

MEETING DATE: July 26, 2010

AGENDA ITEM : Introduction of an Ordinance Amending Chapter 3.07, Finance and Revenue, of the Culver City Municipal Code, by Repealing Sections 3.07.005 through 3.07.090, Purchasing System, and Replacing those Sections with New Sections 3.07.005 through 3.07.095, Relating to the City's Purchasing Policies for Supplies, Equipment and Services and the Bid Process for Public Works Projects.

ATTACHMENTS

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1 Section 2007, shall remain in effect until such time as the City Council establishes, by
2 ordinance, different procedures; and,

3 **WHEREAS**, it is the desire of the City Council to modernize the CCMC as it
4 relates to purchasing and the bid process for public works projects in accordance with the
5 intent of the City Charter and in order to meet the City Council's goals of working more
6 efficiently and effectively and streamlining the purchasing and contracting process, while
7 maintaining fairness to vendors and ensuring the integrity of awarding public works
8 projects.

9 **NOW THEREFORE**, the City Council of the City of Culver City, California,
10 **DOES HEREBY ORDAIN** as follows:

11 **SECTION 1.** Sections 3.07.005 through 3.07.090 of the Culver City
12 Municipal Code are hereby repealed and replaced with the following Sections 3.07.005
13 through 3.07.095:

14 ***PURCHASING, PUBLIC WORKS CONTRACTS,***
15 ***AND DISPOSITION OF CITY PROPERTY***

16 ***General Provisions***

- 17 § 3.07.005 Intent
18 § 3.07.010 Definitions
19 § 3.07.015 Purchasing officer designation duties and authority
20 § 3.07.020 Purchases and contracts require issuance of purchase order
21 § 3.07.025 Unauthorized purchases and contracts
22 § 3.07.030 Specialized contracting procedures
23 § 3.07.035 Interpretation of bid specification
24 § 3.07.040 Change orders
25 § 3.07.045 Exceptions to bidding requirements
26 § 3.07.050 Multi-year contracts
27 § 3.07.055 Equal bids
28 § 3.07.060 Awards of contracts to local businesses
§ 3.07.065 Employee interest prohibited
§ 3.07.070 Emergencies

26 ***Purchasing of Equipment, Goods, Supplies and Services***

- 27 § 3.07.075 Formal bid procedure
28 § 3.07.080 Informal bid procedure

1 § 3.07.085 Professional and personal services

2 ***Public Works Contracts***

3 § 3.07.090 Contracts for public works projects

4 ***Disposition of Surplus Property***

5 § 3.07.095 Disposition of City surplus property

6
7 **§ 3.07.005 INTENT.**

8 The intent of this Subchapter is to establish purchasing procedures for
9 the purchase of equipment, goods, supplies and services; to establish
10 procedures to ensure the integrity of awarding all contracts for the
11 construction or improvement of public works, buildings, streets, drains,
12 sewers, utilities, parks and playgrounds; and to establish procedures for the
13 disposition of City property. Nothing in this Subchapter is intended to require
14 the City to solicit bids for equipment, goods, supplies or services, accept the
15 lowest bid to provide equipment, goods, supplies or services, solicit bids for a
16 public works project or award a public works contract to the lowest responsive
17 and responsible bidder, except as required by the City Charter, this Code and
18 applicable state and federal law.

19 **§ 3.07.010 DEFINITIONS.**

20 For the purposes of this Subchapter, the following definitions shall
21 apply unless the context clearly indicates or requires a different meaning.

22 ***Change Order.*** A written authorization from the City directing an
23 addition, deletion, or revision to an awarded purchase order or contract.

24 ***Local Business.*** A business located within the City of Culver City.

25 ***Lowest Responsive and Responsible Bidder.*** The bidder who best
26 responds in price, quality, service, fitness, and/or capacity to the particular
27 requirements of the City. Price alone shall not be the determining factor but
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1 shall be considered along with other factors, including, but not limited to, the
2 ability of the bidder to deliver, availability of parts or service, prior experience
3 and other factors relating to the particular needs of the City for the
4 equipment, goods, supplies or services to be purchased.

5 **Public Works Project.** The construction or improvement, excluding
6 maintenance and repair, of public buildings, works, streets, drains, sewers,
7 utilities, parks and playgrounds.

8 **Purchasing Officer.** The City Manager or his/her designee.

9 **§ 3.07.015 PURCHASING OFFICER DESIGNATION DUTIES AND**
10 **AUTHORITY.**

11 A. For the purpose of this Subchapter, the term Purchasing Officer
12 shall include the term "Purchasing Agent" as used in other parts of this Code.

13 B. The City Manager, or his/her designee, shall serve as Purchasing
14 Officer and have the following duties and authority:

15 1. Negotiate, purchase and contract for equipment, goods
16 and supplies used by the City, in accordance with City laws and regulations
17 and applicable state and federal law.

18 2. Develop and maintain a standardized system for the
19 procurement of equipment, goods, supplies and services.

20 3. Encourage open competitive bidding.

21 4. Advise the City Council on all matters pertaining to
22 purchasing.

23 5. Determine that bid specifications are adhered to in all
24 respects.

25 6. Establish procedures and requirements for bidder's
26 security and performance bonds.

1 7. Maintain a vendor file, consisting of a list of prospective
2 suppliers who have made written requests that their names be added to such
3 vendor file.

4 8. Promulgate rules and regulations to implement the
5 provisions of this Subchapter.

6 **§ 3.07.020 PURCHASES AND CONTRACTS REQUIRE ISSUANCE OF**
7 **PURCHASE ORDER.**

8 In order to more efficiently manage all purchases and other contracts,
9 the City shall issue a purchase order to each vendor who agrees to provide
10 equipment, goods, supplies and materials to the City, and the City shall issue
11 a purchase order to accompany every contract for the performance of
12 services and Public Works Projects unless otherwise authorized by the City
13 Manager or the rules and regulations adopted by the City Manager pursuant
14 to this Subchapter. Except as otherwise provided herein, no contract shall be
15 deemed to be an authorization to proceed with work unless accompanied by
16 a properly authorized and executed purchase order nor shall any vendor or
17 contracting party be authorized to perform any service, perform any Public
18 Works Project, or provide any supplies or equipment without first receiving a
19 properly authorized and executed purchase order issued by the Purchasing
20 Officer upon verification of sufficient unencumbered appropriation balance.

21 **§ 3.07.025 UNAUTHORIZED PURCHASES AND CONTRACTS.**

22 A. It shall be unlawful for any officer, employee, or agent of the
23 City to order the purchase of equipment, goods or supplies, or to contract for
24 services or contract for the performance of Public Works Projects, or
25 otherwise make any contract in violation of this Subchapter. Any order,
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1 purchase, or contract made contrary to the provisions of this Subchapter shall
2 not be binding on the City, and the City shall not be obligated thereunder.

3 B. Purchases of equipment, goods, supplies, and services, and the
4 performance of Public Works Projects shall not be divided or staged for the
5 purpose of circumventing the requirements of this Subchapter.

6 **§ 3.07.30 SPECIALIZED CONTRACTING PROCEDURES.**

7
8 A. Nothing in this Subchapter shall prohibit the City from using
9 specialized contracting procedures when authorized by state law. If state law
10 authorizes such procedures, they need not also be specifically authorized by
11 this Subchapter. Such specialized procedures may include, without
12 limitation, prequalification of general contractors or subcontractors and
13 design/build contracting procedures.

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15 B. Notwithstanding any other provision of this Subchapter, for any
16 contract totally or partially funded by the State or Federal Government, all
17 applicable state and federal laws shall be followed, including, but not limited
18 to, applicable procurement standards and contracting procedures.

19 **§ 3.07.035 INTERPRETATION OF BID SPECIFICATION.**

20
21 Oral interpretation of written bid specifications shall not be made to
22 prospective bidders. If the prospective bidder discovers discrepancies or
23 omissions in any specification, or if the bidder is in doubt as to the meaning of
24 any specification, the bidder shall request a written interpretation or
25 modification from the City. If interpretations or modifications are deemed
26 necessary, the City will then issue a written addendum to all parties known to
27 have received copies of the specifications.
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3 **§ 3.07.040 CHANGE ORDERS.**

4 A. Any alteration to, amendment of, or deviation from an awarded
5 purchase order or contract as to scope, cost, time for completion, material, or
6 equipment furnished as a part of the purchase order or contract, or any
7 alteration to, amendment of, or deviation from the nature of work to be
8 performed, shall require the completion and issuance of a Change Order or
9 execution of a contract amendment. Additions to work cannot be combined
10 with deletions to work to avoid the Change Order requirement.

11 B. If the original purchase order or contract was approved by the City
12 Manager, then the City Manager or his/her designee may approve a Change
13 Order for that purchase order or contract; provided, the combined amount of
14 the original purchase order and the Change Order does not exceed the City
15 Manager's purchasing authority. If the original purchase order or contract
16 was approved by the City Council, then the City Manager or his/her designee
17 may approve a change order in an amount that does not exceed the City
18 Manager's purchasing authority. All other Change Orders shall be approved
19 by the City Council or the person, if any, designated in a contract approved
20 by the City Council. No Change Order shall be binding on the City until
21 approved as provided in this Subchapter.

22 C. Change Orders shall not be issued unless:

23 1. The Change Order arises in good faith out of an unknown
24 condition or unforeseen circumstance differing materially from the conditions
25 of the purchase order or contract; or the Change Order arises due to an error,
26 as determined by the City, in the City's specifications that accompanied the
27 bid solicitation; or the City desires to make a material substitution or addition
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1 to the project based on new information obtained during the construction
2 phase of the project; and

3 2. The Change Order does not change the purpose of the
4 purchase order or contract; and

5 3. With regard to a service contract or a contract for Public
6 Works Project performance, the Change Order is reasonably related to the
7 scope of work authorized under the original contract; and

8 4. With regard to the purchase of equipment, goods or
9 supplies, the Change Order is required to allow the equipment, goods or
10 supplies to fulfill the purpose for which they were intended, and such Change
11 Order does not authorize the purchase of additional equipment, goods or
12 supplies that could also be purchased from another source and used
13 compatibly with the equipment, goods or supplies purchased.
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15 **§ 3.07.045 EXCEPTIONS TO BIDDING REQUIREMENTS.**

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17 The bidding requirements of this Subchapter shall not apply in the
18 following circumstances:

19 A. When the needed equipment, supplies or services that are
20 proprietary items of original equipment manufacturers and/or their authorized
21 exclusive distributors.

22 B. When the equipment is a component for equipment or a
23 system of equipment previously acquired by the City, and is necessary to
24 repair, maintain or improve the City's utilization of the equipment.

25 C. When the requesting department determines in writing, after
26 conducting a good faith review of the available sources, that there is only one
27 source for the required equipment, good, supply or service. The department
28 requesting sole source procurement shall provide written evidence to support

1 a sole source determination. Such evidence shall be approved by the
2 Purchasing Officer. The Purchasing Officer may require that negotiations be
3 conducted as to price, delivery and terms. The Purchasing Officer may also
4 require the submission of cost or pricing data in connection with an award
5 under this Section or may require that formal or informal bidding procedures
6 be used.

7 D. Where items to be purchased are for resale to the public.

8 E. Where items to be purchased are computer software,
9 hardware maintenance services or software maintenance services.

10 F. Any contract involving the purchase of equipment, goods,
11 supplies or services entered into with another governmental entity.

12 G. Purchases of equipment, goods or supplies where
13 competitive bid procedures have already been utilized by the City, another
14 public agency, including, but not limited to, federal, state and county
15 governments, including, state of California agencies, counties, cities, joint
16 power agencies and special districts, or nonprofit agencies whose main
17 purpose is to assist cities or other public entities, including, but not limited to,
18 the League of California Cities and Independent Cities Association; provided,
19 the equipment, goods or supplies are supplied to the City at the same or
20 better price, as was obtained through the competitive bid procedures of that
21 entity;

22 H. Emergency procurement as set forth in Section 3.07.085 of
23 this Subchapter.

24 I. Contracts for professional or personal services as set forth in
25 Section 3.07.080 of this Subchapter.

1 **§ 3.07.050 MULTI-YEAR CONTRACTS.**

2 Unless otherwise limited by the City's Charter, this Code or applicable
3 state or federal law, the term of a contract shall be as set forth in the contract,
4 and may include extensions as authorized in the contract. The City Manager
5 may approve a multi-year contract; provided, the annual value of the multi-
6 year contract as extended does not exceed the City Manager's purchasing
7 authority. Otherwise, multi-year contracts shall require the approval of the
8 City Council. In the event the same supplier, contractor or consultant has
9 been utilized for a period of five years, the formal or informal bidding
10 procedures as set forth in Sections 3.07.090 and 3.07.095 of this Subchapter
11 shall apply.

12 **§ 3.07.055 EQUAL BIDS.**

13 Whenever two or more equivalent bids are received, the City Manager
14 or the City Council may choose whichever of the following options it deems to
15 serve the best interest of the City:

- 16 A. Select one bid, giving preference to a business located
17 within Culver City; or
18 B. Reject all bids and re-solicit for bids; or
19 C. Reject all bids and authorize negotiation of an agreement
20 between the City and one of the equivalent bidders.

21 **§ 3.07.060 AWARDS OF CONTRACTS TO LOCAL BUSINESSES.**

22 The City shall give preference to a Local Business when awarding any
23 contract for the purchase of equipment, goods or supplies; provided, the
24 Local Business to be awarded the contract will be able to provide equipment,
25 goods or supplies which are equal in quality and meet all bid specifications of
26 the City and of other competing bidders, and the contract to be awarded
27 meets one of the following criteria, as determined by the Purchasing Officer:
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1 A. The difference between bids from the Local Business and a
2 business outside the City is less than the current sales tax benefit the City
3 would receive from the local sales tax; or

4 B. Any other reason which would reasonably justify selection of
5 a Local Businesses based upon criteria which do not illegally discriminate
6 against outside businesses.

7 **§ 3.07.065 EMPLOYEE INTEREST PROHIBITED.**

8 No employee, member of the City Council, nor any appointed member
9 of a City Commission, Board or Committee, shall be financially interested,
10 directly or indirectly, in any purchase order or contract for furnishing
11 equipment, goods, supplies or services within the purview of this Subchapter.
12 Any purchase order or contract involving former City employees, members of
13 the City Council, or any appointed member of a City Commission, Board or
14 Committee, shall be awarded solely by the City Council at a public meeting.

15 **§ 3.07.070 EMERGENCIES.**

16 A. In case of a locally declared emergency or if the City Manager
17 determines there is an unforeseen emergency situation that threatens life,
18 property or the general public health, safety and welfare, the City Manager or
19 the Purchasing Officer, is authorized to expend City funds without limitation
20 on amount and without following the purchasing or bidding procedures
21 otherwise required by this Subchapter. An emergency purchase shall be
22 limited to such equipment, goods, supplies or services necessary to satisfy
23 the emergency need.

24 B. In the absence or unavailability of the City Manager or Purchasing
25 Officer, any department head shall have like authority, but shall file a written
26 report with the City Manager within five days after such emergency purchase.

1 C. Expenditures made during a locally declared emergency or in an
2 emergency situation must be reported to the City Council at the next regular
3 City Council meeting if approval for such expenditures would otherwise have
4 been subject to the approval of the City Council.

5 **§ 3.07.075 FORMAL BID PROCEDURE.**

6 Except as otherwise provided in this Subchapter, purchases of
7 equipment, goods and supplies of an estimated value of more than
8 \$30,000.00 shall be by formal sealed written competitive bids. Awards for
9 such expenditures shall be made by the City Council to the Lowest
10 Responsive and Responsible Bidder in accordance with the following
11 provisions:

12 A. **Budget Verification.** Prior to bid solicitation, the
13 Purchasing Officer shall confirm the requested purchase is identified in the
14 current fiscal year adopted budget. For items not identified in the current
15 fiscal year adopted budget, the requesting City department shall be required
16 to receive City Council approval prior to bid solicitation.

17 B. **Bid Specifications.** Bid specifications shall be prepared
18 and include the criteria that must be met to be considered the Lowest
19 Responsive and Responsible Bidder.

20 C. **Notice Inviting Bids.** Notices inviting sealed bids shall
21 be published in a newspaper of general circulation within the City at least ten
22 days prior to the date set for opening of the bids. In addition, notices inviting
23 bids shall be disseminated to at least three prospective bidders approved by
24 the Purchasing Officer, and all those who have requested to be placed on the
25 bidders list. Notices shall be posted at City Hall and other public posting
26 locations as determined by the Purchasing Officer. Notices shall include a
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1 general description of the articles for which bids are being sought, and the
2 time, date and location for submitting and opening of the bids.

3 D. ***Bid Submittal and Bid Opening.*** Sealed bids shall be
4 submitted to the City Clerk and shall be opened in public at the time and
5 place stated in the notice inviting bids. All bids received shall be available for
6 public inspection at the time and place of opening, and thereafter, in the
7 Office of the City Clerk. Bids must be received prior to the bid opening to be
8 considered.

9 E. ***Rejection or Waiver of Bid Requirements.***

10 1. The City Council may reject any and all bids
11 presented and may re-solicit for bids in its discretion.

12 2. Except as provided in Section 3.07.090, the City
13 Council may waive any irregularities or informalities in any bid or bidding.

14 3. Except as provided in Section 3.07.090, upon
15 determining that conformance with the procedures set forth in this Section
16 would be contrary to the best interests of the City or upon determining that
17 compliance with the procedures would be impractical, the City Council may
18 waive any or all of the requirements of this Section and, if it deems it to be in
19 the City's best interest, authorize a negotiated contract.
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21 **§ 3.07.080 INFORMAL BID PROCEDURE FOR PURCHASE**
22 **OF EQUIPMENT, GOODS AND SUPPLIES.**

23 Except as otherwise provided in this Subchapter, any purchase of
24 equipment, goods or supplies of an estimated value of \$30,000.00 or less
25 may be made by the Purchasing Officer in the open market pursuant to the
26 procedure prescribed in this Section without following the formal competitive
27 bid procedures prescribed in Section 3.07.070 of this Subchapter. Such
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1 purchases shall be based upon competitive quotations, whenever practical,
2 as determined by the City Manager, and shall be awarded to the Lowest
3 Responsive and Responsible Bidder.

4 **§ 3.07.085 PROFESSIONAL AND PERSONAL SERVICES.**

5 A. Except as otherwise provided in this Subchapter, the City may
6 award purchase orders and contracts in any amount for professional or
7 personal services without complying with the provisions of this Subchapter;
8 provided, the purchase order or contract shall be based upon competitive
9 quotations, whenever practical, as determined by the City Manager.

10 B. For purposes of this Section, professional services shall include,
11 but not be limited to, services of engineers, architects, accountants,
12 attorneys, doctors, and similar professionals when the City is contracting for
13 the skill, integrity, judgment, and/or special technical ability of the
14 professional.

15 C. For purposes of this Section, personal services shall include, but
16 not be limited to:

- 17 1. Any communication, gas, water, electric light and power
18 service or similar utility service;
 - 19 2. Insurance, postage, freight and courier service;
 - 20 3. Travel/hotel accommodations, education and training
21 expense;
 - 22 4. Subscriptions and memberships;
 - 23 5. Repair or maintenance service for equipment, machinery
24 or other City-owned personal property; and
 - 25 6. Repair and maintenance service for City-owned or
26 occupied real property and buildings; and
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1 7. Rental of real property or equipment and other personal
2 property.

3 **§ 3.07.090 CONTRACTS FOR PUBLIC WORKS PROJECTS.**

4 The following procedures shall govern the award of contracts for
5 Public Works Projects:

6 A. ***Public Works Projects of \$30,000 or Less.*** The
7 bidding of Public Works Projects involving an expenditure of \$30,000.00 or
8 less, which are included in the current fiscal year adopted budget, shall
9 comply with the informal bid procedures set forth in Section 3.07.075 of this
10 Subchapter.

11 B. ***Public Works Projects of More than \$30,000 but Less***
12 ***than \$75,000.*** The bidding of Public Works Projects involving an expenditure
13 of more than \$30,000.00, but less than \$75,000.00, which are included in the
14 current fiscal year adopted budget, shall comply with the formal bid
15 procedures set forth in Section 3.07.070 of this Subchapter. The plans and
16 specifications for Public Works Projects in this category that are not included
17 in the current fiscal year adopted budget shall be approved by City Council
18 prior to any solicitation of bids.

19 C. ***Public Works Projects of More than \$75,000.*** The
20 bidding of Public Works Projects involving an expenditure of more than
21 \$75,000.00, shall comply with the formal bid procedures as set forth in
22 Section 3.07.070 of this Subchapter. Prior to bid solicitation of bids, the
23 project plans and specifications for Public Works Projects in this category
24 shall be approved by the City Council.

25 D. ***Award of Contract.*** The award of a contract for a Public
26 Works Project involving the expenditure of more than \$30,000 shall be made
27 by the City Council to the Lowest Responsive and Responsible Bidder. The
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1 award of a contract for a Public Works Project involving the expenditure of
2 \$30,000 or less may be made by the City Manager to the Lowest Responsive
3 and Responsible Bidder.

4 E. ***Waiver of Bidding Procedures.*** The City Council, by
5 four affirmative votes, may award a contract for a Public Works Project
6 without complying with the formal bid procedures set forth in Section
7 3.07.070; provided, a public hearing is held on the award of the contract.
8 Notice of the public hearing shall be published in a newspaper of general
9 circulation within the City at least ten days prior to the date set for the public
10 hearing.

11 **§ 3.07.095 DISPOSITION OF CITY SURPLUS PROPERTY.**

12 The Purchasing Officer shall dispose of all City-owned surplus and
13 obsolete personal property by bid, auction, negotiated sale or exchange. The
14 Purchasing Officer shall attempt to obtain the best value for the property that
15 can be reasonably obtained.

16
17 **SECTION 2.** Pursuant to Section 619 of the City Charter, this Ordinance
18 shall take effect thirty (30) days after the date of its adoption. Pursuant to Sections 616
19 and 621 of the City Charter, prior to the expiration of fifteen (15) days after the adoption,
20 the City Clerk shall cause this Ordinance, or a summary thereof, to be published in the
21 Culver City News and shall post this Ordinance or a summary thereof in at least three
22 places within the City.

23 **SECTION 3.** The City Council hereby declares that, if any provision, section,
24 subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared
25 invalid or unconstitutional by any final action in a court of competent jurisdiction or by
26 reason of any preemptive legislation, then the City Council would have independently
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1 adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases
2 or words of this ordinance and as such they shall remain in full force and effect.

3
4 **APPROVED AND ADOPTED** this _____ day of _____, 2010.

5
6 _____
7 CHRISTOPHER ARMENTA, Mayor
8 City of Culver City, California

9 **ATTEST:**

APPROVED AS TO FORM:

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11 _____
12 MARTIN R. COLE, City Clerk
13 A10-00264

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15 _____
16 CAROL A. SCHWAB, City Attorney
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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 City Manager
- [3.07.080](#) Compliance with federal regulations
- [3.07.085](#) Disposal of supplies and equipment
- [3.07.090](#) Employee interest prohibited

Cross-reference:

Benefit assessment district, see [Ch. 15.01](#)

Claim procedures, see §§ [3.10.005](#) et seq.

Finance and Judiciary Committee, see § [3.01.020](#)

Financial and fiscal matters, see Charter §§ [1600](#) et seq.

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 City Manager, or his/her designee, 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; Ord. No. 2006-009 § 14)

Cross-reference:

Purchasing, see Charter §§ [1604](#) and [1605](#)

§ 3.07.010 PURCHASE ORDER; ENCUMBRANCE OF FUNDS.

Except in cases of emergency, or if excepted by authorization of the City Manager, 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); Ord. No. 2006-009 § 22 (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 City Manager shall develop written policies for purchases up to Twenty Thousand Dollars (\$20,000.00).

('65 Code, § 2-63) (Ord. No. 87-007 § 2; Ord. No. 2006-009 § 22 (part))

§ 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 City

Manager 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 City Manager within ten (10) days after such emergency purchase.

('65 Code, § 2-64) (Ord. No. 87-007 § 2; Ord. No. 2006-009 § 22 (part))

§ 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 City Manager 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; Ord. No. 2006-009 § 22 (part))

§ 3.07.075 AUTHORITY OF CITY MANAGER.

A. The City Manager 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 City Manager 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; Ord. No. 2006-009 § 22 (part))

§ 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)