

ORDINANCE NO. 1793

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA HABRA, CALIFORNIA AMENDING VARIOUS SECTIONS OF CHAPTER 4.20 PURCHASING SYSTEM OF TITLE 4 REVENUE AND FINANCE AND ADDING SECTION 4.20.061 COMPETITIVE PROPOSAL REQUIREMENTS FOR PURCHASE OF SERVICES OF THE LA HABRA MUNICIPAL CODE PURSUANT TO THE REQUIREMENTS OF CODE OF FEDERAL REGULATIONS SECTION 200, UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS.

WHEREAS, Government Code Section 54201 et. seq. requires local agencies to adopt policies and procedures, including bidding procedures, governing the purchase of supplies and equipment by the City of La Habra ("City"); and

WHEREAS, the City of La Habra ("City") has established Chapter 4.20 titled Purchasing System of the La Habra Municipal Code to establish procedures for the purchase of supplies, equipment and services; and

WHEREAS, the City Council of the City of La Habra ("City Council") desires to amend all sections of Chapter 4.20 to modify the responsibilities of purchasing agents, purchasing limits and disposition of surplus property, in addition to various technical corrections and amendments.

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

Chapter 4.20 titled Purchasing System of the La Habra Municipal Code is hereby with the following:

- 4.20.010 Adoption**
- 4.20.020 Definitions**
- 4.20.030 Purchasing agent-Position created-Duties**
- 4.20.040 Duties of Director of Finance and Administrative Services**
- 4.20.050 Staff Purchase Request Procedure**
- 4.20.060 Bidding Requirements for Purchase of Goods & Services**
- 4.20.061 Competitive Proposal Requirements for Purchase of Services**

- 4.20.070 Exceptions to Bidding Requirements for Purchase of Goods & Services**
- 4.20.080 Exceptions to Bidding Requirements for Purchase of Services**
- 4.20.090 Disposition of surplus supplies and equipment**
- 4.20.100 Revolving Fund Established**

4.20.010 Adoption.

In order to establish efficient procedures for the purchases of supplies, equipment and services, to obtain these items at the lowest possible cost commensurate with the quality needed, to exercise positive financial control over all purchases, and to clearly define authority for the purchasing function, a purchasing system is adopted. (Ord. 1105 § 1 (part), 1980)

4.20.020 Definitions.

As used in the ordinance codified in this chapter, the following words have the following meanings:

- A. "Informal bid" means solicitation by purchasing agent of at least three written price quotations, of which the bid yielding the lowest ultimate cost shall be accepted.
- B. The "lowest ultimate" cost means the lowest bid price commensurate with the quality needed and shall include consideration of anticipated operating costs, transportation or packing charges, availability, storage costs, vendor reliability, past experience with the vendor, and supplier responsibility when such factors are relevant.
- C. "Competitive proposal" means the procurement method whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.

4.20.030 Purchasing agent - Position created - Duties.

There is created the position of purchasing agent(s). The agent(s) shall be appointed by the City Manager. The duties of the purchasing agent(s) may be combined with those of any other office or position. The purchasing agent(s) have the authority and duty to:

- A. Purchase or contract for supplies, equipment and services in accordance with the purchasing procedures prescribed in this chapter, such administrative regulations, policies or procedures as the Director of Finance and Administrative Services adopts with the City Manager's approval, and such other rules and regulations as prescribed by the City Council or City Manager, at all times endeavoring to obtain as full and open competition as possible on all purchases in a cost effective manner;
- B. Keep informed of current developments in the field of purchasing, prices, market conditions and new products;
- C. Prepare or revise written standard specifications for purchases of goods, supplies, equipment and services;
- D. Insure the inspection of all supplies and equipment purchases to guarantee conformance with specifications, and require chemical or physical tests of samples

submitted with bids and samples of deliveries if such are necessary to determine their quality and conformance with specifications.

- E. Negotiate and properly prepare contracts for the procurement of the needed quality and quantity of materials, supplies, services and equipment, required by any Department at the least expense to the City and in conformity with the procedures established for that purpose;
- F. Administer the opening of sealed bids pursuant to Section 4.20.060(E);
- G. Explore and encourage bulk purchasing when possible in order to take advantage of discounts; to join with the State, County of Orange, or any other public agency in cooperative purchasing on another agency's bid effort.

4.20.040 Duties of Director of Finance and Administrative Services.

The Director of Finance and Administrative Services has the authority and duty to:

- A. Recommend the transfer of surplus or unused supplies and equipment between departments as needed;
- B. Maintain records needed for the efficient operation of the purchasing function. (Ord. 1692 (part), 2008: Ord. 1105 § 1 (part), 1980)
- C. Prescribe and maintain such forms as are reasonably necessary to the purchasing operation.

4.20.050 Purchase Request Procedure.

Except as otherwise provided in this chapter, or state law, all purchases and contracts for supplies, equipment, commodities and services of any value shall be accomplished either by or through the purchasing agent or the City Manager.

Purchases shall be processed by one of the following:

- A. Requisitions. Using department shall submit requests for supplies, equipment and services to the purchasing agent by standard requisition forms.
- B. Purchasing Orders. Purchase of supplies, equipment and services shall be made only by purchase order.
- C. Encumbrance of Funds. Except in cases of emergency, as determined pursuant to Section 4.20.070, the purchasing agent shall not issue any purchase order for supplies, equipment or services unless there is an encumbered appropriation verified by the Director of Finance and Administrative Services in the fund account against which the purchase is to be charged. (Ord. 1105 § 1 (part), 1980)

4.20.060 Bidding Requirements for Purchase of Goods and Services.

A. Bidding requirements for the purchase of goods and services is as follows:

1. Except as otherwise provided in this chapter, when the value of any purchase or contract for goods, supplies, equipment or services is more than thirty-five thousand dollars (\$35,000) for a single item or bulk purchase of a single item, the purchase shall be by formal bid procedure, competitive proposal procedure, government cooperative pricing, or sole source. In all such cases the purchase of goods or services must be approved by the City Council and executed by the City Manager.
2. When the value of any purchase or contract for goods, supplies, equipment or services is more than fifteen thousand dollars (\$15,000) and up to thirty-five thousand dollars (\$35,000) for a single item or bulk purchase of a single item, the purchase must be by formal bid procedure, competitive proposal procedure, informal bid procedure, government cooperative pricing, or sole source, as determined by the purchasing agent or City Manager. In all such cases, a purchase order, written contract and payment requisition must be approved by the City Manager.
3. When the value of any purchase or contract for goods, supplies, equipment or services is more than three thousand five hundred dollars (\$3,500) and up to fifteen thousand dollars (\$15,000) for a single item or bulk purchase of a single item, the purchase may be by formal bid procedure, competitive proposal procedure, informal bid procedure, government cooperative pricing, or sole source as determined by the purchasing agent. In all such cases, a payment requisition must be approved and executed by the purchasing agent.
4. When the value of any purchase or contract for goods, supplies, equipment or services is in an amount of up to three thousand five hundred dollars (\$3,500) for a single item or bulk purchase of a single item, the purchase may be formal bid procedure, competitive proposal procedure, informal bid procedure, government cooperative pricing, sole source, or no bid as determined by the purchasing agent or his/her designee. In all such cases, a payment requisition must be approved and executed by the purchasing agent or designee.

- B. Notice Inviting Bids. Notices inviting bids shall include a general description of the articles to be purchased, shall state where bid blanks and specifications may be obtained and the time and place for opening of bids. The purchasing agent shall solicit sealed bids from all responsible prospective suppliers whose names are on the bidders' list or who have requested their names to be added thereto, and any other source known to the purchasing agent.

- C. Bidder's Security. When deemed necessary by the purchasing agent, bidder's security may be prescribed in the public notices inviting bids. Bidders shall be entitled to return of bid security; provided that a successful bidder shall forfeit his bid security upon refusal or failure to execute the contract within ten days after the notice of award of contract has been mailed, unless the City is responsible for the delay. The City Council, City Manager, or purchasing agent may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. If the City Council, City Manager or purchasing agent awards the contract to the next lowest bidder, the amount of the lowest bidder's security shall be applied by the City to the difference between the low and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder.

- D. Performance Bonds. The City Council, City Manager and purchasing agent shall have authority to require a performance bond before entering a contract in such amount as it shall find reasonably necessary to protect the best interests of the City. If the City Council, City Manager or purchasing agent requires a performance bond, the form and amount of the bond shall be described in the notice inviting bids.

- E. Bid Opening Procedure. Sealed bids shall be submitted to the purchasing agent and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty calendar days after the bid opening. No bids shall be accepted after the stated time specified in the notice inviting bids.

- F. Council Approval. In the event of City Council approval set forth in Section 4.20.060(A)(1), the City Council shall approve a contract or purchase order for the lowest responsible bidder, or reject all bids.

- G. Tie Bids. If two or more bids received are for the same total amount or unit price, quality and service being equal, the City Council, City Manager or purchasing agent may accept one of them or accept the lowest bid made by negotiation with the tie bidders at the time of or after the bid opening. (Ord. 1692 (part), 2008: Ord. 1105 § 1 (part), 1980)

4.20.061 Competitive Proposal requirements for Purchase of Services

This method of procurement is generally used when conditions are not appropriate for the use of sealed bids. Departments may use competitive proposal procedures for qualifications-based procedures of professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. If this method is used, the following requirements apply:

- A. Requests for proposals (RFP) will be publicized. Any response to publicized RFP shall be honored to the maximum extent practical;
- B. Proposals will be solicited from an adequate number of qualified sources;
- C. All evaluation factors will be identified and included along with their relative importance in the RFP.
- D. The evaluation process may include but not limited to review of written proposals, panel interview, and reference checking.
- E. Awards will be made to the responsible firm whose proposal is most advantageous to the City with all factors identified in the RFP considered.

4.20.070 Exceptions to bidding requirement for Purchase of Goods and Services.

Purchases of goods, supplies, equipment and services shall be by bid procedure pursuant to Section 4.20.060(A) except:

- A. In case of an emergency as determined by the City Manager or, in his absence, the purchasing agent; provided, that they shall advise the City Manager of such emergency purchase as soon as practicable;
- B. When the goods or service can be obtained from only one vendor;
- C. When the City can utilize cooperative governmental purchasing contracts or pricing for a given item or service which was established by another governmental agency's successful bid award for that general or specific type of item or service, and which had been conducted on a negotiated or competitive basis;
- D. When the City Council finds that negotiation shall best serve the City due to the nature of the goods, supplies, equipment or services;
- E. When the proposed purchase involves the acquisition of information technology, hardware, software, computers, telecommunications equipment, cabling, installation, support or similar electronic equipment or product, which requires the expertise of information technology, computer or telecommunications vendors who are highly and technically skilled, the City Council, City Manager or purchasing agent may acquire the equipment through formal or informal negotiations rather than competitive bidding. (Ord. 1440 § 1, 1992; Ord. 1105 § 1 (part), 1980)

4.20.080 Exceptions to bidding requirements for Purchase of Services.

- A. When the City Manager or City Council authorizes the procurement of services for which standard specifications cannot be drawn due to the nature of the service or because of national association bylaws or professional policies prohibiting

competitive bidding, such as, but not limited to, architectural services, consultant services, legal services and engineering services, persons designated by the City Manager shall negotiate for the service.

- B. When a service firm has established such a successful past history of work with the City that it is clearly in the public interest not to negotiate with any other source.
- C. When it is necessary to hire a consultant to prepare an environmental impact report for private development projects as provided for in the California Environmental Quality Act and applicable state and City regulations. (Ord. 1692 (part), 2008: Ord. 1105 § 1 (part), 1980)

4.20.090 Disposition of surplus supplies and equipment.

Departments shall submit to their purchasing agent, at such time and in such form as he or she shall prescribe, reports showing all supplies and equipment which are no longer used or which have become obsolete or worn out.

The purchasing agent shall have authority to sell all supplies and equipment which cannot be used in any agency or department or which have become unsuitable for City use, or to exchange the same for, or trade in same on, new supplies and equipment, with the approval of the City Manager.

Any such sale of such equipment shall be made by the most effective method which may include formal sealed bids, informal bids, internet auction, or negotiation. In addition, the City may hold a public auction when selling City supplies and equipment. In the event the supplies and equipment are offered at public auction, any person, including a City employee, may make an offer to purchase the supplies and equipment, but provided further, that no City employee shall purchase any supplies or equipment sold by means other than a public or internet auction, and provided further that in no event shall the purchasing agent or any other department director conducting the sale, regardless of its form, be a purchaser of the equipment or supplies.

The City may require cash or a certified check when selling supplies or equipment.

In the event that certain property, after being designated by a department as surplus, is determined by the purchasing agent or City public safety representative to be potentially dangerous to the public, such potentially dangerous property shall be so designated by the department and a proposed means of disposing of such potentially dangerous property submitted to the City Manager for approval. Upon approval by the City Manager, such property shall be disposed of in accordance with the plan of disposal approved by the City Manager. Any plan for the disposal of potentially dangerous property shall recognize the need to protect the public health, safety and welfare in the most reasonable means available. (Ord. 1405§ 1, 1991; Ord.1105§1 (part), 1980)

4.20.100 Revolving Fund established.

There is established a "revolving fund" for the prepayment of deposits, cash purchases, expense advances, reimbursements, or for the purchase of goods and services by the City. Such fund may be established as a separate bank account with the signature of the Director of Finance and Administrative Services, or as a cash fund payment by the Director of Finance and Administrative Services on a voucher approved by the City Manager: (Ord. 1105 § 1 (part), 1980)

PASSED, APPROVED, AND ADOPTED this 4th day of June, 2018.

Mayor, Tim Shaw

ATTEST:

Tamara D. Mason, MMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS.
CITY OF LA HABRA)

I, Tamara Mason, City Clerk of the City of La Habra, do hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 1793 introduced at a regular meeting of the City Council of the City of La Habra held on the 21st day of May, 2018 and was thereafter adopted at a regular meeting held on the 4th day of June, 2018 by the following vote:

AYES: COUNCILMEMBERS: Beamish, Shaw, Espinoza, Blazey
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: Gomez
ABSTAIN: COUNCILMEMBERS: None

Said ordinance has been published or posted pursuant to law.

Witness my hand and the official seal of the City of La Habra this 4th day of June, 2018.

Tamara D. Mason, MMC, City Clerk