

CHAPTER 3.24

PURCHASING OF SUPPLIES AND EQUIPMENT

§ 3.24.010. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"Agency" and "using agency" means any department, agency, commission, bureau or other unit of the City government, which derives its support wholly or in part from the City of Wildomar.

"Bidder's security." Where deemed necessary by the Administrative Services Director, formal bids may be accompanied by a bond, cashier's check or cash in an amount of not less than 10% of total amount bid.

"Bidders' file" means a current file of sources of supply of articles for each category of commodities repetitively purchased for City use.

"City Manager" shall mean the City's City Manager and their designee.

"Administrative Services Director" shall mean the City's Administrative Services Director and their designee.

"Public projects" shall have the same definition as set forth in Section 22002 of the Public Contract Code.

"Purchases." Purchases of supplies and equipment shall include leases or rentals as well as transactions by which the City acquires ownership.

"Responsible bid" means an offer, submitted by a responsible bidder, to furnish supplies and equipment or services in conformity with the specifications, delivery terms and conditions and other requirements included in the notice inviting bids.

"Responsible bidder" means a bidder who submits a responsible bid and who is not only financially responsible, but is possessed of the resources, judgment, skill, ability, capacity and integrity requisite and necessary to perform the contract according to its terms. A determination as to whether or not a bidder is a responsible bidder shall include an evaluation of relevant factors, including, but not limited to, the following factors:

1. The ability, capacity and skill of the bidder to perform the contract or provide the maintenance and service required;
2. Whether the bidder has the facilities to perform the contract promptly, or within the time specified, without delay or interference;
3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
4. The bidder's record of performance of previous contracts or of provision of maintenance and service thereunder;

5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or of the furnishing of maintenance and service thereunder;
6. The sufficiency of the financial resources and ability of the bidder to perform the contract;
7. The quality, availability and adaptability of the supplies and equipment to the particular use required;
8. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
9. The number and scope of exceptions and conditions attached to the bid;
10. Whether the bidder has a previous or existing relationship with an officer or employee of the City that may create a conflict of interest on behalf of the officer or employee if a contract is awarded to the bidder.

"Supplies" and "equipment" mean any and all articles, things or personal property furnished to or used by any agency.

(Ord. 244 § 12, 2024)

§ 3.24.020. Adoption of purchasing system.

In order to establish efficient procedures for the purchase of supplies and equipment, to secure for the City supplies and equipment at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases, to clearly define authority for the purchasing function and to assure the quality of purchases, a purchasing system is hereby adopted.

(Ord. 25 § 1, 2009)

§ 3.24.030. Centralized purchasing.

There is hereby created a centralized purchasing and stores division within the Administrative Services Department, in which is vested authority for the purchase of supplies and equipment.

(Ord. 244 § 12, 2024)

§ 3.24.040. Administrative Services Director to serve as general purchasing agent.

The Administrative Services Director shall be the head and have general supervision of the Purchasing Division. The Administrative Services Director or their designee, serving as the Purchasing Agent shall have the authority to:

- A. Purchase or contract for supplies and equipment required by any using City department in accordance with purchasing procedures prescribed by this chapter, such administrative regulations as the Administrative Services Director shall adopt for the internal management and operation of the Purchasing Division and such other rules and regulations as shall be prescribed by the City Council or the City Manager.
- B. Negotiate and recommend execution of contracts for the purchase of supplies and equipment.

- C. Act to procure for the City the needed quality in supplies and equipment at least expense to the City.
- D. Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases.
- E. Prepare and recommend to the City Council rules governing the purchase of supplies and equipment for the City.
- F. Prepare and recommend to the City Council revisions and amendments to the purchasing rules.
- G. Keep informed of current developments in the field of purchasing, prices, market conditions and new products.
- H. Prescribe and maintain such forms as reasonably necessary to the operation of this chapter and other rules and regulations.
- I. Supervise the inspection of all supplies and equipment purchased to insure conformance with specifications.
- J. Recommend the transfer of surplus or unused supplies and equipment between departments as needed, and the sale or disposition of supplies and equipment which cannot be used by any department or which have become unsuitable for City use.
- K. Maintain an approved vendors list, vendors' catalog file and records needed for the efficient operation of the Purchasing Division.

(Ord. 244 § 12, 2024)

§ 3.24.050. Exemptions from centralized purchasing.

The City Manager or Administrative Services Director may authorize any City department head to contract for the purchase of supplies and equipment provided that such purchases shall be made in conformity with the procedures established by this chapter, and any administrative regulations as the Administrative Services Director shall adopt for the internal management and operation of the Purchasing Division and such other rules and regulations as shall be prescribed by the City Council or the City Manager.

(Ord. 244 § 12, 2024)

§ 3.24.060. Encumbrance of funds.

Except in cases of emergency or in cases where specific authority has been first obtained from the City Council, no purchase order for supplies or equipment shall be issued unless the Administrative Services Director or his/her designee has certified that there exists an unencumbered appropriation in the fund account (or available budget balance) against which the purchase is to be charged.

(Ord. 244 § 12, 2024)

§ 3.24.070. Emergency purchases.

While the need for occasional emergency purchases is recognized, the practice must be curtailed as much as possible by anticipating needs so that the normal purchasing procedure utilizing bidding may be used.

A. An emergency shall be deemed to exist if:

1. There is a great public calamity.
2. There is immediate need to prepare for national or local defense.
3. There is a breakdown in machinery or an essential service which requires the immediate purchase of supplies and equipment to protect the public health, welfare or safety.
4. An essential departmental operation affecting the public health, welfare or safety would be greatly hampered if the prescribed purchasing procedure would cause an undue delay in procurement of the needed item.

B. In case of an emergency which requires immediate purchase of supplies and equipment, the City Manager may authorize the Administrative Services Director or his/her designee to secure by the process set forth in Section 3.24.090 any supplies and equipment regardless of the amount of the expenditure.

(Ord. 244 § 12, 2024)

§ 3.24.080. Purchasing methods.

A. The table in this section sets forth the required methods for purchasing supplies and equipment. (Contracting for consultants and professional services is addressed in Chapter 3.28.)

Value of Purchase	Purchase Method	Agreement Format
Under \$10,000	None	None. Purchase Order required for \$5,000 and above.
\$10,000 - \$29,999	3 verbal quotations ¹	Purchase order approved by the Administrative Services Director or contract signed by City Manager for supplies or equipment. ¹
\$30,000 - \$75,000	3 written quotations ¹	Purchase order approved by Administrative Services Director and City Manager or contract signed by City Manager for supplies or equipment. ¹
Over \$75,000	Notice inviting sealed bids ²	City Council approved bid

1 See Section 3.24.090

2 See Section 3.24.110

B. Notwithstanding the table in subsection A of this section, the purchase method for the purchase of supplies or equipment may be dispensed with under the following circumstances:

1. An emergency, as described in Section 3.24.070, requires that an order be placed

immediately to protect the public health, safety or welfare; or

2. The supply or equipment can only be obtained from one source ("sole source") – sole source justification form is required - ; or
3. The supply or equipment is available through or in conjunction with another public agency's purchase of such supply or equipment and the other public entity has gone through a bidding process which the City Manager determines is comparable to the processes described above ("piggybacking").

C. The agreement format required by the table in subsection A of this section shall be required for any purchase pursuant to subsection B of this section.

D. In its discretion, the City Council may at any time, by a majority vote and without amending this chapter, waive the purchasing procedures or alter these proceedings to fit a specific purchase.

(Ord. 244 § 12, 2024)

§ 3.24.090. Verbal and written quotations.

- A. Minimum Number of Bids. Wherever possible, purchases utilizing verbal and written quotations shall be based on at least three bids and shall be awarded to the bidder offering the most advantageous bid to the City after consideration of price, quantity, durability, servicing, delivery time, standardization, and other factors.
- B. Solicitation of Bids. Quotations shall be obtained as follows:
 1. By telephone provided the amount of the purchase is \$10,000.00 or more but less than \$30,000.00; and
 2. In writing provided the amount of the purchase is \$30,000.00 or more, but not more than \$75,000.00.
- C. Written Bids. All bids received pursuant to this section shall be submitted to the Purchasing Agent who shall keep a record of all open market orders and bids for a period of one year after the submission of bids or the placing of orders. This record, while so kept, shall be open to public inspection.

(Ord. 244 § 12, 2024)

§ 3.24.100. Bidding preference for local businesses.

For the purpose of determining the lowest responsible bidder as required by Sections 3.24.110 and 3.24.090, two percent of that portion of any bid subject to sales or use tax shall be deducted from such bid where it is determined that if such bid were accepted by the City as the lowest responsible bid received, the City would receive a refund of the two percent sales and use tax imposed by Chapter 3.20 (Sales and Use Tax) of this Code. For purposes of this section, a "local business" shall be defined as any individual, partnership or corporation which regularly maintains a place of business within the limits of the city, and which maintains the necessary business registration, and which has paid all applicable fees and taxes imposed by the City.

(Ord. 244 § 12, 2024)

§ 3.24.110. Sealed bid procedure for purchases greater than \$75,000.00.

Purchases of supplies and equipment of an estimated value greater than \$75,000.00 shall be by written contract pursuant to the procedure hereinafter prescribed.

- A. Notice Inviting Bids or Requests for Proposals. Notices inviting formal bids or Requests for Proposals for the purchase of supplies or equipment shall include a general description of the articles to be purchased, shall state where bid forms and specifications or requests for proposals may be obtained, and the time and place for the opening of bids or proposals. This can be either through written notice or via the City's electronic bids management system.
 - 1. Published Notice for formal bids or Requests for Proposals. Notices inviting formal bids or requests for proposals shall be published one time at least 10 days before the date of opening of the bids or proposals, in a newspaper of general circulation within the City. The City Manager may waive the publication requirements of this section if they find that requirements for publication would not likely increase the number or quality of bidders or proposers beyond those on the approved vendor list.
 - 2. Approved Vendors List. The Administrative Services Director or his/her designee shall also solicit sealed bids from all responsible prospective suppliers whose names are on the approved vendors list, or who have made written request that their names be added thereto, or who have registered in the City's electronic bids management system.
- B. Bidder's Security. Where deemed necessary by the Administrative Services Director or their designee, formal bids may be accompanied by security, either cash, cashier's check, certified check, or surety bond, in a sum equal to ten percent of the total aggregate of the bid and shall be designated in the notice inviting bids. Bidders shall be entitled to return of bid security; provided, however, that a successful bidder shall forfeit their bid security upon their refusal or failure to execute the contract within 10 days after the preparation and mailing of the contract, unless in the latter event the City is solely responsible for the delay in executing the contract. The City Council may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. In such event, if the City Council awards the contract to the next lowest bidder, the amount of the lowest bidder's security shall be applied by the City to the contract price differential between the lowest bid and the second lowest bid, and the surplus less any City expenses related to the lowest bidder, if any, shall be returned to the lowest bidder
- C. Bid Opening Procedure. Sealed bids shall be submitted to the City and shall be identified as "BID" on the envelope. Bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be available for public inspection during regular business hours for a period of not less than 30 calendar days after the bid opening. Once opened, the bids shall be public records. In the event that the City utilizes an electronic bids management system, bids shall be submitted and opened in accordance with the instructions set forth in the notice inviting bids and related bid materials.

Notwithstanding the foregoing, any bid deemed nonresponsive at the time of bid opening shall not be kept by the City and shall be returned to the bidder once deemed nonresponsive. Grounds for determining a bid is nonresponsive include, but are not limited to, failure to provide the required bid bond and failure to attend any mandatory walk through or pre-bid meeting.

- D. Rejection of Bids. In its discretion, the City Council may reject any and all bids presented and readvertise for bids pursuant to the procedure hereinabove prescribed. However, when all bids exceed the authorized budgeted amount, the City Manager may authorize rejection of all bids and authorize rebidding based upon the original specifications or as they may be modified, in accordance with procedures prescribed in this chapter.

- E. Tie Bids. If two or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay or re-advertising for bids, the City Council in its discretion may accept the one it chooses or accept the lowest bid made by and after negotiation with the tie bidders at the time of the bid opening or award of contract.
- F. No Bids. When no formal bids or no responsive bids are received, the Administrative Services Director or their designee is authorized to negotiate for written proposals, and their recommendation shall be presented to the City Manager and the award, if any, shall be made in accordance with applicable provisions prescribed in this chapter.
- G. Performance Bonds. The City Manager shall have the authority to require a performance bond or other bonds in an amount reasonably necessary to protect the best interests of the City before entering a contract in such amounts as they shall find reasonably necessary to protect the best interests of the City. If the City Manager requires such bond or bonds, the form and amount of same shall be described in the notice inviting bids.

(Ord. 244 § 12, 2024)

§ 3.24.120. Surplus supplies and equipment.

All using agencies shall submit to the Administrative Services Director, at such times and in such forms as they shall prescribe, reports showing all supplies and equipment which are no longer used or which have become obsolete or worn out. The Administrative Services Director shall have authority to sell, exchange for or trade in on new supplies and equipment all supplies and equipment which cannot be used by any agency or which have become unsuitable for City use. These options include the following:

- A. Sale. For City property deemed suitable for sale, Administrative Services Director or their designee may offer the City property for sale via the approved methods:
 - 1. Public Auction. Surplus property may be sold at public auction. Online auctions are an acceptable auction method. City may contract with a professional auctioneer, at its discretion.
 - 2. Sealed Bids. Sealed bids may be solicited for the sale of surplus property. Surplus property disposed of in this manner shall be sold to the highest responsible bidder.
 - 3. Selling for Scrap. Surplus property may be sold as scrap if it is deemed that the value of the raw materials exceeds the value of the property as a whole.
 - 4. Negotiated Sale. Surplus property may be sold outright if it is determined that only one known buyer is available or interested in acquiring the property. The advertisement for the sale must be published in a newspaper for at least two weeks prior to the negotiated sale to ensure no other interested buyers are available.
 - 5. A receipt or other proof of disposal from the outright sale, the contracted auctioneer, licensed scrap dealer, individual buyer, etc. is required and is to be forwarded to the Administrative Services Department. The City will return proceeds to the appropriate revenue fund.

6. All surplus property is for sale “as is” and “where is”, with no warranty, guarantee, or representation of any kind, express or implied, as to the condition, utility or usability of the property offered for sale.
- B. Trade-in. Property declared as surplus may be offered as a trade-in for credit toward the acquisition of new property.
- C. Donation. With the approval of the Administrative Services Director or their designee, the City may donate usable items with a minimal fair market value (such as outdated computer equipment and furniture) to a registered charitable organization or community organization. Surplus property may also be donated to any other public agency or charitable organization exempt under Section 501(c)(3) of the Internal Revenue Code. “Public Agency” means the State of California or any agency or subdivision thereof, including any City, County, Special District, or School District. A letter from the public agency or organization, acknowledging receipt of the asset(s) is required.
- D. Return to Manufacturer. Surplus property may, when possible, be returned to the manufacturer for buy-back or credit toward the purchase of new property. Documentation related to such a transaction shall be forwarded to the Administrative Services Department.
- E. Disposal. When the cost of locating a buyer exceeds the estimated sales price of surplus property, the property may be recycled, destroyed, or disposed of as junk.

(Ord. 244 § 12, 2024)

§ 3.24.130. Recovered organic material product procurement and recycled-content paper procurement.

All City departments, and direct service providers to the jurisdiction, as applicable, must comply with the City's Recovered Organic Material Produce and Recycled-Content Paper Procurement Policy, as amended.

- A. Compost and SB 1383 Eligible Mulch procurement. Divisions and departments responsible for landscaping maintenance, renovation, or construction shall:
 1. Use Compost and SB 1383 Eligible Mulch produced from recovered Organic Waste for landscaping maintenance, renovation, or construction as practicable whenever available and capable of meeting quality standards and criteria specified. SB 1383 Eligible Mulch used for land application must meet or exceed the physical contamination, maximum metal concentration and pathogen density standards specified in 14 CCR Section 17852(a)(24.5)(A)1 through 3. Compost and SB 1383 Eligible Mulch are as defined below:
 - i) Compost: means the product resulting from the controlled biological decomposition of organic solid wastes that are source separated from the municipal solid waste stream or which are separated at a centralized facility or as otherwise defined in 14 CCR Section 17896.2(a)(4).

Compost eligible for meeting the Annual Recovered Organic Waste Product Procurement Target must be produced at a compostable material handling operation or facility permitted

or authorized under 14 CCR Chapter 3.1 of Division 7 or produced at a large volume in-vessel digestion facility that composts on-site as defined and permitted under 14 CCR Chapter 3.2 of Division 7. Compost shall meet the State's composting operations regulatory requirements.

ii) SB 1383 Eligible Mulch: means mulch eligible to meet the Annual Recovered Organic Waste Product Procurement Target, pursuant to 14 CCR Chapter 12 of Division 7. This SB 1383 Eligible Mulch shall meet the following conditions for the duration of the applicable procurement compliance year, as specified by 14 CCR Section 18993 1(f)(4):

- Produced at one of the following facilities:
 - (a) A combustible material handling operation or facility as defined in 14 CCR Section 17852(a)(12), that is permitted or authorized under 14 CCR Division 7, other than a chipping and grinding operation or facility as defined in 14 CCR Section 17852(a)10;
 - (b) A transfer/processing facility or transfer/processing operation as defined in 14 CCR Sections 17402(a)(30) and (31), respectively that is permitted or authorized under 14 CCR Division 7; or
 - (c) A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under 27 CCR Division 2.
- Meet or exceed the physical contamination, maximum metal concentration and pathogen density standards for land application specified in 14 CCR Sections 17852(a)(24.5)(A)1 through 3 as enforced by this municipal code chapter.

B. All vendors providing paper products and printing and writing paper shall:

1. If fitness and quality are equal, provide recycled-content paper products and recycled-content printing and writing paper that consists of at least 30%, by fiber weight, postconsumer fiber instead of non-recycled products whenever recycled paper products and printing and writing paper are available at the same or lesser total cost than non-recycled items or at a total cost of no more than one percent of the total cost for non-recycled items.
2. Provide paper products and printing and writing paper that meet Federal Trade Commission recyclability standard as defined in 16 Code of Federal Regulations (CFR) Section 260.12.
3. Other paper products shall consist of at least 30 percent, by fiber weight of postconsumer recycled content fiber, except as specified below:
 - Toilet paper shall consist of at least 45 percent, by fiber weight, postconsumer recycled content fiber.
 - Paper towels shall consist of at least 40 percent, by fiber weight, postconsumer recycled content fiber.

- Facial tissue shall consist of at least 10 percent, by fiber weight, postconsumer recycled content fiber.
- Toilet seat covers shall consist of at least 20 percent, by fiber weight, postconsumer recycled content fiber.
- General purpose paper wipers shall consist of at least 40 percent, by fiber weight, postconsumer recycled content fiber.
- Food serviceware, including but not limited to, napkins, plates, bowls, food trays, takeout boxes, placemats, etc. shall consist of at least 40 percent, by fiber weight, postconsumer recycled content fiber.

4. Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the paper products and printing and writing paper offered or sold to the City. This certification requirement may be waived if the percentage of postconsumer material in the paper products, printing and writing paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.
5. Certify in writing, on invoices or receipts provided, that the paper products and printing and writing paper offered or sold to the City is eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations (CFR) Section 260.12 (2013).
6. Provide records to the City's recordkeeping designee, of all paper products and printing and writing paper purchases (both recycled-content and non-recycled content, if any is purchased). Records shall include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in this section, quantity purchased, date purchased, and recycled content (including products that contain none), and if non-recycled content paper products or printing and writing papers are provided, include a description of why recycled-content paper products or printing and writing papers were not provided.

(Ord. 244 § 12, 2024)

CHAPTER 3.28
CONTRACTS FOR SERVICES

§ 3.28.010. Definitions.

Other services. Services that are not professional services.

Professional services. Services that involve the exercise of professional discretion and independent judgment based on advanced or specialized knowledge, expertise or training gained by formal study or experience. Professional services include, but are not limited to, services provided by appraisers, attorneys, instructors, insurance advisors, those professions listed in Government Code Section 4526, and other specialized consultants.

Services. The furnishing of labor, time or effort by a contractor.

(Ord. 78 § 1, 2013)

§ 3.28.020. Contracts for Professional or Other Services Bid Process.

All contracts for professional or other services, will adhere to the following bid process:

- A. The City Manager, or designee, shall be empowered to contract for professional or other services without the necessity of competitive bid, without notice of competitive bid, and without City Council approval of the contract if the total fee for services and materials under the contract is \$75,000.00 or less. If the total fee for services and materials under the contract is equal to or more than \$30,000.00 and less than \$75,000.00, then three written quotations are required. If the total fee for services and materials under the contract is \$10,000.00 or more, and \$29,999.00 or less, then three verbal quotations are required. There are no requirements for quotations under \$10,000.00. The total fee must include all reasonably foreseeable costs and work under the proposed contract. The proposed contract must include any reasonably related work on the same project, and larger contracts shall not be divided into smaller contracts, divided among multiple contractors, or divided by any other method intended to avoid competitive bidding.
- B. A contract for professional or other services valued over \$75,000.00 must be entered into by use of competitive sealed proposals. Proposals for the contract shall be solicited through a request for proposals.
 1. Evaluation Factors. The request for proposals shall state the relative importance of evaluation factors, including price.
 2. Public Notice. Public notice of the request for proposals shall be given in the same manner as provided in Section 3.24.110(A) (Sealed bid procedure for purchases greater than \$75,000, Notice Inviting Bids or Requests for Proposals).
 3. Receipt of Proposals and Release as Public Records. Proposals shall be received and opened in a method that avoids disclosure of contents to competing proposers until after award of the contract or final rejection of all proposals. The request for proposals must state that after award of the contract or final rejection of all proposals, all responses become public records subject to disclosure. A copy of each proposal received shall be retained in the City's online purchasing portal and shall be open for public inspection after award of the contract or final rejection of all proposals.
 4. Evaluation of Proposals. After the due date for proposals, the City Manager or their designee shall evaluate the proposals and may contact any proposer for clarification of a

proposal, to solicit additional information, or for purposes of interviewing. The City Manager or designee may choose to contact all, some, or none of the responding proposers after the proposals are submitted to the City.

5. Award. The contract shall be awarded to the responsible proposer whose proposal conforms to the request for proposals and is determined to be the most advantageous to the City, taking into consideration the evaluation factors set forth in the request for proposals and price. The City Manager shall prepare and place in the contract file maintained by the City Clerk's office a written report detailing the basis on which the recommendation for award of contract is made.
6. Contracts for architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services, as defined by California Government Code Sections 4525 and 4526, shall be awarded based on demonstrated competence and qualification for the type of services required, and at fair and reasonable prices.

C. Contractors may submit statements of qualifications and expressions of interest in providing services to the City, whether in response to a request for qualifications issued by the City or not. The City may specify a uniform format for statements of qualifications. Statements of qualifications may be project specific or may be for multiple projects which occur during a time period not exceeding one three calendar years. Statements of qualifications shall be maintained by the Administrative Services Department, consistent with the City's document retention policies. A copy of any request for proposals for services issued pursuant to Section 3.24.110 shall be provided to each person or firm that has a current statement of qualification on file with the City or a registration in PlanetBids for work relevant to the request for proposals.

D. The City Manager may designate a person or persons to exercise any authority granted to him or her by this chapter.

(Ord. 244 § 12, 2024)

§ 3.28.030. Interim Urgency Contracts.

The City Manager may execute a contract for professional or other services without the necessity of competitive bid, without notice of competitive bid, and without City Council approval of the contract if the following criteria are satisfied:

1. There is an immediate need for the professional or other services to protect the public health, safety or welfare.
2. The contract term is only for so long as is reasonably necessary for the professional or other services to be provided while the City conducts the competitive bidding process required by this section.

(Ord. 244 § 12, 2024)

§ 3.28.040. Discretionary process.

Except where it would conflict with state law, the City Council or City Manager, as applicable, may dispense with any or all of this chapter's procedures when they deem in their discretion it would be advantageous to the City to do so.

(Ord. 78 § 1, 2013)

§ 3.28.050. Amendments after award.

In instances where the City effects a necessary change in the project during the course of performance of the contract, the compensation may be adjusted by mutual written agreement in a reasonable amount. The reasonable amount shall reflect and compensate the contractor for the amount of work to be performed that is changed from the scope of work previously agreed to by both parties. For contracts where the City Council has delegated signature authority to the City Manager by resolution, ordinance or minute order per section 2.08.060(K) of this municipal code, the City Manager may approve one or more amendments to compensation. The City Council shall approve all other amendments to compensation, which would cause the total compensation to exceed \$75,000.00.

(Ord. 244 § 12, 2024)

CHAPTER 3.32

BIDDING AND CONTRACTS FOR PUBLIC PROJECTS

§ 3.32.010. Bid Procedures

The City Council has adopted a resolution electing to make the City subject to the procedures set forth in the Uniform Public Construction Cost Accounting Act, Section 22000, et seq. of the California Public Contract Code (the “Act”) and has notified the State Controller of such election. As such, 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 procedures as set forth in Section 22032, et seq., of the Public Contract Code.

(Ord. 245 § 12, 2024)

§ 3.32.020. Bidder's security.

When deemed necessary by the Administrative Services Director or designee, notices inviting bids may require that each bid be accompanied by bidder's security.

(Ord. 245 § 12, 2024)

§ 3.32.030. Contractor's bond.

Every party to whom a contract for a public project is awarded involving an expenditure in excess of \$5,000.00 shall, before commencing work on any such public project, furnish the City with and file in the office of the City Clerk a bond, or bonds, in form satisfactory to the City, in the sum of 100% of the contract price thereof conditioned upon the faithful performance of the contract and upon the payment of all labor and material furnished in connection with the contract, in lieu of such bond, or bonds, cash or its equivalent, as specified by the City, may be given to the office of the City Clerk for deposit with the Finance Department.

(Ord. 25 § 1, 2009)

§ 3.32.040. Insurance.

All contracts for public projects shall require the contractor to furnish evidence in form satisfactory to the City that the contractor has taken out and has in force liability and worker's compensation insurance in such amounts and form as may be required by the City, in addition to any other insurance required by the City's risk manager.

(Ord. 25 § 1, 2009)

§ 3.32.050. Contract retention.

- A. No contract for a public project shall provide for or authorize or permit the payment of more than 95% of the contract price before the completion of the work done under the contract and acceptance thereof by the City and expiration of the stop notice claim period and resolution of any such claims filed therein.
- B. Notwithstanding subsection A, the City may require a higher retention amount where the City Council, City Manager or Director of Public Works makes the determination, or approves the engineer's determination, that the project is substantially complex and therefore requires a higher retention amount than five percent. This finding and approval of an increased retention amount should be made during a properly noticed and normally

scheduled public hearing prior to the bid for the project and shall be included in the bid documents for the particular project. The finding that a project is substantially complex shall include a description of the specific project and why it is a unique project that is not regularly, customarily, or routinely performed by the agency or licensed contractors.

(Ord. 25 § 1, 2009; Ord. 199 § 1, 2021)

§ 3.32.060 Dollar Amount of Public Project.

The dollar amount thresholds provided in this section shall automatically adjust upon the effectiveness of any adjustment notification by the State Controller in accordance with California Public Contract Code Section 22020 et seq., without the necessity of amending this section or any division herein to reflect any such adjustment.

1. Public projects of \$75,000 or less may be performed by City employees by force account, by negotiated contract or by purchase order. Per California Public Contract Code Section 22032, no bidding is required. Such contracts may be approved and executed by the City Manager or designee.
2. Public projects of \$75,000.01 to \$220,000 may be let to contract by informal bidding procedures as set forth in Section 3.32.040 below.
3. Public projects of more than \$220,000 shall, except as otherwise provided in this section, be let to contract by formal bidding procedure as set forth in Section 3.32.080 below.

(Ord. 245 § 12, 2024)

§ 3.32.070 Informal Bidding Procedures.

Projects eligible for informal bidding, pursuant to subsection (b) of Section 22032 of the Public Contract Code, shall be awarded to the lowest responsive and responsible bidder in accordance with the Uniform Construction Cost Accounting Act, California Public Contract Code Section 22034 et seq., as follows:

1. Contractors list: The Director of Public Works shall maintain a list of qualified contractors identified according to categories of work. Such list shall comply with the requirements of Public Contract Code Section 22034.
2. Notice Inviting Informal Bids: Pursuant to subsection (b) of Section 22032 of the Public Contract Code, A notice inviting informal bids shall be prepared, which shall describe the project in general terms, describe how to obtain more detailed information about the project, and state the time and place for the submission of bids. The notice inviting informal bids shall be circulated using one or both of the following alternatives:
 - a) Notices inviting informal bids may be mailed, faxed, or emailed not less than ten days before bids are due, to all contractors for the category of work to be bid as shown on the list developed in accordance with this section.
 - b) 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. Award of Contracts: The informal bids for public projects shall be awarded by the City Manager or his designee.

(Ord. 245 § 12, 2024)

§ 3.32.080 Formal Bidding Procedures.

Public projects to be let pursuant to formal bidding procedures shall be awarded to the lowest responsive and responsible bidder in accordance with, but not limited to, the procedures set forth below.

1. Notice inviting formal bids. The following are required:
 - a) Contents of notice. Notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project.
 - b) Publication of notice. The notice shall be published at least 14 calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in the City, or otherwise comply with the requirements of California Public Contracts Code Section 22037.
 - c) Electronic transmission of notice. The notice inviting formal bids shall also be sent electronically, if available, by either facsimile or electronic mail and mailed to all construction trade journals as specified in California Public Contract Code Section 22036. The notice shall be sent at least 15 calendar days before the date of opening the bids.
 - d) Per California Labor Code Section 1771.1, the notice must state that a contractor or subcontractor is not qualified to bid on, be last in a bid proposal for, or perform work on a project unless it is registered and qualified under California Labor Code Section 1725.5.
 - e) Instructions to bidders. The notice inviting formal bids should also identify the contract documents to be considered, the availability of information, any scheduled pre-bid meetings, bid protest procedures, addenda, and any other procedures to be followed for bids to be considered.
 - f) Bid package. The bid package should include the following:
 - 1) The proposal form;
 - 2) Submission of sealed bids;
 - 3) A public bid opening;
 - 4) Award to the lowest, responsive and responsible bidder;
 - 5) City reservation in notice inviting bids of the right to reject any or all bids and to waive minor irregularities;
 - 6) Award and execution of a written contract;
 - 7) Reference to applicable state or federally funded project requirements;
 - 8) Performance and payment bonds;
 - 9) Listing of subcontractors; and
 - 10) Any other materials required by the City in the bid documents.

(Ord. 245 § 12, 2024)