

**ORDINANCE 2016-07**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
MONROVIA, CALIFORNIA, AMENDING TITLE 3 (REVENUE &  
TAXATION) OF THE MONROVIA MUNICIPAL CODE  
PERTAINING TO PURCHASING, BIDDING AND SALES  
PROCEDURES.**

**WHEREAS**, the City Council, through the Monrovia Municipal Code, Chapter 3.24, has designated the City Manager as the Purchasing Agent to develop and establish a set of administrative policies in order to manage and administer the rules and regulations related to purchasing, bidding and surplus property sales; and

**WHEREAS**, the Purchasing Agent herein delegates the responsibility for managing and administering the purchasing, bidding and surplus property sales to the Administrative Services Director; and

**WHEREAS**, the City Council desires to make modifications to Chapter 3.24 of the Monrovia Municipal Code to make more efficient the overall rules and regulations related to purchasing, bidding, and surplus property sales.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROVIA, CALIFORNIA** does hereby ordain as follows:

**SECTION 1.** Title 3, Chapter 3.24 of the Monrovia Municipal Code is hereby amended in its entirety to read as follows:

Sections:

- 3.24.010 Title.
- 3.24.020 Definitions.
- 3.24.030 Adoption of purchasing system.
- 3.24.040 Purchasing agent—Duties.
- 3.24.050 Unauthorized purchases.
- 3.24.060 Purchasing requirements.
- 3.24.070 Encumbrance of moneys.
- 3.24.080 Formal bid procedures for purchases or more than \$25,000.
- 3.24.090 Informal quotation procedures for purchases of \$25,000 or less.
- 3.24.095 Local vendor preference.
- 3.24.100 Professional services.
- 3.24.110 Emergency purchases.
- 3.24.120 Exceptions to bidding and quotation requirements.
- 3.24.130 Prohibition of interest.
- 3.24.140 Gifts and rebates.
- 3.24.150 Sale of property.
- 3.24.160 Harmless error or omission to be disregarded.

**3.24.010 TITLE.**

This chapter shall be known and may be cited as the "Purchasing Ordinance of the City of Monrovia."

### **3.24.020 DEFINITIONS.**

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

**CITY PURCHASING AGENT.** The City Manager or authorized representative.

**CONTRACTUAL SERVICES or SERVICES.** Work performed for the city by an individual or organization pursuant to a contract, and not as an employee of the City. The contract may provide for labor, materials and use of property provided by the contractor and any subcontractor(s). Such services shall include, but may not necessarily be limited to, the maintenance and repair of grounds, buildings, equipment and fixtures; and the rental or lease of land, buildings, equipment or furnishings. This term shall not include professional services, which by their unique nature are not appropriately subject to open competition.

**LOWEST RESPONSIBLE BIDDER.** The bidder submitting the lowest proposed price and who, in the opinion of the Purchasing Agent, is most capable of providing the equipment, supplies, materials, or services consistent with the standards of the city. In addition to the price proposed in relation to the prices proposed by other bidders, the Purchasing Agent shall take the following into consideration when determining the "lowest responsible bidder":

- (1) The ability, capacity and skill of the bidder to perform the contract or provide the service required;
- (2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- (4) The quality of performance of previous contracts or services;
- (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
- (6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
- (7) The quality, availability and adaptability of the supplies, or contractual services to the particular use required;
- (8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
- (9) The number and scope of conditions attached to the bid.

**SUPPLIES.** All supplies, materials and equipment.

**PROFESSIONAL SERVICES.** Professional services are, by their nature, unique and therefore not subject to competitive bidding. Professional services are defined as follows and include, but may not be limited to:

Appraiser; Architect; Attorney; Bond Counsel; Certified Building Inspector; Certified Plan Checker; Certified Public Accountant; Chemical Engineer; Chemist; Chiroprapist; Chiropractor; Civil Engineer; Computer Specialist; Construction Engineer; Consulting Engineer; Dentist; Economic Consultant; Electrical Engineer; Environmental Consultant; Event Coordinator; Event Entertainer; Financial Consultant; Geologist; Graphic Designer, Health Insurance Providers Consultant; Information Technology Consultant;

Labor Relations Consultant; Interior Designer; Instructor; Landscape Architect; Library Specialist; Licensed Land Surveyor; Lighting Consultant; Market Feasibility Consultant; Media Consultant; Mechanical Engineer; Planning Consultant; Psychologist; Recreation Specialist; Records Management Consultant; Sanitation Engineer; Soils Engineer; Structural Engineer; Traffic/Transportation Engineer; Training Consultant; Veterinarian; Website Designer or other specialized personal and professional services required by the City.

**WRITTEN CONTRACT.** Either the written purchase order or formal contract, whichever is appropriate, as determined by the Purchasing Agent.

### **3.24.030 ADOPTION OF PURCHASING SYSTEM.**

(A) There is hereby adopted a purchasing system in order to establish efficient procedures for the procurement of supplies, equipment and services; to exercise positive financial control over purchases; to clearly define authority for the purchasing function; to conserve public funds through the reduction of costs; and the improvement of the quality of materials, supplies and services from local community vendors where practical and in the best interests of the city.

(B) The provisions of this chapter shall not cover the expenditure of funds for Public Works projects, which are covered by Chapter 3.26 of this code and those provisions of the California Public Contract Code applicable to general law cities including, without limitation, Cal. Public Contract Code §§ 20160 et seq.

(C) In cases where the City's use of federal, state, or other government sources of funds are contingent on purchasing requirements that are different from those imposed by this Chapter, the Purchasing Agent shall use those procedures as are necessary, in his/her discretion, to comply with any conditions of the funding source *as well as* the procedures established by this Chapter if the same are more restrictive.

### **3.24.040 PURCHASING AGENT—DUTIES.**

The City Manager or authorized representative is hereby appointed and shall serve as the City Purchasing Agent. The City Manager shall have the authority to delegate, in whole or in part and in writing, the responsibilities and authority for carrying out all aspects of the purchasing system. Subject to the provisions in this chapter, the duties and responsibilities of the City Purchasing Agent shall include, but not necessarily be limited to, the following:

(A) To prepare, distribute and maintain rules, regulations and procedures to implement the provisions of this chapter for the effective administration of the purchasing system and for the sale of surplus property;

(B) To purchase or contract for all supplies and contractual services needed by the city, in accordance with purchasing rules, regulations and procedures as provided for in this chapter and such other rules and regulations as shall be prescribed;

(C) Act to procure for the city the highest quality in supplies and contractual services at the least expense to the city, taking quality and fitness into account;

(D) To discourage uniform bidding and to endeavor to obtain as full and open competition as possible on all purchases and sales;

(E) To keep informed of current developments in the field of purchasing, prices, market conditions and new products;

(F) To ensure the inspection of all supplies and equipment purchased to guarantee conformance with specifications and adherence to standards of quality;

(G) To direct the transfer of surplus or unused supplies and equipment between departments, as needed;

(H) To sell all supplies, equipment and other property of the city which has been declared surplus or which has become unsuitable for city use;

(I) To maintain financial and other records as necessary for the efficient operation of the purchasing system;

(J) To prescribe and maintain such forms as are necessary for administration of the purchasing system;

(K) To declare vendors who default on their quotations as irresponsible bidders and to disqualify them from receiving any business from the city for a stated period of time, subject to review of the City Council.

#### **3.24.050 UNAUTHORIZED PURCHASES.**

It shall be unlawful for any city officer, or employee to order the purchase of any supplies or make any contract within the purview of this chapter in violation of the provisions of this chapter or in violation with such purchasing rules, regulations and procedures which may be issued by the Purchasing Agent. Any purchase order or contract made contrary to the provisions of this chapter shall not be approved by any city official or officer, and the city shall not be bound thereby. It shall be unlawful for any city officer or employee to intentionally segment orders and/or contracts into smaller units to avoid complying with the requirements of this chapter.

#### **3.24.060 PURCHASING REQUIREMENTS.**

(A) All purchases and contracts for materials, supplies, equipment and services of any value shall be accomplished in conformance with the procedures provided in this chapter and with purchasing procedures, rules and regulations as shall be adopted by the City Purchasing Agent. In general, purchases shall be processed through a formal system of requisitions and purchase orders. Said system shall be specifically defined by the Purchasing Agent to provide adequate checks and balances and systems of control.

(B) Whenever bids are required by law for the letting of contracts, the doing of work or the furnishing of supplies or materials, all of the steps, acts and proceedings required by the laws of the state shall be fully complied with, and in particular and supplementary to the acts, steps and procedures required by state law, the procedure set forth in the sections of this chapter regulating the notices inviting bids, the publication and posting of the notices, and the opening of the bids shall be followed.

#### **3.24.070 ENCUMBRANCE OF MONEYS.**

Except in cases of emergency as determined pursuant to § 3.24.110, the Purchasing Agent shall not issue any purchase order nor award any contract for supplies, equipment or services until the Director of Administrative Services or the Director's designee shall have certified, after pre-audit, that there exists to the credit of the department concerned a sufficient unencumbered

appropriated balance in excess of all unpaid obligations, adequate to cover the amount of such order or contract.

### **3.24.080 FORMAL BID PROCEDURES FOR PURCHASES OF MORE THAN \$25,000.**

Except as otherwise provided in this chapter, all purchases of materials, equipment, supplies and contractual services, when the estimated cost thereof is more than \$25,000 for a single item or service, or bulk purchase of one or more items or services in any single fiscal year, shall be purchased based on formal written bids or proposals from the lowest and best responsible bidder following the formal bid procedures as set forth in this chapter. Furthermore, the City Council shall approve and execute contracts for materials, equipment, supplies and services with an estimated cost of more than \$25,000, as described in this Section.

(A) *Formal bid process.* The Purchasing Agent shall be responsible for developing, implementing and managing detailed formal bid processing policies and procedures. These policies will be an integral part of the purchasing process, and should establish minimum guidelines that substantiate the requirements of this section. These policies will include the following key bidding components:

- (1) Notice inviting bids;
- (2) Establishing a bidder's lists;
- (3) Bid opening procedures;
- (4) City Council review and award of contract.

(B) *Minimum number of bids.* All contracts or purchases awarded shall, whenever practical, be based on at least three (3) competitive bids, and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in the definition of "lowest responsible bidder" in § 3.24.020.

(C) *Notice inviting bids.* The Purchasing Agent shall solicit at least three (3) bids: (1) by direct mail request to prospective vendors; (2) by distribution to bidder's lists; (3) by trade journals and/or (4) by public notices posted in a local newspaper, on the City's website or on the bulletin board at City Hall; and by any other approach deemed appropriate by the Purchasing Agent.

(D) *Written bids.* Formal written bids shall, when practical, be obtained for the purchase of supplies, equipment, materials, and/or services with an estimated value of more than \$25,000.

(E) *Recording.* If formal written bids are obtained, the Purchasing Agent shall keep a record of all bid requests and/or advertisements and all bids and proposals submitted in response thereto, and such records shall also be open to public inspection and maintained in the city's records pursuant to applicable policy.

(F) *Prohibition against subdivision.* No contract or purchase order shall be subdivided to avoid the requirements of this chapter.

### **3.24.090 INFORMAL QUOTATION PROCEDURES FOR PURCHASES OF \$25,000 OR LESS.**

All purchases of supplies, equipment and services with an estimated value of \$25,000 or less in any fiscal year may be made informally from the open market without observing the "formal bid procedures" provided in this chapter. The City Manager or his or her designee are authorized to approve the purchase for materials, equipment and supplies with an estimated value of \$25,000 or less. The City Manager is the only employee of the City that is authorized

to sign and execute a written contract. The Administrative Services Director shall review and approve of all purchases during the invoice processing phase of the purchase.

(A) *Minimum number of quotes.* All open-market purchases shall, when practical, be based on at least three (3) competitive quotes, and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in the definition of "lowest responsible bidder" in § 3.24.020.

(B) *Solicitation of quotes.* The Purchasing Agent shall, when practical, solicit at least three (3) quotes: (1) by direct mail request to prospective vendors; (2) by email or internet; and/or (3) by public notices posted on the City's website or on the bulletin board at City Hall; and (4) by other approaches deemed appropriate by the Purchasing Agent and as authorized by administrative policy.

(C) *Written quotations.* Informal written quotations shall, when practical, be obtained for the purchase of supplies, equipment, materials and/or services with an estimated value between \$5,000 and \$25,000 in any fiscal year. Competitive bids and quotes are not required for purchases less than \$5,000; however, the authorized staff shall, when practical, obtain informal quotes prior to purchase.

#### **3.24.095 LOCAL VENDOR PREFERENCE.**

(A) *Local vendor preference.* The City Council hereby finds and determines that it is in the best interest of the city to support and promote local business entities. Vendors located within the city, and whose sales are, or would be, recorded in the city, shall be encouraged to bid on supplies, equipment, materials and services purchased by the city through the provisions of a 3% local vendor's preference. The preference shall apply to the analysis of bids for taxable and non-taxable materials, equipment, supplies and services, but not to any public works projects. In the comparison of all formal bids and informal quotations, the bid price of all qualifying local vendors shall be ranked as if it were reduced by 3% of net price of those components of the bid. The reduction shall be applicable in the comparison of the bid price only. All other factors in determining lowest and best responsible bidder shall not be compromised.

#### **3.24.100 PROFESSIONAL SERVICES.**

(A) When the City Manager or City Council authorizes the hiring of professional services, as defined in section § 3.24.020, for which standard specifications cannot be developed due to the nature of the service or because of national association bylaws or professional policies prohibiting competitive bidding, the City Manager may authorize officers and/or employees to negotiate for the authorized service. Proposals shall be submitted, whenever practical, from at least three firms. However, recognizing the uniqueness of professional services and the varied qualities presented by differing firms, the City Manager shall have the authority to determine the necessity and appropriateness of soliciting multiple proposals.

(B) The City Manager or his or her designee, and the Administrative Services Director are authorized to approve and execute professional service contracts with an estimated value of \$25,000 or less. All contracts for services exceeding \$25,000 shall be approved by the City Council, except when it is necessary to hire a consultant for the preparation of an environmental impact report for private development projects as provided for in the California Environmental Quality Act and applicable state and city regulations, in which case the City Manager shall have the authority to execute a written contract of a higher amount.

### **3.24.110 EMERGENCY PURCHASES.**

(A) In case of a declared local emergency, or the city's preparation for an anticipated local emergency, which requires immediate purchase of supplies or contractual services, the City Manager shall be empowered to authorize the Purchasing Agent to secure by open market procedure as set forth in this chapter, at the lowest reasonably obtainable price, any supplies or contractual services regardless of the amount of the expenditure.

(B) A full report of the circumstances of an emergency purchase shall be filed by the City Manager with the City Council at its next regular meeting and shall be entered in the minutes of the Council and shall be open to public inspection.

### **3.24.120 EXCEPTIONS TO BIDDING AND QUOTATION REQUIREMENTS.**

Purchases of supplies, equipment and services for the city shall be exempt from the purchasing provisions provided in this chapter under the following circumstances:

(A) When the amount of purchase involved is \$5,000 or less;

(B) When it is to the city's advantage to combine its purchases with those of another governmental entity in order to effect economies by bidding combined requirements, and the governmental entity actually soliciting the bids employs a bidding procedure adequate to ensure competition among responsible bidders. For example, the City may award a contract to a vendor through "piggy backing," in which a competitive bid procedure has been conducted by another public agency and the City's purchase is awarded on the same general terms as the other public agency;

(C) When the City Council finds that negotiation instead of bidding / quotation shall best serve the city due to the specialized nature of supplies, equipment or services;

(D) When the purchase can only be obtained from one manufacturer or vendor due to licensing or contractual restrictions, and is deemed a *Sole Source* purchase;

(E) When the City seeks to purchase or lease any land, building, or facility;

(J) When the City finds that it must initiate *emergency purchases*, as provided in section § 3.24.110 of this chapter;

(K) When the purchase is for office supplies and event materials;

(L) When the purchase is for travel expenses;

(M) When the purchase is for a subscription, dues, trade circular, book or periodical;

(N) When the purchase is for publishing a notice or advertisement in a local newspaper;

(O) When the purchase is for postage or delivery services;

(P) When the purchase is for specialized computer software, computer equipment and maintenance services; and

(Q) When the purchase of goods or services is specialized, unique by nature or otherwise considered not appropriate for multiple solicitations, the competitive bidding and quotation requirements of this chapter are not required.

Notwithstanding the listed exemption from bidding contained in this section, all monetary thresholds for the award and approval of the contract contained in this chapter shall still apply.

#### **3.24.130 PROHIBITION OF INTEREST.**

Any purchase order or contract within the purview of this chapter in which the Agent, or any officer or employee of the city is financially interested, directly or indirectly, shall be void, except that before the execution of a purchase order or contract, the Council shall have the authority to waive compliance with this section when it finds such action to be in the best interests of the city.

#### **3.24.140 GIFTS AND REBATES.**

The Purchasing Agent and every officer and employee of the city are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation any gift, reward or rebate, or anything of value whatsoever as a gratuity in exchange for awarding a purchase or contract to the donor, except where given for the use and benefit of the city. Any violation of this section shall constitute a misdemeanor.

#### **3.24.150 SALE OF PROPERTY.**

(A) *Personal property.*

(1) When it is deemed advisable by the Purchasing Agent to dispose of any personal property belonging to the city, the Purchasing Agent shall determine the appropriate method for the disposal of personal property, including but not necessarily limited to open competitive formal bid, public auction, or negotiated sale. The Purchasing Agent shall promulgate rules for the sale of personal property.

(B) *Real property.* The sale of surplus city-owned property shall be made pursuant to applicable state law.

#### **3.24.160 HARMLESS ERROR OR OMISSION TO BE DISREGARDED.**

No transaction covered by this chapter, or other applicable purchasing, bidding or procurement law, shall be deemed or construed to be void or invalid by reason of inadvertence, mistake, or excusable neglect in failing to comply with the strict letter of said regulations, unless after an examination of the entire transaction and the regulation governing the same, it shall appear that the error or mistake complained of was prejudicial to one of the parties, and that by reason of such error or mistake, the party complaining sustained and suffered substantial injury, and that such injury would not have been probable if such error or mistake had not occurred or existed, or the specific law in question requires that the contract be voided. There shall be no presumption that any error or omission is prejudicial, or that injury was done if an error or omission is shown.

**SECTION 2. Severability.** If any section, subsection, paragraph, sentence, clause or phrase of this chapter is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this chapter. The City Council of the City of Monrovia hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof

irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

**SECTION 3. Continuity.** To the extent the provisions of this Ordinance are substantially the same as previous provisions of the Monrovia Municipal Code, these provisions shall be construed as continuations of those provisions and not as new enactments.

**SECTION 4. CEQA.** This Ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. This ordinance is also not subject to CEQA under Section 15061(b)(3) of the State CEQA Guidelines which states the general rule that CEQA applies only to actions defined as projects which have the potential for causing a significant effect on the environment.

**SECTION 5. Effective Date.** This Ordinance shall take effect 30 days after adoption.

**SECTION 6. Certification.** The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

I **INTRODUCED** this 7<sup>th</sup> day of June, 2016.

**PASSED, APPROVED, AND ADOPTED** this 21st day of June 2016.



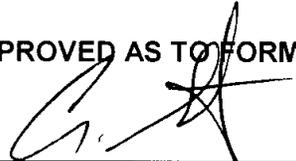
\_\_\_\_\_  
Tom Adams, Mayor  
City of Monrovia

**ATTEST:**



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Alice D. Atkins, CMC, City Clerk  
City of Monrovia

**APPROVED AS TO FORM:**



\_\_\_\_\_  
Craig A. Steele, City Attorney  
City of Monrovia

STATE OF CALIFORNIA        )  
COUNTY OF LOS ANGELES    ) §  
CITY OF MONROVIA            )

I, ALICE D. ATKINS, CMC, City Clerk of the City of Monrovia, California, do hereby certify that the foregoing is a full, true and correct copy of Ordinance No. 2016-07; It has been published pursuant to law; was duly adopted and passed at a regular meeting of the Monrovia City Council on the 21st day of June, 2016, by the following vote:

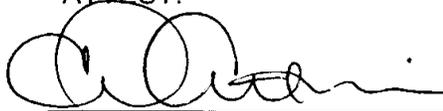
**AYES:** Councilmembers Crudginton, Shevlin, Spicer, Mayor Pro Tem Blackburn, Mayor Adams

**NOES:**

**ABSTAIN:**

**ABSENT:**

ATTEST:



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Alice D. Atkins, CMC, City Clerk  
City of Monrovia