidder's security will be returned to unsuccessful bidders within 60 days of the date of the award of bid.
  - v. Lowest responsive/responsible bidder shall forfeit all or part of his bid security, as determined by City Council, upon the bidder's refusal or failure to execute the contract within 10 days after the award date.
- b. Performance Bonds are required from a surety company acceptable to the City in amounts equivalent to the total contract amount.
- c. Payment Bonds (labor/materials bonds) are required in an amount pursuant to Civil Code 9550.

7. Bid opening procedures

- a. Sealed bids must be received in the City Clerk Department prior to the date and time specified in the bid. Bids must be signed by an agent of the company authorized to bind the company to the bid requirements.
- b. City Clerk staff will time stamp all bids received.
- c. Sealed bids shall be opened by the City Clerk staff in public at the time and place stated on the notice inviting bids.
- d. City Clerk staff shall verify receipt of required bonds.
- e. City Clerk staff shall verify acknowledgement of addendums, if any.
- f. A written tabulation shall be made at that time, and shall be open for public inspection for a period of two years after bid opening.
- g. Project Manager shall make an analysis of the bids for compliance with bid specifications and shall check the Excluded Parties List

System (EPLS) (see also City's Debarment Policy) **prior** to awarding federally funded contracts. The project manager shall collect a certification of non-exclusion from the contractor, and maintain a record of such website check and certification in the project file.

- h. Project Manager shall make a recommendation for award or rejection after the deadline to file a protest has passed.

8. Award of Bid

- a. City Council shall award the contract or reject the bids.
- b. A staff report must be completed describing the project, including cost of the project, budget information, bidding process, and recommendation of award of contract, contingency on contract, and budget approvals.
- c. City Council may waive minor bid irregularities.
- d. 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 or re-advertising for bids, the City Council may accept either bid.
- e. If no bids are received, the project may be performed by City employees by force account, or by informal bidding procedures without further complying with the formal procedures.
- f. Forward to Purchasing a copy of City Clerk staff's written tabulation of the bids and name of contractor the bid has been awarded to.

9. Approve Plans and Specifications

- a. The City Council shall approve and adopt the plans, specifications and working details of the project at the time of bid award.

10. Rejection of Bids

- a. In its discretion, the City Council may reject any bids presented. If after the first invitation for bids all bids are rejected, the City shall state the reasons for the rejection, and after reevaluating its cost estimates of the project, the City shall have the option of either of the following:
  - i. Abandoning the project or re-advertising for bids in the manner previously described.

- ii. By passage of a resolution by a 4/5 vote of the City Council, declaring that the project can be performed more economically by City employees, may have the project done by force account without further complying with the formal bidding procedures.

11. Project Acceptance

- a. Final acceptance reports for all capital improvement projects must be submitted to the City Engineer to accept capital projects as complete and [**\*\*either file notices of completion authorized by City Council or prepare an agenda report to the City Council requesting approval to file a notice of completion\*\***] All shall be acknowledged in writing after projects are deemed “completed.” The term “completed” will mean after all work has been finished and approved by City Project Manager as meeting appropriate standards and all payments made. City Project Manager shall confirm that all payments have been made before such reports are submitted to the City Engineer and Finance Director. The City Engineer and Finance Director shall periodically file reports with the City Council cataloging accepted public projects and improvements.

## Change Order Policy

This policy addresses construction project change orders for public works projects..

### A. Definition

A change order is a formal document that alters some condition of the contract documents, after award of the contract. The change order may alter the contract price, unit quantity change, schedule of payments, completion date, or the plans and specifications. Since a change order modifies the contract, it is important to clarify the material elements of what is being changed. Work description and justification must relate to the original project and must be work necessary to achieve original scope of project. A change order does not necessarily mean that the contract price is increased. Deductive and zero cost change orders are also processed.

### B. Policy

All change orders shall be issued in written form and sent to the City Clerk Department for inclusion in the contract documents. A change order shall be used to modify the contract documents regarding contract price, schedule of payments, completion date, plans and specifications, expanding scope of work due to change in conditions, and for unit price overruns and under runs, as specified in the contract. Change orders shall be written and approved prior to the beginning of any additional work and shall be negotiated for a fixed or unit cost.

Note: Change orders will be done for unit quantity adjustments. Change orders are done to document additional work and make the contract complete/final. The contract amount shall reflect the full payment made to the vendor. Contract change orders for unit quantity adjustments will not require City Council approval, even if the change order is more than CAM, as long as there is no change in scope, and it is within the approved contingency amount. If the change order requires additional budget or is not within the approved contingency amount, the Project Manager must take the unit quantity adjustment change order to City Council for approval.

### C. Approval Authority

After a determination that costs are merited by developments in a specific project, the Purchasing Officer is authorized to issue change orders up to the contract contingency approved by the City Council as awarded for the individual contract as follows:

1. Original contracts under \$45,000:
  - a. City Manager may approve project change orders up to the \$45,000 threshold.

- b. Change orders that take the total cost to \$45,000 and over are prohibited as it would violate the informal bidding requirements of the Public Contracts Code.
  - c. In urgent situations, the City Manager may make a written finding that the original estimate was within reason and that it is in the best interest of the City to waive the bidding requirement and approve the change order.
2. Original contracts \$45,000 but not more than \$175,000:
- a. City Manager may approve project change orders until the contract reaches \$175,000.
  - b. Once the original contract plus all accumulated change orders are in an amount that exceeds \$175,000, the subsequent change orders must be approved by City Council prior to commencing with the work.
  - c. Any single change order exceeding \$50,000 must be approved by City Council prior to commencing with the work.
  - d. In urgent situations where cessation of work will result in severe repair or replacement delays and subject the City to additional costs due to the delay in the project, the City Manager may approve a change order subject to ratification at the next City Council meeting.
  - e. All capital improvement projects must stay within budget, and all budget adjustments require City Council approval.
3. Contracts greater than \$175,000:
- a. City Manager may approve accumulative project change orders up to the contingency established and approved by City Council (normally 10% of the bid) for each individual contract.
  - b. Any single change order exceeding \$50,000 must be approved by City Council prior to commencing with the work.
  - c. In urgent situations where cessation of work will result in severe repair or replacement delays and subject the City to additional costs due to the delay in the project, the City Manager may approve a change order subject to ratification at the next City Council meeting.
  - d. All capital improvement projects must stay within budget; and all budget adjustments require City Council approval.

D. Field Work Directives

1. In an urgent situation and to prevent costly delays of the project, field work directives may be approved by the Project Manager up to \$10,000 in the field with ratification of the approval within two days by the signatory authority stated above.
2. Possibility of work directives and change orders should be addressed and a contingency established in the initial staff report awarding the contract. At no time can work directives and change orders exceed the budgeted amount without additional City Council approval.

E. Budget Requirements

1. Establish a capital improvement project minimum contingency budget policy of 10%.
2. All capital improvement projects must stay within budget and all budget adjustments must have City Council approval.
3. City Council awards a contingency for each contract as appropriate. In the absence of a contingency, each change order will need to be taken to City Council for approval.

F. Oversight/Project Review

1. Final Acceptance Reports:  
Final acceptance reports for all capital improvement projects must be submitted to the City Engineer to accept capital projects as complete and [\*\*either file notices of completion authorized by City Council or prepare an agenda report to the City Council requesting approval to file a notice of completion\*\*] All acceptance by the City Engineer shall be acknowledged in writing.
  - a. The term “completed” will mean after all work has been completed and all payments made.
  - b. City Engineer shall file periodic reports with the City Council cataloging accepted public projects and improvements.
2. Additional information to consider, change orders serve several purposes, such as:
  - a. To change contract plans, methods and amount of payment, and changes in contract time.
  - b. To change contract specifications.

- c. To effect agreements concerning the order of the work.
- d. To contract unit prices for overruns and underruns, as specified in the contract document (i.e. +/- 25%).
- e. Payment for items that may be specified in the contract documents to be treated as extra work, for example rock excavation, handling and disposal of hazardous materials, and testing and analysis of storm water runoff.
- f. To effect cost reductions and incentive proposals.
- g. To effect payment following settlement of claims.
- h. For administrative purposes regarding payment methods and retention, for example.
- i. In response to requirements imposed or changed by regulatory agencies, state and county agencies, and public utilities following award of the contract.
- j. To modify or extend warranties.
- k. Deductions for unsatisfactory work.

## **Bonds**

### **A. Bid Security Bond.**

The Bid Security Bond is also called the “Bid Bond,” “Security Bond,” and “10% Bond.” No term is more correct than another, and any of these terms may be used. The purpose of the Bid Security Bond is to compensate the City for damages it might suffer if successful bidder refuses to execute the contract. The damages would be the difference between the lowest/successful bid and the second lowest bid, which is the additional amount the City would pay to have the work completed, should the successful bidder refuse to enter into the contract. Based on this theory, many agencies return to the lowest bidder any amount that exceeds the difference between the lowest bid and the second lowest bid, because they were not “damaged” in excess of that difference. Public agencies typically require bidders to submit with their bids 10% of the amount of their bid as bid security. The security may be in the form of bid bond, cash, cashier’s check, or certified check, made payable to the City. If the successful bidder does not execute the contract within the time allowed, the contractor forfeits the bid bond to the City. Bid bonds returned to unsuccessful bidders are handled by City Clerk staff. Consult PCC Section 22030-22045.

B. Payment Bond.

The purpose of a payment bond is to protect sub-contractors and suppliers. It ensures that the surety backing the bond will pay the suppliers and subcontractors if the general contractor does not. California Civil Code Section 9550 requires a payment bond be obtained from contractors for public works projects \$25,000 or more, except architectural, engineering and land surveying services. The bond requirements must be stated in the call for bid and it must be in amounts set forth in the Civil Code. Contracts up to \$5 million require bonds of 100% of the amount of the contract.

C. Performance Bond.

The purpose of a performance bond is to ensure completion of the project. A performance bond is generally backed by a surety who guarantees the project will be completed in accordance with the specifications. If the contractor defaults, the surety may hire another contractor to complete the project. Performance bonds are required for all contracts over \$45,000.

D. Trade Journals

Per Section 22036 and 22037 of Public Contract Code, the Commission has determined that all public agencies that adopt and contract under the Uniform Public Construction Cost Accounting Act shall be required to mail, email, or fax a notice to the trade journals for all formal bids and mail a notice to the trade journals or to all contractors on the contractor's list for informal bids.

1. The listing of Trade Journals required to be notified of public works bids by the State Controller's Office is to be reviewed prior to the issuance of bid documents.
2. Note: The City is not required to mail a notice to a trade journal if the trade journal listed is now charging for its services, or is out of business. Instead, some other method of notifying potential contractors of published jobs and how to be added to the informal bidding list should be used.
3. The City utilizes E-bid systems to email notices of publication of potential jobs to all contractors on the contractor's list registered under the specific commodity for that type of work.

E. Procedures for Establishment and Maintenance of the List of Qualified Contractors per Section 22034 of the Public Contract Code.

1. During November of each year, Public Works staff will mail a written notice to all construction trade journals designated for the City of South El Monte, inviting all licensed contractors to submit the name of their firm to the City for inclusion on the City's list of qualified bidders for the following calendar year.

2. The notice shall require that the contractor provide his name and address to which a Notice to Contractors or proposal should be mailed, a phone number at which the contractor may be reached, the type of work in which the contractor is interested and currently licensed to do (earthwork, pipelines, electrical, painting, general building, etc.) together with the class of contractor's license(s) held and contractor license number(s).
3. The City of South El Monte will create a new contractors list starting January 1st of each year. The City will include any contractor's names it so desires on the list, but the list must include, at a minimum, all contractors who have properly provided the City with the information required under paragraph 2 above, either during the calendar year in which the list is valid or during November or December of the previous year.
4. All contractors who submitted one or more valid bids to the City during the preceding calendar year.
5. A contractor may have their firm added to the City's contractors list at any time by providing the required information.

### **Bidding Requirements**

1. Bidders List.

The City's Purchasing Office shall maintain a list of qualified contractors, identified according to categories of works. Minimum criteria for development and maintenance of the contractor's list shall be consistent with the State Uniform Construction Cost Accounting rules. For Informal Bids, the City must **either** notify every vendor on the vendor list of the bid opportunity or publish a notice in the trade journals as specified in PCC Section 22036.

2. Staging of Public Works.

Public works contracts shall not be knowingly staged or separated into smaller units or segments solely for the purpose of evading the competitive bidding requirements. Every person who willfully violates this provision is guilty of a misdemeanor, PCC Section 20163.

### **Emergency Procedures**

In cases of great emergency, as determined by the City Council, including, but not limited to, states of emergency defined in Section 84558 of the Government Code, when repair or replacements are necessary to permit the continued conduct of operation of services of the City, or to avoid danger to life or property, the City Council by majority vote, may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details or give notice for bids to

let contracts. The work may be done by force account under the direction of the City Council, by contract, or by a combination of the two.

City Council has delegated to the City Manager the power to declare a public emergency subject to confirmation by the City Council by a 4/5th vote, at its next meeting; such meeting must occur not later than 14 days after the action (PCC Section 22050). Action must continue to be reviewed at every regularly scheduled meeting thereafter, until the action is terminated. Items to be included in the report to City Council include: reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency.

## **Appeals**

Any interested party may file a protest regarding the procurement decisions authorized under this chapter.

### **A. Notice of Decision.**

After a decision regarding a procurement having a value over the "Currently Adjusted Maximum" (CAM) has been made, the Department Head or designee shall notify all persons who submitted a response to a City solicitation of intended award. If a bidder is rejected because the bid is found non-responsive or because the bidder is deemed not-responsive, the City will give written notice to said bidder of evidence reflecting such decision.

### **B. Time to File Protest.**

All protests must be filed in writing and received by the City Manager within five (5) business days of the date of the opening of the bids.

### **C. Form of Protest.**

All protests shall be in writing, state the grounds for the protest, state the facts relevant to the protest, and all evidentiary support to rebut adverse evidence that it or another bidder was either non-responsive or not responsible. All protests have to be filed in accordance with the instructions contained in the solicitation which is the subject of the protest.

### **D. City Manager Review.**

The City Manager or designee shall review the protest and issue a written decision on the protest. The City Manager or designee may base the decision on the written protest alone or may informally gather evidence from the person(s) filing the protest or any other person having relevant information. For procurements having a value of One Hundred Twenty-five Thousand and no/100th (\$125,000.00) Dollars or less, the City Manager's or designee's decision shall be final.

E. Hearing on Protest.

If a bid was rejected on the grounds that the bidder was not a “responsible” bidder, the protesting party must submit materials set forth in Section C above for consideration. A hearing will be set within a reasonable time to provide a decision before final approval of the selected low bid. For procurements having a value of One Hundred Twenty-five Thousand and no/100th (\$125,000.00) Dollars or less, the City Manager’s or designee’s decision shall be final.

F. Appeal of City Manager’s Decision to City Council.

For procurements having a value exceeding One Hundred Seventy-five Thousand and no/100th (\$175,000.00) Dollars, an appeal of the City Manager’s decision may be filed with the City Council. All such appeals must be in writing, and shall be filed with the City Clerk within five (5) business days from the date of the City Manager’s decision.

G. Failure to Timely Appeal.

An interested party who fails to file a protest within the times set forth in this section waives any right to protest the issue further.

## CHAPTER 5 - SPECIAL CIRCUMSTANCES

### **Sole Source, Proprietary or Standardization Purchases**

#### Sole Source

Unique commodities and services which can be obtained from only one vendor or one distributor authorized to sell in this area, with singular characteristics or performance capabilities or which have specific compatibility components with existing City products are exempt from the competitive bidding requirements in SEMMC 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 Office. In addition, the Sole Source Justification form must be completed and signed by both the requesting staff member and Department Head. As with any other purchase, staff must establish facts indicating the anticipated cost is fair and reasonable. Final determination that an item is a valid sole source purchase will be made by the Purchasing Officer.

Sole source purchases from \$5,000, but not more than CAM require the approval of the Purchasing Officer. Sole source purchases in an amount exceeding CAM require the approval of the City Council.

#### Proprietary

An item that is held under exclusive title, trademark or copyright by a private person or company is deemed to be proprietary. A proprietary distributorship would also apply. Bidding should occur among those vendors that provide the name brand specified. However, if a proprietary distributorship is responsible for an entire area, therefore eliminating the possibility of bidding, the item is considered a sole source item and is subject to the provisions as outlined above.

### **Cooperative, Piggyback, and Multiple Awarded Bid Purchasing with Other Agencies**

#### Cooperative

The Purchasing Office may participate in purchases and contracts established by other political jurisdictions, provided the cooperative agreement is established following a competitive bid process. In a cooperative purchase setting, one agency represents several agencies by going out to bid, including the needs of the other agencies in the bid specifications. This provides for higher product volume being purchased, resulting in lower unit cost to all agencies. Needed documentation includes: copies of the other jurisdiction's bid document, and any Board or Council action awarding the contract, and the contract document. If the award calculation included a local preference and was awarded to their local vendor the bid cannot be used. The Purchasing Officer may authorize the award of cooperative purchase agreements for amounts not more than

CAM; City Council approval is required for the award of any cooperative purchase exceeding CAM.

#### Piggyback onto Existing Contract

An existing contract for goods between another governmental agency and a vendor may be used to purchase the same goods as those outlined in the awarding bid document. This is called piggybacking onto their contract. When piggybacking onto a contract, the City must use the exact contract as was awarded by the other agency. The item being purchased must be purchased as specified/awarded and cannot be modified in any way. Also, the terms of the contract and price of the item must be as specified in the contract or awarding document. The contract for consideration must have been awarded through a competitive bidding process prepared by and awarded by another local, state, or federal government agency. Needed support documentation includes: copies of the other jurisdiction's bid document, and any Board or Council action awarding the contract, and the contract document. If the award calculation included a local preference and was awarded to their local vendor the bid cannot be used. The Purchasing Officer has authority to approve a "piggyback" purchase for purchases not more than CAM. City Council's approval is required on "piggyback" purchases for an amount exceeding CAM.

#### Multiple Awarded Bids

Multiple awarded bids are generally conducted by larger Government Agencies. A competitive bidding process is conducted for a specified product. Several vendors whose product meets the specification are awarded the contract. Maximum item price and contract terms are established. If the Purchasing Officer determines it to be in the City's best interest, the Purchasing Officer is authorized to use Federal, State or other government agency multiple awarded contracts. An example of a multiple awarded contract is the California Multiple Award Schedule (CMAS). Staff must obtain quotes from at least three vendors on the list and award the bid to the lowest responsible bidder. Approval shall be obtained from City Manager for purchases in an amount not more than CAM and from City Council for purchases of an amount exceeding CAM.

#### Urgent Purchases

Urgent purchases for other than public works projects may be made without benefit of competitive bidding when time is of the essence. Urgent purchases shall be made only for the following reasons: (1) to preserve or protect life, health or property; (2) upon natural disaster; or (3) to correct or forestall a shutdown of public services.

Since urgent orders do not normally provide the City an opportunity to obtain competitive quotes or properly encumber funds committed, sound judgment shall be used in keeping such orders to an absolute minimum. In addition, the following requirements shall apply:

1. Purchasing shall be contacted as soon as possible to discuss the urgent transaction and how to proceed with the purchase order process.

2. Written supporting documentation explaining the circumstances and nature of the urgency shall be signed by the Department Head and submitted to Purchasing along with the purchase requisition.
3. A completed purchase requisition shall be submitted to Purchasing within 48 hours, or as soon as the information is available.
4. This documentation shall also be submitted by the Department Head for review and approval as follows:
  - a. Purchases in the amount of \$5,000, but not more than CAM: Report to City Manager within one week of the urgent purchase.
  - b. Purchases over CAM: Report to the City Council at its next scheduled meeting.
5. If a contract would normally be required, have one created and executed between the parties as soon as reasonably possible, even after urgency has passed.
6. Approved documentation will be provided to Purchasing to supplement the purchase requisition information.

### **Purchasing Cards**

The City may implement a purchasing card system. If the City implements a purchasing card system, then this section will be operative. The purpose of the City Purchasing Card program is to allow employees to make **small-dollar** purchases, secure reservations, pay for travel expenses, place phone and/or online orders, and conduct City business in an efficient and cost effective manner. For details on the purchasing card system please review the City's "Purchasing Card Policy & Procedures".

The Purchasing Card procedures accomplish the following:

1. Improve vendor relations by making "doing business" with the City easier.
2. Enhance internal control by better identifying specific employees making minor supply and service purchases on behalf of the City, and improving the accuracy of account distributions between programs and project.
3. Take advantage of cost-saving opportunities by purchasing on the internet and through catalogs.
4. To ensure that the purchases made with the Purchasing Card are accomplished in accordance with the City's ordinances and procedures.
5. To ensure that the City bears no legal liability from inappropriate use of Purchasing Cards.

## **CHAPTER 6 - PURCHASE ORDERS**

### **Purchase Order**

Purchases of supplies, general services, equipment, vehicles, and construction contract or public work projects of \$2,500 and over shall be made by purchase orders issued by the Purchasing Officer. The procuring department procuring must prepare a requisition for a purchase order, which will cause the funds to be encumbered. There must be an unencumbered appropriation in the fund accounts against which any expenditure for this service is to be charged. Appropriate documentation, demonstration of selection process, appropriate approval, scope of work, and contracts (including contract amendments, change orders, and task orders) are required to be attached to the requisition.

### **Exemptions from obtaining a purchase order include:**

- a. Utility usage payments (electric, gas, phone)
- b. Payments to other Governmental Units
- c. Claims/Legal settlement payments
- d. Books
- e. Membership dues
- f. Debt service payments
- g. Employee benefit payments

### **Unauthorized Purchases**

A purchase order is required for all purchases, except for those categories listed below, of \$2,500 and over. An exception to this would be for urgencies, in which case a purchase order would be required as soon as practical after the urgent purchase has been completed.

1. Unauthorized purchases are void and not considered an obligation of the City.
2. Invoices without an authorized purchase order may be returned to the department or vendor unpaid.
3. Purchase orders shall be issued to a vendor when ordering supplies and services and not "after the fact" for work already done or materials already ordered.
4. Exemptions from the purchase order process must be approved by the Finance Director and the City Manager prior to such purchase.

## **Encumbrances**

Operating departments shall verify the existence of an unencumbered appropriation prior to initiating the purchasing process and again prior to submitting purchase requisitions to the Purchasing Office.

The Purchasing Officer shall not issue any purchase order, authorize the execution of any contract, or enter into any contract for purchasing of supplies, equipment, services or construction, unless there exists an unencumbered appropriation in the fund account against which such purchase is to be charged.

## **Processing Invoices**

Invoices that either:

- Exceed the Purchase Order amount or
- In excess of \$2,500 and have no purchase order

Shall be reviewed by the City Manager for corrective action.

## **Purchase Order Changes**

A purchase order is a contract between the City and a vendor. Any substantial change to a purchase order and/or its contract for services shall be documented on a change order (new requisition) initiated by the operating department. Change orders shall be reviewed by the Purchasing Office and require the approval of the Purchasing Officer. In some cases, the change orders must be approved by the City Council.

The City is in the process of implementing a purchase order system within the Finance System. Once this is implemented separate procedures will be stating the procedures to be used.

RESOLUTION NO. 16-17

A RESOLUTION OF THE SOUTH EL MONTE CITY COUNCIL  
ADOPTING A PURCHASING MANUAL

WHEREAS, the City's Auditor has recommended that the City Council develop and adopt an updated Purchasing Manual, and

WHEREAS, the Federal Office of Management and Budget has updated their purchasing policies which apply to purchases made by cities when using grant funds, and

WHEREAS, the City receives federal grant funds, and

WHEREAS, the City agrees with the auditor's recommendation and desires to have an updated Purchasing Manual, and

WHEREAS, the City Council recently adopted an updated purchasing ordinance, and

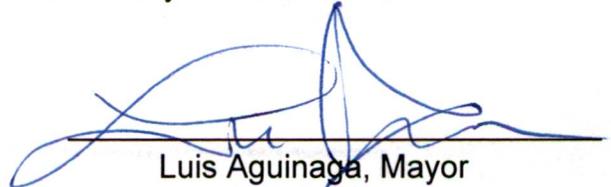
WHEREAS, City staff has reviewed the proposed purchasing manual.

THE CITY COUNCIL OF THE CITY OF SOUTH EL MONTE DOES HEREBY RESOLVE AS FOLLOWS:

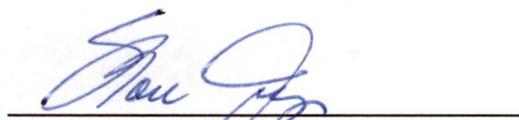
SECTION 1: That the attached Purchasing Manual is hereby approved and adopted.

SECTION 2: That the City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 8<sup>th</sup> day of March 2016.

  
Luis Aguinaga, Mayor

ATTEST:

  
Rose Juarez, City Clerk

STATE OF CALIFORNIA        )  
COUNTY OF LOS ANGELES    ) SS:  
CITY OF SOUTH EL MONTE    )

I, Rose Juarez, City Clerk of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 16-17, was duly passed and approved by the City Council of the City of South El Monte at a regular meeting of said Council held on the 8<sup>th</sup> day of March 2016, and that said Resolution was adopted by the following vote:

AYES:        Delgado, Garcia, Gonzales, Olmos, (Mayor) Aguinaga  
NOES:        None  
ABSENT:     None  
ABSTAIN:    None



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Rose Juarez, City Clerk