

MEETING DATE: February 27, 2006

AGENDA ITEM : Discussion Related to Proposed Amendments to Sections of Chapter 3.07: Finance and Revenue of the Culver City Municipal Code Related to Contracts and Bidding

ATTACHMENTS

	<u>Pages</u>
1. Sections 1304 & 1305: Charter	1
2. Chapter 3.07: City Code	2 - 9

There shall be levied and collected at the time and in the same manner as other property taxes for municipal purposes are levied and collected as additional taxes, if no other provision for payment thereof is made:

(a) A tax sufficient to meet all liabilities of the City for principal and interest of all bonds or judgments due and unpaid, or to become due during the ensuing fiscal year; and

(b) A tax sufficient to meet all obligations of the City to the Public Employees' Retirement System, or other system for the retirement of City employees due and unpaid or to become due during the ensuing fiscal year.

Special levies, in addition to the above may be made annually, based on City Council approved estimates, for the following specific purposes: parks, recreation, refuse disposal, City planning, libraries, advertising and promotion. The proceeds of any such special levy shall be used for no other purpose than that specified.

SECTION 1303. BONDED DEBT LIMIT.

The bonded indebtedness of the City may not exceed the sum of fifteen (15%) percent of the total assessed valuation of all the real and personal property within the City.

SECTION 1304. CONTRACTS FOR PUBLIC WORKS.

Every public works project to be performed by an independent contractor involving an expenditure of more than Twenty-Five Thousand (\$25,000.00) Dollars for the construction or improvement, excluding maintenance and repair, of public buildings, works, streets, drains, sewers, utilities, parks and playgrounds, shall be let to the lowest responsible bidder after notice by publication in the newspaper designated by the City Council pursuant to Section 517 hereof by two or more insertions, the first of which shall be at least ten days before the time for opening bids.

The City Council may reject any and all bids presented and may readvertise in its discretion.

The City Council by four affirmative votes may award such a contract without complying with bidding procedures provided a public hearing is held on the award of the contract. Notice of the public hearing shall be published as provided hereinabove and shall state the name of the proposed contractor, scope of the contract and compensation. Such contract may be let without advertising for bids and without a public hearing if such work shall be deemed by the City Council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by at least four affirmative votes.

SECTION 1305. CENTRALIZED PURCHASING.

Under the control and direction of the Chief Administrative Officer there shall be established a centralized purchasing system for all City departments and agencies. The Chief Administrative Officer shall recommend and the City Council shall consider and adopt by ordinance, rules and regulations governing the contracting for purchasing, storing and distribution of all supplies, materials and equipment required by any office, department or agency of the City government.

SECTION 1306. RESERVE FUNDS.

The City Council shall maintain sufficient cash reserves for the purpose of placing the payment of operating expenses of the City on a cash basis. The reserves shall be built from any available sources which in combination with anticipated revenues shall be sufficient to meet all lawful demands against the City. Transfers may be authorized by the City Council from one fund to another fund or funds in such amounts as may be required to place those funds as nearly as possible on a cash basis. In case of such transfers, monies shall be returned to the fund from which they were transferred as they become available.

CHAPTER 3.07: FINANCE AND REVENUE

Section

Purchasing System

- 3.07.005 Purchasing officer; duties
- 3.07.010 Purchase order; encumbrance of funds
- 3.07.015 Formal bidding procedure
- 3.07.020 Soliciting bids
- 3.07.025 Bidder's security and performance bonds
- 3.07.030 Bid opening
- 3.07.035 Rejection or waiver of bid requirements; rejection of bids
- 3.07.040 Award of bids
- 3.07.045 Equal bids
- 3.07.050 Awards of contracts to businesses located in the city
- 3.07.055 Open market procedures
- 3.07.060 Emergency purchases
- 3.07.065 Exemption from formal competitive bidding
- 3.07.070 Personal and professional services excluded
- 3.07.075 Authority of Chief Administrative Officer
- 3.07.080 Compliance with federal regulations
- 3.07.085 Disposal of supplies and equipment
- 3.07.090 Employee interest prohibited

Funds

- 3.07.200 Special Gas Tax Street Improvement Fund
- 3.07.205 Capital outlay funds

Revenue Bonds

- 3.07.300 Issuance and sale of revenue bonds

- 3.07.305 Procedures for bond issuance

Cross-reference:

Finance and Judiciary Committee, see § 3.01.020
Claim procedures, see §§ 3.10.005 through 3.10.080
Benefit assessment district, see Ch. 15.01

PURCHASING SYSTEM

§ 3.07.005 PURCHASING OFFICER; DUTIES.

A. For the purpose of this Subchapter, the term **PURCHASING OFFICER** shall include the term "Purchasing Agent" as used in other parts of this Code. ('65 Code, § 2-53)

B. The Chief Administrative Officer, or his/her designee approved by the City Council, shall serve as Purchasing Officer and have the following duties:

1. To negotiate, purchase and contract for supplies, and equipment used by the City, in accordance with City laws and regulations.
2. To develop and maintain a standardized system for the procurement of supplies, services and equipment.
3. To encourage open competitive bidding.
4. To advise the City Council on all matters pertaining to purchasing.

5. To determine that bid specifications are adhered to in all respects.

('65 Code, § 2-54)

(Ord. No. 87-007 § 2)

Cross-reference:

Purchasing, see Charter §§ 1304 and 1305

**§ 3.07.010 PURCHASE ORDER;
ENCUMBRANCE OF FUNDS.**

Except in cases of emergency, or if excepted by authorization of the Chief Administrative Officer, all purchases shall be made by purchase order issued by the Purchasing Officer after the City Treasurer has certified that there is sufficient unencumbered appropriation balance.

('65 Code, § 2-55) (Ord. No. 87-007 § 2; Ord. No. 96-007 § 1 (part))

§ 3.07.015 FORMAL BIDDING PROCEDURE.

A. Every purchase or contract involving the expenditure for supplies or equipment exceeding Twenty Thousand Dollars (\$20,000.00) shall be by award of formal bid, after giving of a notice inviting sealed bids in the manner set forth in § 3.07.030.

B. Purchases shall not be divided or split in order to circumvent formal bidding requirements.

('65 Code, § 2-56) (Ord. No. 87-007 § 2)

§ 3.07.020 SOLICITING BIDS.

A. One or more notices inviting sealed bids shall be published in a newspaper of general circulation within the City at least ten (10) days prior to the date set for opening of the bids. In addition, the Purchasing Officer shall solicit sealed bids from all prospective bidders including those who have requested to be placed on the bidders list.

B. Notices of bids shall include a general description of the articles for which bids are sought, details on filing bond requirements, and the time, date

and location for submitting and the opening of the bids.

('65 Code, § 2-57) (Ord. No. 87-007 § 2)

**§ 3.07.025 BIDDER'S SECURITY AND
PERFORMANCE BONDS.**

A. A bidder's security may be required in an amount equal to ten percent (10%) of the bid in the form of either cash, certified or cashier's check or surety bond, if the bond form is approved by the City Attorney. Each bidder's security is refundable; provided that in the case of a successful bidder, the bidder's security may be retained if the bidder fails to enter into the contract resulting from the award of the bid within ten (10) days after notice of award has been given.

B. A Faithful Performance Bond not exceeding the amount of one hundred percent (100%) of the bid and a Labor and Materials Bond not exceeding the amount of fifty percent (50%) of the bid may be required to be filed by a successful bidder prior to entering into any contract resulting from the award of a bid.

('65 Code, § 2-58) (Ord. No. 87-007 § 2)

§ 3.07.030 BID OPENING.

Sealed bids shall be submitted to the City Clerk and shall be opened in public at the time and place stated in the notice inviting bids. All bids received shall be available for public inspection at the time and place of opening, and thereafter, in the Office of the City Clerk.

('65 Code, § 2-59) (Ord. No. 87-007 § 2)

**§ 3.07.035 REJECTION OR WAIVER OF BID
REQUIREMENTS; REJECTION OF BIDS.**

A. The City Council may waive the formal bid requirement, or authorize the purchases or contract in the open market if it finds any or all of the following circumstances exist:

1. The City's employees may produce the items better or more economically; or

2. The supplies or equipment are urgently required for the preservation of life, health or property; or

3. The public interest would best be served by using the open market.

B. The City Council at its discretion may reject any and all bids submitted, or may order re-bidding. ('65 Code, § 2-60) (Ord. No. 87-007 § 2)

§ 3.07.040 AWARD OF BIDS.

Except as otherwise provided, formal bids shall be awarded by the City Council to the responsible bidder submitting the best bid.

('65 Code, § 2-61) (Ord. No. 87-007 § 2)

§ 3.07.045 EQUAL BIDS.

Whenever two (2) or more equivalent bids are received, the City Council may choose whichever of the following options it deems to serve the best interest of the City:

A. Select one (1) bid, giving preference to a business located within Culver City;

B. Reject all bids and re-advertise for bids; or

C. Reject all bids and authorize negotiation of an agreement directly between the City and one (1) of the equivalent bidders.

('65 Code, § 2-62) (Ord. No. 87-007 § 2)

§ 3.07.050 AWARDS OF CONTRACTS TO BUSINESSES LOCATED IN THE CITY.

The City shall give preference to businesses located in the City ("local businesses") when awarding any contract for the purchase of goods when those contracts meet any of the following criteria:

A. The difference between bids from Culver City businesses and those outside the City is less than the current sales tax benefit the City would receive from the local sales tax; and

B. The local business will be able to provide goods which are equal in quality and meet all bid specifications of the City and of other competing bidders; or

C. A reasonable condition of the contract performance is expeditious delivery of goods and it is reasonably believed that the local business will be able to provide its goods more expeditiously than a business located outside the City and which complies with Subsection B. above; or

D. The use of a local business will help further the City's, Los Angeles County's and the State's goals of improving air quality and relieving traffic congestion by reducing the required travel distance of vehicles used by a local business, and which complies with Subsection B. above.

E. Any other reason which would factually justify selection of local businesses based upon criteria which does not illegally discriminate against outside businesses and which complies with Subsection B. above.

('65 Code, § 2-62.1) (Ord. No. 92-015 § 1)

§ 3.07.055 OPEN MARKET PROCEDURES.

Any purchase or contracts for supplies or equipment involving an expenditure of Twenty Thousand Dollars (\$20,000.00) or less may be made in the open market without following formal bidding procedures of this Subchapter. Open market purchases shall be based upon competitive quotations whenever practical from not less than three (3) contractors. Open market quotations shall be kept by the Purchasing Officer as a public record. The Chief Administrative Officer shall develop written policies for purchases up to Twenty Thousand Dollars (\$20,000.00).

('65 Code, § 2-63) (Ord. No. 87-007 § 2)

§ 3.07.060 EMERGENCY PURCHASES.

A. In the event of an emergency seriously affecting the public welfare where the purchase of essential supplies and equipment are urgently required for the preservation of life, health or property, or for the immediate continuation of direct City services to the public, the Chief Administrative Officer or Purchasing Officer may procure such items without following formal procedures of this Subchapter; and

B. In the absence or unavailability of the Purchasing Officer, any department head shall have like authority, but shall file a written report with the Chief Administrative Officer within ten (10) days after such emergency purchase.

('65 Code, § 2-64) (Ord. No. 87-007 § 2)

§ 3.07.065 EXEMPTION FROM FORMAL COMPETITIVE BIDDING.

The City Council may waive the formal competitive bidding procedures of this Subchapter for the purchase of supplies or equipment which:

A. Can be obtained from only one (1) vendor;

B. Can be purchased through a cooperative purchasing agreement which has been competitively bid, or through agreements executed with other governmental agencies;

C. Can be purchased by the City from a vendor, who within the past twelve (12) months, has offered such equipment on the same terms and conditions to the City or another public agency through the competitive bidding process; provided, that the benefits of such terms and conditions are verified by informal bid confirmation; or

D. Is a component for equipment or a system of equipment previously acquired by the City, and is necessary to repair, maintain or improve the City's utilization of the equipment.

('65 Code, § 2-65) (Ord. No. 87-007 § 2)

§ 3.07.070 PERSONAL AND PROFESSIONAL SERVICES EXCLUDED.

A. Except for the provisions of §§ 3.07.075 and 3.07.080, the City may award purchase orders and contracts in any amount for personal or professional services without complying with the provisions of this Subchapter; provided that, the purchase order or contract shall be based upon competitive quotations, whenever practical, as determined by the Chief Administrative Officer from not less than three (3) vendor contractors.

B. For purposes of this Section, personal services shall include:

1. Any communication, gas, water, electric light and power service or similar utility service;

2. Insurance, postage, freight and courier service;

3. Travel/hotel accommodations, education and training expense;

4. Subscriptions and memberships;

5. Repair or maintenance service for equipment, machinery or other City-owned personal property; and

6. Repair and maintenance service for City-owned or occupied real property and buildings;

7. Rental of real property or equipment and other personal property; and

8. Such other services as the City Council may, by Resolution, specifically direct.

C. For purposes of this Section, professional services shall include:

1. Services of engineers, architects, accountants, attorneys, doctors, and similar professionals when the City is contracting for the skill, integrity, judgment, and/or special technical ability of the professional.

2. Such other services as the City Council may, by Resolution, specifically direct. ('65 Code, § 2-66) (Ord. No. 87-007 § 2)

§ 3.07.075 AUTHORITY OF CHIEF ADMINISTRATIVE OFFICER.

A. The Chief Administrative Officer is authorized to approve and execute, on behalf of the City, any contract in an amount not to exceed Ten Thousand Dollars (\$10,000.00) for the services described in Subsections 3.07.070 B. and C., subject to the provisions of § 3.07.070.

B. The Chief Administrative Officer is authorized to approve and execute on behalf of the City any three (3) party contract for services described in Subsection A. if the total cost for such services is paid by a third party, subject to the provisions of § 3.07.070.

('65 Code, § 2-67) (Ord. No. 87-007 § 2; Ord. No. 91-020 § 1)

§ 3.07.080 COMPLIANCE WITH FEDERAL REGULATIONS.

Notwithstanding any other provision of this Subchapter, for any contract totally or partially funded by the Federal Government:

A. All applicable Federal Procurement Standards shall be followed; and

B. The following protest procedures shall apply:

1. Any actual or prospective bidder, offeror or contractor may protest any phase of the solicitation or award of the contract by filing, in writing, within ten (10) days before the bid opening or within five (5) days after the bid opening, a statement indicating the name and address of the protestor, appropriate identification of the procurement and if the contract has been awarded, its bid number, a detailed statement of the reasons of the protest and supporting information to substantiate any protest.

2. Such protest shall be reviewed by the Purchasing Officer, in consultation with the City Attorney's office, and a recommendation thereon shall be made to the person or body within the City responsible for making the decision to award the contract.

3. If the decision-maker on the contract is the City Council, the protestor may address the Council during a public meeting at which the recommendation on the protest is submitted to the Council for decision.

4. A decision on the protest shall be made by the applicable decision-maker as expeditiously as possible.

5. A protest not filed in writing within the period set forth in paragraph 1. above, shall not be considered.

('65 Code, § 2-68) (Ord. No. 89-006 § 1)

§ 3.07.085 DISPOSAL OF SUPPLIES AND EQUIPMENT.

The Purchasing Officer shall have the authority to sell or trade any obsolete, worn out or surplus items of supplies or equipment which are no longer suitable for City use, in any manner determined by him/her, except in the following circumstances:

A. When the City Council directs otherwise;

B. If the estimated value of any such item or lot exceeds Five Thousand Dollars (\$5,000.00), then the equipment or supplies shall be sold or traded using a bidding procedure similar to the Formal Bidding procedure set forth in this Subchapter.

('65 Code, § 2-69) (Ord. No. 87-007 § 2)

§ 3.07.090 EMPLOYEE INTEREST PROHIBITED.

No employee of the City shall be financially interested, directly or indirectly, in any purchase order

or contract for furnishing services, supplies or equipment within the purview of this Subchapter. ('65 Code, § 2-70) (Ord. No. 87-007 § 2)

FUNDS

§ 3.07.200 SPECIAL GAS TAX STREET IMPROVEMENT FUND.

A. *Source.* All moneys received by the City from the State of California under the provisions of the Streets and Highways Code for the acquisition of real property or interests therein for, or the construction, maintenance or improvement of streets or highways other than state highways shall be paid into said fund. (Ord. 436 § 2)

B. *Purpose.* All moneys in said fund shall be expended exclusively for the purposes authorized by, and subject to all of the provisions of Cal. Sts. & High. Code §§ 181 et seq. (Ord. 436 § 3) ('65 Code, § 2-87)

Cross-reference:

New Development Impact Fund, see § 15.06.010

City Art Fund, see § 15.06.110

§ 3.07.205 CAPITAL OUTLAY FUNDS.

A. *Special Fund for capital outlays.*

1. *Source.* Taxes may be levied upon the taxable property for the raising of moneys for said fund, subject to the laws of taxation. Also the City Council may transfer to this fund unencumbered surplus funds remaining on hand at the end of any fiscal year.

2. *Purposes.* This fund shall remain exclusively for making capital outlays. ('65 Code, § 2-88) (Ord. No. 609)

B. *Special capital outlay funds.*

1. Pursuant to Charter § 1307, the following special funds are created for special capital outlay purposes:

Duplicating Machine Fund — 13-3;
City Buildings Maintenance Fund — 13-7;
Police Department Fund — 14-0;
Fire Department Buildings, Facilities and Equipment Fund — 14-1;
Weed Control Equipment Fund — 14-5;
Parking Meters Fund — 14-6;
Public Works Equipment Fund — 15-0;
Street Department Fund — 15-3;
Street Maintenance Equipment Fund — 15-4;
Municipal Plunge Equipment and Facilities Fund — 16-1;
Park Department Land, Buildings, Facilities and Equipment Fund — 16-3;
Tree Planting and Landscaping Fund — 16-4;
City Yard Land, Buildings, Facilities and Equipment Fund — 17-5;
City Hall Building, Equipment, Facilities and Replacement Fund — 19-0;
Advertising and Promotion Fund — 138C-C;
Bus Department Facilities, Equipment, Repair and Replacement Fund — 270-2.

2. *Source.* That the City Council will, from time to time, levy and collect taxes for capital outlays and will include in the annual tax levy, from time to time, a levy for such purposes, in which event there shall be apportioned and appropriated to the Special Capital Outlay Funds the money derived from such levy.

3. *Purposes.* Each fund shall remain inviolate for the department or division denoted by the name, unless changed by lawful election. Unencumbered funds may be transferred by the City Council into any of the Special Capital Outlay Funds. ('65 Code, § 2-90)

C. *Expenditure requirement.* Not less than three-fourths of the funds derived from each annual tax levy and from other sources for Capital Outlay purposes shall be apportioned and appropriated not later than the end of the third quarter of the fiscal year. ('65 Code, § 2-91)
(Ord. CS-188 §§ 1 - 5)

REVENUE BONDS

§ 3.07.300 ISSUANCE AND SALE OF REVENUE BONDS.

The City Council, exercising the powers reserved to the City under Cal. Const. Art. XI, § 5 and pursuant to City of Culver City Charter §§ 400 and 401, may, by resolution(s), issue and sell revenue bonds for any City purpose or purposes.
('65 Code, § 2-140) (Ord. No. 91-003 § 1 (part))

§ 3.07.305 PROCEDURES FOR BOND ISSUANCE.

Except as otherwise expressly provided in the Charter of the City of Culver City, the procedure for the issuance of such bonds shall be the procedure set forth in the Revenue Bond Law of 1941 (commencing with Cal. Gov't Code § 54300), and by this reference, with the exception hereinafter stated, the provisions of said Law are incorporated herein; provided, however, that no election to authorize the issuance of said bonds shall be required and to that end Cal. Gov't Code §§ 54380 through 54387 are not incorporated herein and shall not be applicable to the issuance of said bonds.

('65 Code, § 2-141) (Ord. No. 91-003 § 1 (part))

