



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: June 30, 2009

TO: Mayor and Councilmembers

FROM: General Services Division, Finance Department

SUBJECT: Amendments To The Purchasing Code, Chapter 4.52 Of The Municipal Code

RECOMMENDATION:

That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Chapter 4.52 of Title 4 of the Santa Barbara Municipal Code Providing Procedures for the Purchase of Equipment, Supplies and Services.

DISCUSSION:

At the May 19, 2009, Ordinance Committee meeting, staff presented the proposed amendments to Chapter 4.52 of the Municipal Code (the Purchasing Code). The Ordinance Committee unanimously moved to forward the amendment to Council for introduction and subsequent adoption.

The Purchasing Code specifies the procedures for the purchase of ordinary goods and services. "Ordinary goods and services" are distinguished from "public works" contracts (covered under Section 519 of the City Charter) and can include small purchases of a few thousand dollars for office supplies to very large purchases of hundreds of thousands of dollars for the maintenance of water and sewer mains.

Several years ago, the City Council approved changes to sections of Chapter 4.52 governing the authorization thresholds, which dictate the type of approvals needed for various dollar levels of purchasing and when formal bidding processes are required. The authorization thresholds had not been changed for over 30 years.

The proposed amendments to the Purchasing Code were identified through a collaborative effort with City departments, including the City Attorney's Office. In addition, some of the proposed changes stem from staff experience with the current procedures and research into current best practices.

The proposed amendments to the Purchasing Code include the following:

1. Environmentally Preferred Purchasing

The Chapter's purpose statement (Section 4.52.010) has been amended to state the City's intent to make "green" purchases. The term "environmentally preferred purchases" is defined in Section 4.52.020. These additions incorporate the Council's Environmentally Preferred Purchasing Policy, adopted on December 9, 2008, into the City's purchasing procedures.

2. Definitions

A new section has been added containing definitions of terms used in the Chapter (Section 4.52.020). Clear definitions are important to the proper implementation of the purchasing procedures. For example, maintenance and repair services can be similar to, and sometimes confused with, Public Works construction. However, the bidding and contract award procedures for the two types of contracts are very different. Clear definitions will simplify the administration of the purchasing procedures and lead to more efficient purchases. The Ordinance Committee recommended adding a definition of "personal property" within this new section.

3. Contracting Authority

Section 518 of the City Charter authorizes the City Council to delegate purchasing authority to the City Administrator or other City officers by ordinance or resolution. Under the current code, it is not always clear how this delegated authority is to be exercised. A new section entitled "Contracting Authority" (Section 4.52.050) clarifies how delegated purchasing authority relates to the purchasing procedures specified in the Purchasing Code. The proposed addition also codifies the authority for the City Administrator to further delegate the purchasing authority in a manner consistent with the Council's delegation and the purchasing code. In the past, the authority for such further delegation has simply been assumed to exist.

4. Bidding and Award Procedures

The bidding and contract award procedures (Sections 4.52.060 & 4.52.070) have been amended to resolve some prior gaps in procedure or authority, to affirmatively extend purchasing authority that has been exercised by the Purchasing Agent for many years in the case of contracts up to \$25,000, and to extend new authority to the Purchasing Agent to reject bids (when the Purchasing Agent otherwise has the authority to award the contract) or to solicit bids without further publication when no bids are received in the case of contracts over \$25,000.

5. Emergency Purchases

A new section has been added to specify alternative purchasing procedures in the case of declared emergencies (Section 4.52.080). This addition supplements the existing purchasing authority extended to the City Administrator in the case of disasters (See, Section 9.116.060). These new procedures will enable staff to address operational emergencies, such as an equipment failure at the Cater Water Treatment Plant, that require immediate purchases that do not allow for compliance with the normal bidding and award procedures.

6. Maintenance and Repair Services

The section regarding maintenance agreements (Section 4.52.110) has been amended to specify the procedure for bidding and contract award for maintenance and repair services. These procedures are established separately from the purchase of other goods and services in order to accommodate the increased dollar thresholds established by Council Resolution 97-052.

7. Surplus Personal Property

As currently written, the Purchasing Code authorizes the Purchasing Agent to exchange or sell surplus City property. A proposed amendment to this section would authorize the Purchasing Agent to sell surplus property up to established dollar values without the need to advertise or obtain competitive bids. The idea behind the different dollar thresholds is that sales to other governmental agencies have a reduced opportunity for self dealing or other improprieties.

8. Cooperative Purchases

An amendment to the section authorizing cooperative purchases is proposed to allow the Purchasing Agent to conduct cooperative purchases with a wider group of entities. The current code only allows cooperative purchases with the State Department of General Services, the County of Santa Barbara, and other municipalities located in Santa Barbara County. This limitation artificially restricts the City's ability to piggyback on other public agencies' contracts and prevents the Purchasing Agent from leveraging the City's purchasing power by using contracts awarded by larger public agencies located outside of Santa Barbara County, such as the City of Los Angeles or agencies of the federal government, without prior Council approval. The new proposal would allow the Purchasing Agent to conduct cooperative purchases with any local, state, or federal government or any association of governmental agencies authorized by state or federal law.

This section is also being amended to authorize the use of a surrogate bidding process as long as the original contract was awarded pursuant to a competitive bidding process that substantially conforms to the requirements of the City's purchasing procedures. Common examples of surrogate bidding include the purchase of fire engines based on bid specifications developed and bid by other governmental agencies. This amendment will allow the Purchasing Agent to award contracts based on surrogate bidding as long as the value of the contract is within the budget approved by the City Council.

9. Professional Services

In the past, the relationship between the contracting for professional services and the purchase of ordinary goods and services has been defined by the omission of professional services from the list of goods and services subject to the procedures specified in the Purchasing Code. A new section has been added to the chapter to clarify how contracts for professional services are awarded and how those procedures relate to the Purchasing Code.

Debarment Procedures

In addition to the proposed update to the Purchasing Code, staff presented the Ordinance Committee with a draft resolution that would establish a debarment process for the City. Debarment is a process where the City declares a contractor or supplier to be non-responsible and prohibits the contractor or supplier from bidding on City purchases for a period of time. Since the ability to bid on government contracts is viewed as a property right of the contractor, the City must afford a contractor due process before declaring the contractor non-responsible. A section has been added to the Purchasing Code directing the City Administrator to develop a debarment procedure for approval by Council resolution.

The draft resolution presented to the Ordinance Committee was largely based on procedures adopted by the City of San Diego. Ordinance Committee members had a couple of comments and recommended additions to the procedures following their review. Since the Ordinance Committee meeting, the City Attorney's Office has begun a thorough review of the procedures to address the Ordinance Committee's comments and to further clarify the procedures. Staff expects to return to the City Council in the near future with a revised resolution for the adoption of a debarment procedure for the City.

BUDGET/FINANCIAL INFORMATION:

The proposed amendments to the Purchasing Code will clarify and streamline purchasing procedures, thereby reducing the amount of staff time dedicated to routine purchases. The extension of the cooperative purchasing authority will enable the Purchasing Agent to leverage the City's purchasing power by taking advantage of the

purchasing power of other large jurisdictions. The future adoption of a debarment process will enable the City to avoid having non-responsible contractors or vendors competing for City contracts that can lead to inefficiencies and the need to re-bid contracts.

SUSTAINABILITY IMPACT:

The amendment will allow the City to utilize agreements from other agencies for green/sustainable products and services when it is in the City's best interest to do.

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SUBMITTED BY: Robert Peirson, Finance Director

APPROVED BY: City Administrator's Office