

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BEAUMONT, CALIFORNIA AMENDING CHAPTER 3.01 CONCERNING SPECIFIC PROVISIONS FOR BIDDING, CONTRACTING AND PURCHASES OF THE CITY OF BEAUMONT MUNICIPAL CODE

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BEAUMONT DOES ORDAIN AS FOLLOWS:

SECTION 1. CEQA. The City Council finds that the actions contemplated by this Ordinance are exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15060 (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 2. Severability. The City Council hereby declares that if any provision, section, paragraph, sentence, or word of this Ordinance is rendered or declared to be invalid or unconstitutional by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, such invalidity shall not affect the other provisions, sections, paragraphs, sentences or words of this Ordinance, and to this end the provisions of this Ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance enforced.

SECTION 3. Chapter 3.01 are hereby amended and restated in full to read as attached hereto as Exhibit “A”.

SECTION 4. Effective Date and Publication. The Mayor shall sign and the City Clerk shall certify to the passage of this Ordinance and cause the same or a summary thereof to be published within 15 days after adoption in accordance with Government Code Section 36933. This Ordinance shall take effect 30 days after adoption in accordance with Government Code Section 36937.

NOW, THEREFORE, BE IT ORDAINED that the City Council of the City of Beaumont, California, approves this amendment to the City Code.

INTRODUCED AND READ for the first time and ordered posted at a regular meeting of the City Council of the City of Beaumont, California, held on the 4th day of April 2023, by the following roll call vote:

AYES:
NOES
ABSENT:
ABSTAIN

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Beaumont, California, held on the 18th day of April 2023, by the following roll call vote:

AYES:
NOES
ABSENT:
ABSTAIN

Julio Martinez III, Mayor

Attest:

Nicole Wheelwright, Deputy City Clerk

Chapter 3.01.000 – Specific Provisions for Bidding, Contracting, and Purchases

Sections:

3.01.010 Definitions.

3.01.020 General Purchasing Policies and Procedures.

3.01.030 Bidding Requirements for Public Projects.

3.01.040 Bidding Requirements for Maintenance and General Services.

3.01.050 Bidding Requirements for Materials, Supplies, and Equipment.

3.01.060 Formal Bidding Procedure for Public Projects.

3.01.070 Informal Bidding Procedure for Certain Public Projects.

3.01.080 Formal Bidding Procedure for Non-Public Projects.

3.01.090 Informal Bidding Procedure for Non-Public Projects.

3.01.100 Exceptions to Competitive Bidding on Public Projects.

3.01.110 Exceptions to Competitive Bidding on Non-Public Projects.

3.01.120 City Manager Authorization to Execute Contracts.

3.01.010 Definitions.

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

"Alternative procedure" means purchasing supplies, services or equipment by negotiated contract, purchase order or any other procedure outlined in the City's purchasing and bidding policies and procedures manual approved by the City Manager and consistent with this chapter. A type of alternative procedure may include, but is not limited to, what will be referred to as a "simplified pricing procedure" wherein the Authorized Contracting Party, or his or her designee, obtains oral price quotes from one or more potential contractors or suppliers, and accepts the quote which is determined to be in the best interests of the City.

"Authorized Contracting Party" means the City official or body provided with authority under this chapter by the City Manager to approve a contract or to make a purchase.

"City Manager" means the City Manager or person designated by the City Manager to perform all or some of the duties prescribed in this chapter.

"Commission" means the California Uniform Construction Cost Accounting Commission created by Division 2, Part 3, Chapter 2, Article 2 of the California Public Contract Code (Section 22000 et seq.).

"Emergency" for purposes of public projects shall have that meaning provided in California Public Contract Code Sections 22035 and 22050. Emergency for all other purchasing or contracting purposes means a situation which makes competitive bidding, either formal or informal, impractical or not in the best interests of the City.

"Facility" means any plant, building, structure, ground facility, utility system (subject to the limitation found in California Public Contract Code Section 22002, Subdivision (c)(3)), real property, streets and highways, or other public work improvement.

"General services" means all services performed by persons not in a professional occupation, including, but not limited to, contract services for park, electrical and computer

repair, building, facility and vehicle maintenance, recreation programs and other similar services which are not professional services.

"Maintenance work" shall have that meaning provided in Section 22002(d) of the Public Contract Code, as that section may be amended from time to time. In addition and to the extent not inconsistent with Section 22002(d), maintenance work shall include, but shall not be limited to, the following:

- A. Routine, recurring and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes;
- B. Minor repainting;
- C. Street and highway maintenance, including utility patching, skin patching, crack filling, filling of pot holes, slurry sealing, edge grading, street striping, resurfacing of streets and highways at less than one-inch, sign replacement, sidewalk repair and replacement, curb and gutter repair and replacement, and street and traffic light repair and replacement. Maintenance work shall not include striping of a new street or highway;
- D. Sewer maintenance, including foaming, videotaping, cleaning and manhole restoration;
- E. Traffic signal maintenance. Maintenance work shall not include installation of new traffic signals;
- F. Storm drain related maintenance;
- G. Landscape maintenance, including mowing, watering, trimming, pruning, planting, tree and plant replacement, irrigation and sprinkler system servicing, retrofit and repair and landscape rehabilitation;
- H. Maintenance of facilities, including roof repairs or replacements, heating and air conditioning repairs and electric repairs;
- I. Vehicle and equipment maintenance and repairs;
- J. Work performed to keep, operate, and maintain publicly owned waste disposal systems, including, but not limited to dams, reservoirs and waste treatment systems.

"Professional services" means all services performed by persons in a professional occupation, including, but not limited to, consulting and performance services for legal services, accounting, auditing, computer hardware and software support, engineering, architectural, planning, environmental, redevelopment, financial, economic, personnel, social services, animal control, management, solid waste, cable television, communication and other similar professional functions which may be necessary for the operation of the City. Professional Services are governed by chapter 3.02.

"Public project" shall have that meaning provided in Section 22002(c) of the Public Contract Code, as that section may be amended from time to time. A public project shall not include maintenance work. In addition and to the extent not inconsistent with Section 22002(c), public project shall include, but shall not be limited to, the following:

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1. Construction, reconstruction, erection, alteration, renovation, improvement, demolition and repair work involving any publicly owned, leased or operated facility;
2. Street or sewer work except maintenance and repair;
3. Painting or repainting of any publicly owned, leased, or operated facility; and
4. In the case of a publicly owned utility system, public project shall include only the construction, erection, improvement, or repair of dams, reservoirs, and wastewater treatment plants.

"Public project formal bidding procedure" means the procedure provided for in Section 3.01.060 which meets the requirements of state and local law, including Public Contract Code Section 22037, this chapter and any policies and procedures approved by the City Manager consistent with this chapter.

"Public project informal bidding procedure" means a procedure provided for in Section 3.01.070 which meets the requirements of state and local law, including Public Contract Code Section 22034, this chapter and any policies and procedures approved by the City Manager consistent with this chapter.

"Purchasing Officer" means the City Manager or his or her designee(s) as provided in Section 3.00.020. Pursuant to Section 3.00.020, the City Manager may change his or her designation at any time.

"Non-public project formal bidding procedure" means the procedure provided for in Section 3.01.080 which meets the requirements of state and local law, including the Public Contract Code, this chapter and any policies and procedures approved by the City Manager consistent with this chapter.

"Non-public project informal bidding procedure" means the procedure provided for in Section 3.01.090 which meets the requirements of state and local law, including the Public Contract Code, this chapter and any policies and procedures approved by the City Manager consistent with this chapter.

3.01.020 General purchasing policies and procedures.

- A. The City shall secure supplies, services, and equipment at the lowest total cost commensurate with the quality and scope needed, and subject to any limitations imposed by state law.
- B. The Purchasing Officer shall develop, for approval by the City Manager, such policies and procedures as are necessary to implement the provisions of this chapter. The policies and procedures shall be written and implemented in such a way to encourage open and competitive bidding, where appropriate, provide equal opportunity based on merit, make each selection process free of invidious discrimination, provide for efficient and timely acquisition of needed supplies, services and equipment, and provide effective fiscal controls.
- C. In purchasing, supplies, services and equipment, the City shall make use of competitive bidding, both formal and informal, whenever required by law, this chapter or any policies and procedures approved by the City Manager consistent with this chapter.

- D. Formal and informal competitive bidding is not required, for instance, when an emergency is declared pursuant to this chapter.
- E. Except in cases of emergency or unless specifically authorized by resolution or minute order of the City Council, the Purchasing Officer shall not issue a purchase order for supplies, services or equipment involving any project or purchase unless there exists an unencumbered appropriation in the fund account against which such purchase is to be charged.
- F. The City shall comply with all federal and state bidder's security and bonding requirements and all prevailing wage laws applicable to each contract or purchase.
- G. The Purchasing Officer, with approval of the City Manager, may provide written authorization to any department director to conduct a bidding process outside of the centralized purchasing system; provided, however, that such bidding process and the resulting contract or purchase shall otherwise comply with the requirements of this chapter. The Purchasing Officer, with approval of the City Manager, may rescind such authorization in writing at any time and for any or no reason.

3.01.030 Bidding requirements for public projects.

- A. *Alternative Procedure (up to \$60,000) (Administrative Approval).* Public projects with cost estimates of \$60,000) or less may be awarded by the City Manager, upon recommendation of the director of the department responsible for the project, by any alternative procedure as defined in Section 3.01.010.
- B. *Informal Procedure (more than \$60,000 —less than \$200,000).* Public projects with cost estimates of more than \$60,000, but less than, or equal to, \$200,000 shall, except as otherwise provided in this chapter or the Public Contract Code, be awarded by the City Manager pursuant to the public project informal bidding procedure in Section 3.01.070, so long as the public project funding was previously approved by City Council either in the adopted budget or adopted capital improvement plan.-

The City Manager shall report to the City Council all such public projects awarded by the public project informal bidding procedure within ninety (90) days of the date of the award. If all bids received are over \$200,000, the City Council may, with the approval of a four-fifths vote of those members present, award the contract in an amount not exceeding \$212,500 to the lowest responsive and responsible bidder, so long as the City Council also determines that the City's cost estimate for the project was reasonable.

- C. *Formal Procedure (more than \$200,000).* Public projects with cost estimates of more than \$200,000 shall, except as otherwise provided in this chapter or the Public Contract Code, be awarded by the City Council pursuant to the public project formal bidding procedure in Section 3.01.060.
- D. *City Engineer Review.* The City Engineer or his designee shall review the working details, drawings, plans and specifications prepared for every maintenance project and other general services project which may affect the design or operation of public improvements and which may bring into question the City's liability for dangerous condition of public property.

- E. *City Council Approval.* The City Council shall review and approve the working details, drawings, plans and specifications prepared for every public project of more than \$200,000.
- F. *Award.* Contracts for public projects of \$60,000 or less may be awarded in the best interests of the City. Contracts for public projects of more than \$200,000, if awarded, shall be awarded to the lowest responsive and responsible bidder. If two or more bids are the same and the lowest, the Authorized Contracting Party may accept the one it chooses in his or her sole and absolute discretion.
- G. *Dollar Limits and Change Orders or Amendments.* The dollar limits indicated herein shall apply to the original contract and to any amendments or change orders. To this end, therefore, unless an exception provided in Section 3.01.100 applies, any contract amendment or change order which would increase the contract amount above any threshold stated herein shall comply with the requirements applicable to the increased contract amount.
- H. *No Bid Splitting.* The City shall not split a project, work, service or purchase into smaller projects, works, services or purchases for the purpose of avoiding any bidding or contracting requirements of this Code. 3.01.040 Bidding requirements for maintenance and general services.

3.01.040 Bidding requirements for maintenance and general services.

- A. *Alternative Procedure (up to \$60,000) (Administrative Approval).* Maintenance work and other general services projects with cost estimates of \$60,000 or less may be awarded by the City Manager, upon recommendation of the director of the department responsible for the project, by any alternative procedure as defined in Section 3.01.010.
- B. *Informal Bidding Procedure (more than \$60,000 —up to \$200,000).* Maintenance work and other general services projects with cost estimates of more than \$60,000, but less than or equal to \$200,000 shall, except as otherwise provided in this chapter, be awarded by the City ~~Manager pursuant~~ Manager pursuant to the non-public project informal bidding procedure contained in in Section 3.01.090, so long as the public project funding was previously approved by City Council either in the adopted budget or adopted capital improvement plan.

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The City Manager shall report to the City Council such maintenance work and other general services projects awarded by the informal bidding procedure within ninety (90) days of the date of the award.

- C. *Formal Bidding Procedure (more than \$200,000).* Maintenance work and other general services projects with cost estimates of more than \$200,000 shall, except as otherwise provided in this chapter, be awarded by the City Council pursuant to the non-public project formal bidding procedure contained in Section 3.01.080.
- D. *City Engineer Review.* The City Engineer or his designee shall review the working details, drawings, plans and specifications prepared for every maintenance project and other general services project which may affect the design or operation of public improvements, and which may bring into question the City's liability for dangerous condition of public property.

- E. *Purchasing Officer Approval.* The Purchasing Officer, or his or her designee, shall review and approve the working details, drawings, plans, and specifications prepared for every maintenance work and other general services project.
- F. *City Council Approval.* The City Council shall review and approve the working details, drawings, plans and specifications prepared for every maintenance work and other general services project of more than \$200,000.
- G. *Award.* Contracts for maintenance work and other general services projects of \$60,000 or less, if awarded, may be awarded in the best interests of the City. Contracts for maintenance work and other general services projects of more than \$60,000, if awarded, shall be awarded to the lowest responsive and responsible bidder. If two or more bids are the same and the lowest, the Authorized Contracting Party may accept the one it chooses.
- H. *Subsequent Contract Awards, Amendments, Extensions or Renewals.* Notwithstanding anything herein to the contrary, the City Manager shall not award a subsequent contract to the same individual or entity for the same or similar services on the same project, or amend, extend or renew such a contract, without City Council approval, when the award, amendment, extension or renewal will result in the City paying an aggregate amount of more than \$200,000 to the individual or entity in any given fiscal year. For purposes of this section, the phrase "same project" shall include an on-call or as-needed contract.
- I. *Term Limitation.* No maintenance work or other general services contract, except for contracts for solid waste services, may extend for longer than a three-year initial term with a maximum of two, one-year extensions each of which must be approved by the City Council.
- J. *No Bid Splitting.* The City shall not split a project, work, service or purchase into smaller projects, works, services or purchases for the purpose of avoiding any bidding or contracting requirements of this Code.

3.01.050 Bidding requirements for materials, supplies and equipment.

- A. *Alternative Procedure (up to \$60,000) (Administrative Approval).* Purchases of materials, supplies and equipment of \$60,000 or less may be awarded by the City Manager, upon recommendation of the director of the department responsible for the project, by any alternative procedure as defined in Section 3.01.010.
- B. *Informal Bidding Procedure (more than \$60,000 —less than \$200,000).* Purchases of materials, supplies and equipment of more than \$60,000, but less than or equal to \$200,000 shall, except as otherwise provided in this chapter, be awarded by the City Manager pursuant to the non-public project informal bidding procedure provided for in Section 3.01.090, so long as the public project funding was previously approved by City Council either in the adopted budget or adopted capital improvement plan.

The City Manager shall report to the City Council such purchases of materials, supplies and equipment awarded by the informal bidding procedure within ninety (90) days of the date of the award.

- C. *Formal Bidding Procedure (\$200,000 or more).* Purchases of materials, supplies and equipment of more than \$200,000 shall, except as otherwise provided in this chapter, be awarded by the City Council pursuant to the non-public project formal bidding procedure provided for in Section 3.01.080.

- D. *Department Director Approval.* The director of the appropriate department shall review and approve the specifications prepared for every purchase of materials, supplies and equipment.
- E. *Purchasing Officer Approval.* The Purchasing Officer, or his or her designee, shall review and approve all contracts for the purchase of materials, supplies and equipment.
- F. *City Council Approval.* The City Council shall review and approve the specifications prepared for every purchase of materials, supplies and equipment of more than \$200,000.
- G. *Award.* Contracts for the purchase of materials, supplies and equipment of \$60,000 or less, if awarded, may be awarded in the best interests of the City pursuant to Section 3.01.040.G. Contracts for the purchase of materials, supplies and equipment of more than \$60,000, if awarded, shall be awarded to the lowest responsive and responsible bidder pursuant to Section 3.01.040.G. If two or more bids are the same and the lowest, the Authorized Contracting Party may accept the one he or she chooses in his or her sole discretion.
- H. *Local Bidder Preference.* In order to promote the economic health of the City and to encourage local participation in the procurement of materials, supplies and equipment, the City may take into consideration the sales tax to be returned to the City as a result of an award in determining the lowest responsive and responsible bidder. This section shall not be effective unless and until the City Manager adopts a written policy to implement its provisions.
- I. *No Bid Splitting.* The City shall not split a project, work, service or purchase into smaller projects, works, services or purchases for the purpose of avoiding any bidding or contracting requirements of this Code.

3.01.060 Formal bidding procedure for public projects.

- A. *Uses of Formal Bidding Procedure.* This formal bidding procedure shall be used whenever formal bidding is required for a public project.
- B. *Required Process.* The formal competitive bidding procedure shall comply with all aspects of state and local law governing formal competitive bidding, including, but not limited to, the California Public Contract Code, California Government Code, California Labor Code, resolutions of the City Council as may be adopted from time to time, and policies and procedures as the City Manager may approve from time to time.
- C. *Notice Inviting Formal Bids.* Notice inviting formal bids shall be provided. The notice inviting formal bids shall comply with Public Contract Code Section 22037, as such section may be amended from time to time. Notices shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. At a minimum, the notice inviting formal bids shall:
 - 1. Describe the project;
 - 2. State how to obtain more detailed information about the project;
 - 3. State the date, time and place for the submission of sealed bids; and
 - 4. Include any other information required by state or local law, as determined by the City Attorney.

- D. *Published 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, if there is no such newspaper, in a newspaper of general circulation which is circulated in the City.
- E. *Distribution of Notice Inviting Formal Bids.* The notice inviting formal bids shall also be sent to those construction trade journals specified in Public Contract Code Section 22036 at least 30 calendar days before the date of bid opening.
- F. *Additional Notice.* The City shall also provide any additional notice as it deems proper.
- G. *Contents of Remaining Bid and Contract Documents.* The contents and form of the bid and contract documents shall be approved by the director of the appropriate department, as well as the City Attorney.
- H. *City's Authority.* The City may reject any or all bids received, and may waive any minor irregularities in each bid received.
- I. *No Bids Received.* If no bids are received, the Authorized Contracting Party may award the contract by any alternative procedure.
- J. *Award of Contract.* The contract shall be awarded in accordance with Section 3.01.030. If two or more bids are the same and the lowest, the City may accept the one it chooses in its sole and absolute discretion.
- K. *Rejection of Bids.* The City may, in its sole and absolute discretion, reject any bids presented. If after the first invitation of bids all bids are rejected, after reevaluating its cost estimates for the project, the City shall have the option of any of the following:
 - 1. Abandon the project; or
 - 2. Re-advertise for bids in the manner described in this chapter; or
 - 3. By passage of a resolution by a four-fifths vote of the City Council, declare that the project can be performed more economically by the employees of the City and have the project done by force account.

3.01.070 Informal bidding procedure for certain public projects.

- A. *Uses of Public Project Informal Bidding Procedure.* This informal bidding procedure shall be used when a public project is involved, and informal bidding is permitted by this chapter.
- B. *Distribution of Notice Inviting Informal Bids to Contractor List.* The Purchasing Officer shall provide a notice inviting informal bids not less than ten calendar days before the bids are due. The notice inviting informal bids shall be mailed or provided to all construction trade journals specified in Public Contract Code Sections 22034 and 22036.
- C. *Contents of Notice Inviting Informal Bids.* At a minimum, the notice inviting informal bids shall:
 - 1. Describe the project in general terms;
 - 2. State how to obtain more detailed information about the project;
 - 3. State the date, time and place for the submission of sealed bids; and

4. Include any other information required by state or local law, as determined by the City Attorney.
- D. *Proprietary Projects or Products.* If the director of the appropriate department certifies that, to the best of his or her knowledge, the product or service is proprietary in nature and can be obtained only from a limited number of contractors, and that no equivalent products or services are available, the notice inviting informal bids may be sent exclusively to such contractor or contractors.
- E. *Contents of Remaining Bid and Contract Documents.* The contents and form of the remaining bid and contract documents shall be approved by the director of the appropriate department, as well as the City Attorney.
- F. *City's Authority.* The City may reject any or all bids received, and may waive any minor irregularities in each bid received.
- G. *No Bids Received.* If no bids are received, the Authorized Contracting Party may award the contract by any alternative procedure.
- H. *Award of Contract.* The contract shall be awarded in accordance with Section 3.01.030.F. If two or more bids are the same and the lowest, the City may accept the one it chooses in its sole and absolute discretion.3.01.080 Formal bidding procedure for non-public projects.

3.01.080 Formal bidding procedure for non-public projects.

- A. *Uses of the Non-Public Project Formal Bidding Procedure.* A formal bidding procedure shall be used whenever formal bidding is required by this chapter and the project does not involve a public project.
- B. *Distribution of Notice Inviting Formal Bids or Request for Proposals.* A notice inviting formal bids or a request for proposals, as appropriate, shall be published at least 14 calendar days before the date of opening the bids or proposals in a newspaper of general circulation printed and published in the City, or, if there is no such newspaper, in a newspaper of general circulation which is circulated in the City. The notice inviting formal bids or request for proposals may also be provided directly to vendors or contractors. The City shall endeavor to receive formal bids or proposals from at least three vendors or contractors. A notice inviting bids shall be used whenever the project or purchase must be awarded to the lowest responsible and responsive bidder. A request for proposals may be used whenever the project or purchase is not required to be awarded to the lowest responsible and responsive bidder. If the Purchasing Officer and the director of the appropriate department certify that, to the best of their knowledge, there is no local source or local provider available for the project, the notice inviting bids or the request for proposals, as appropriate, may be distributed to a list of qualified vendors maintained by the Purchasing Officer and/or published in a trade journal appropriate to the project, in lieu of publication in a newspaper of general circulation.
- C. *Contents of Notice Inviting Formal Bids or Request for Proposals.* At a minimum, the notice inviting formal bids or request for proposals shall:
 1. Describe the project or purchase in general terms;
 2. State how to obtain more detailed information about the project or purchase;

3. State the date, time and place for the submission of bids or proposals; and
 4. Include any other information required by state or local law, as determined by the City Attorney. Bids for purchases of more than \$200,000 shall be sealed bids.
- D. *Proprietary Projects or Sole Source Products.* If the director of the appropriate department certifies that, to the best of his or her knowledge, the product or service is proprietary in nature and can be obtained only from a limited number of vendors or contractors, and that no equivalent products or services are available, the notice inviting formal bids or request for proposals may be sent exclusively to such vendor(s) or contractor(s).
- E. *Contents of Remaining Bid and Contract Documents.* The contents and form of the remaining bid and contract documents shall be approved by the director of the appropriate department, as well as the City Attorney.
- F. *City's Authority.* The City may reject any or all bids or proposals received, and may waive any minor irregularities in each bid or proposal received.
- G. *No Bids Received.* If no bids are received, the Authorized Contracting Party may award the contract by any alternative procedure.

3.01.090 Informal bidding procedure for non-public projects.

- A. *Uses of Non-Public Project Informal Bidding Procedure.* This informal bidding procedure shall be used whenever informal bidding is allowed for a purchase which does not involve a public project.
- B. *Distribution of Notice Inviting Informal Bids or Request for Proposals.* A Notice inviting informal bids or request for proposals, as appropriate, shall be provided. The notice inviting informal bids or requests for proposals shall be provided to at least three vendors or contractors, and the City shall endeavor to receive informal bids or proposals from at least three vendors or contractors. A notice inviting bids shall be used whenever the project or purchase must be awarded to the lowest responsible and responsive bidder. A request for proposals may be used whenever the project or purchase is not required to be awarded to the lowest responsible and responsive bidder.
- C. *Contents of Notice Inviting Informal Bids or Request for Proposals.* At a minimum, the notice inviting informal bids or request for proposals shall:
1. Describe the project or purchase in general terms;
 2. State how to obtain more detailed information about the project or purchase;
 3. State the date, time and place for the submission of bids or proposals; and
 4. Include any other information required by state or local law, as determined by the City Attorney. Bids for purchases of more than \$60,000 shall be sealed bids.
- D. *Proprietary Projects or Products.* If the director of the appropriate department certifies that, to the best of his or her knowledge, the product or service is proprietary in nature and can be obtained only from a limited number of vendors or contractors, and that no equivalent products or services are available, the notice inviting informal bids or request for proposals may be sent exclusively to such vendor(s) or contractor(s).

- E. *Contents of Remaining Bid and Contract Documents.* The contents and form of the remaining bid and contract documents shall be approved by the director of the appropriate department, as well as the City Attorney.
- F. *City's Authority.* The City may reject any or all bids or proposals received, and may waive any Minor irregularities in each bid or proposal received.
- G. *No Bids or Proposals Received.* If no bids or proposals are received, the Authorized Contracting Party may award the contract by any alternative purchasing procedure.

3.01.100 Exceptions to competitive bidding on public projects.

In addition to the situations described in Section 3.01.030, competitive bidding, either formal or informal, is not required for public projects in the situations provided for in this section. Under such conditions, the alternative procedure may be used.

- A. *Emergencies.* In situations determined by the City Manager to constitute an emergency for repair or replacement of a public project pursuant to Public Contract Code Section 22035 and Public Contract Code Section 22050, the City Council hereby delegates to the City Manager the power to declare a public emergency and take any directly related and immediate action required by the emergency, up to a total of \$200,000, pursuant to California Public Contract Code Section 22035 and California Public Contract Code Section 22050. Emergency expenditures of more than \$200,000 shall first be approved by the City Council. Work may be performed without the benefit of competitive bidding, either formal or informal, only so long as necessary under those sections.

For projects of more than \$60,000, a report on the emergency and work performed shall be provided at the next regular meeting of the City Council, and then at every meeting thereafter required by California Public Contract Code Section 22050. At such meetings, the City Council shall determine, by a four-fifths vote, that there is a need to continue the action without the benefit of informal or formal competitive bidding in accordance with California Public Contract Code Section 22035 and California Public Contract Code Section 22050. The City Council shall terminate the emergency action at the earliest possible date that conditions warrant, so that the remainder of the emergency action may be completed pursuant to a formal bidding procedure or other applicable procedure.

For projects of \$200,000 or less, the City Manager shall determine, on his or her own as the action continues, whether there is a need to continue the action without the benefit of the applicable bidding procedure. The City Manager shall terminate the emergency action at the earliest possible date that conditions warrant, so that the remainder of the emergency action may be completed pursuant to the applicable bidding procedure.

- B. *No Competitive Market.* When the City Council determines, in accordance with applicable law, that a competitive market does not exist and that no competitive advantage will be gained by the public bidding process.
- C. *No Bids Received.* When no bids are received pursuant to either the public project informal bidding procedure or the public project formal bidding procedure the Purchasing Officer may proceed by the alternative procedure.

- D. *Otherwise Authorized.* When otherwise authorized by this chapter or applicable law including, but not limited to Public Contract Code Section 22160 et seq. concerning design build.

3.01.110 Exceptions to competitive bidding on non-public projects.

In addition to the situations described in Sections 3.01.090 through 3.01.100, competitive bidding, either formal or informal, is not required for non-public projects in the situations provided for in this section. Under such conditions, any alternative procedure, including no bidding, may be used with the City Manager's approval.

- A. *Emergencies.* In situations determined by the Authorized Contracting Party to constitute an emergency, as defined in Section 3.01.010.
- B. *No Competitive Market.* When the City Council determines, in accordance with applicable law, that a competitive market does not exist and that no competitive advantage will be gained by the public bidding process.
- C. *Competitive Bidding Already Completed.* When the Authorized Contracting Party determines that a competitive bid procedure has been conducted by another public agency (e.g., through CMAS or GSA) and the price to the City is equal to or better than the price to that public agency.
- D. *State Purchase.* When the purchase is made on behalf of the City by the State Department of General Services.
- E. *Purpose of Bidding is Otherwise Accomplished.* When the City Manager determines that it is in the best interest of the City and its administrative operations to dispense with public bidding for non-public projects under this chapter. Prior City Council concurrence with the City Manager's determination shall be required for non-public project purchases over \$200,000.
- F. *No Bids Received.* When no bids are received non-public project formal or informal bidding procedures.
- G. *Expenses.* The reimbursement or payment of travel expenses and other employee expenses.
- H. *Insurance.* The payment of any insurance premiums or claims, including employee medical payments.
- I. *Real Property.* The purchase or lease of real property with City Council approval.
- J. *Banking.* Banking services.
- K. *Otherwise Authorized.* When otherwise authorized by this chapter or applicable law.

3.01.120 City Manager authorization to execute contracts.

Pursuant to the California Government Code, the Mayor must execute all contracts on behalf of the City, unless another City officer or employee is authorized to do so. The City Manager and his or her designees, as explicitly set forth in this chapter and the administrative policies implementing this chapter, are hereby authorized to execute contracts on behalf of the City.