

TO: James L. App, City Manager
FROM: Jim Throop, Administrative Services Director
SUBJECT: Municipal Code and Purchasing Policy Manual Update
DATE: November 3, 2009

NEEDS: For the City Council to consider an ordinance and a resolution making revisions to the City's Purchasing Procedures.

FACTS:

1. The City of Paso Robles Purchasing Code was last updated in 1992. The Purchasing Policy Manual was last updated in 2001.
2. Due to the need to stimulate the local economy the Local Vendor Preference section of the Purchasing Code can be expanded to assist local businesses.
3. The Professional Services section of the Code did not specify clearly that procurement of professional services is based on qualifications.
4. Purchasing approval levels have not been adjusted since 1992, which is over seventeen (17) years ago.

ANALYSIS &
CONCLUSION: The Purchasing Code for the City of Paso Robles has not been updated since 1992.

The City, State and Nation are in the midst of one of the most severe economic downturns since the Great Depression. To support assist local business and employment, and stimulate the local economy, the Local Vendor Preference section of the Purchasing Code may be modified to add a 5% preference to a local business. This allows the City to select a local vendor whose bid was not more than 5% above the lowest bid (to a maximum preference of \$5,000).

The dollar amount for purchasing authority has not been adjusted during this same 17 year period. It is being recommended that these amounts be adjusted to reflect current pricing standards and for operational efficiency.

The Purchasing Code's Professional Services section is being amended so that it is clear that procurement of professional services is based upon qualifications.

Policy
Reference: City of Paso Robles Municipal Code and Purchasing Policy Manual.

FISCAL

IMPACT: The incremental cost to the City will be marginal and will typically only pertain to the Local Vendor Preference selection.

- Options:
- a. Introduce the First Reading Ordinance No. 09-XXX N.S. making certain amendments to Chapter 6.04 of the Municipal Code relating to the purchasing regulations and approve Resolution No. 09-XXX for making certain revisions to the Purchasing and Payment Procedures manual to reflect the changes to the municipal code; or
 - b. Amend, modify, or reject the above option

RESOLUTION NO. 09-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES MAKING CERTAIN REVISIONS TO THE PASO ROBLES PURCHASING AND PAYMENT PROCEDURES MANUAL

WHEREAS, the City of El Paso de Robles (the "City") has adopted a Purchasing and Payment Procedures Manual pursuant to Section 6.04.130 of the City's Municipal Code;

WHEREAS, by Ordinance No. _____, the City Council has adopted certain revisions to Chapter 6.04 regarding its purchasing and payment procedures; and

WHEREAS, the City endeavors to stimulate the local economy by using its purchasing power to support local businesses and promote the creation and retention of local jobs;

WHEREAS, to further this goal, the City Council desires to grant a preference to local vendors when evaluating bids or quotations for the City's purchase of discretionary goods and services to implement the changes adopted in Chapter 6.04; and

WHEREAS, the City Council further desires to revise the language in the Purchasing and Payment Procedures Manual pertaining to professional services to implement the changes adopted in Chapter 6.04 and to make other clarifications;

THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Section 1.0 of the City's Purchasing and Payment Procedures Manual is hereby revised to read as follows:

"Section 1.0 PURCHASES LESS THAN \$5,000

Provided that there are adequate budget appropriations available and that no administrative restrictions have been imposed by the City's purchasing authority, an executive manager may purchase supplies and services up to \$5,000 without approval from the City's purchasing authority or issuance of a purchase order except as follows:

- a) All personal computers must be purchased through the City's Information Systems Manager. There must be a budget appropriation for both the computer and its annual replacement cost.
- b) All software regardless of cost must be approved by the City's Information Systems Manager prior to purchase."

SECTION 2. Section 2.0 of the City's Purchasing and Payment Procedures Manual is hereby revised to read as follows:

"Section 2.0 PURCHASES GREATER THAN \$5,000 BUT LESS THAN \$10,000

Provided that there are adequate budget appropriations available and that no administrative restrictions have been imposed by the City's purchasing authority, an executive manager may

purchase supplies and services over \$5,000 subject to purchase order approval from the City's purchasing authority. The purchase order must be prepared and approved prior to the purchase commitment. The executive manager must endeavor to solicit three quotations. Quotations should be attached or noted on the face of the purchase order."

SECTION 3. Section 3.0 of the City's Purchasing and Payment Procedures Manual is hereby revised to read as follows:

"Section 3.0 PURCHASES GREATER THAN \$10,000

Provided that there are adequate budget appropriations available and that no administrative restrictions have been imposed by the City's purchasing authority, an executive manager may purchase supplies and services over \$10,000 subject to purchase order approval from the City's purchasing authority. The purchase order must be prepared and approved prior to the purchase commitment. The executive manager must solicit competitive bids prior to the preparation and issuance of a purchase order. Bid results should be attached or noted on the face of the purchase order."

SECTION 4. Section 4.0 of the City's Purchasing and Payment Procedures Manual is hereby revised to read as follows:

"Section 4.0 PURCHASE ORDERS

Purchase orders shall be issued for acquisitions of supplies, services (including professional), equipment and/or public works projects wherein the estimated total purchase is expected to exceed \$5,000.

Purchase orders should be issued for the estimated total amount even when individual, reoccurring acquisitions are less than \$5,000. Examples include the transport of sewer sludge wherein any individual transport is less than \$5,000 but the estimated total annual cost exceeds \$5,000. Another example might be the purchase of chlorine.

Subject to the requirements and limits set forth in this manual, the City's purchasing authority may approve a purchase order for up to \$20,000 without City Council concurrence. Any purchase orders greater than \$20,000 shall require City Council concurrence.

Purchase orders may have multiple budgetary account numbers and multiple budgetary account numbers may include multiple departments/divisions.

The issuance of purchase orders shall be made prior to any purchase commitment to the vendor pursuant to the following procedures:

1. The department and/or division shall complete the electronic purchase order form providing all of the required data in the spaces provided. Each purchase order issued shall be numbered sequentially with three components, X-XX-XXX, wherein the first component consists of the second digit of the fiscal year (i.e. "3" being fiscal year 2003 or that year ending June 30, 2003); the second component consists of two alpha digits representing the department / division (to be assigned by the Administrative Services Department); and the third component consists of three numerical digits representing the sequence number (to be assigned by the issuing department / division).

2. Upon completion of the purchase order, the purchase order shall be signed by the executive manager or his designated representative and shall be forwarded to the City's purchasing authority for signatory approval. Upon approval or denial, the City's purchasing authority shall return the purchase order to the initiating department / division. If approved, the purchase order shall be distributed as follows:

- a) Copy to Vendor
- b) Copy to Administrative Service (authorizing payment copy)
- c) Original to Issuing Department"

SECTION 5. Section 5.0 of the City's Purchasing and Payment Procedures Manual is hereby revised to read as follows:

"Section 5.0 QUOTATIONS AND BIDS (non-professional services)

Executive managers may exercise their own discretion with regard to vendor choice for purchases of less than \$5,000.

For purchases greater than \$5,000 but less than \$10,000, executive managers shall endeavor to solicit quotations from three vendors. The purchase order or an attachment to the purchase order should note the vendors contacted and the amount of their quote.

For purchases greater than \$10,000, the executive manager shall solicit competitive bids wherein a legal notice shall be published in the City's officially designated newspaper and the bid(s) shall be submitted directly to the City Clerk's office, who shall hold said bid(s) until the advertised date and time of opening. For purchases up to \$20,000, the bid shall be awarded by the City's purchasing authority. For purchases greater than \$20,000, the bid shall be awarded by the City Council. After the bid is awarded, a purchase order shall be issued in accordance with Section 4.0.

Local Vendor Preference

The City endeavors to stimulate the local economy by using its purchasing power to support local businesses and promote the creation and retention of local jobs. To that end, the City may grant a preference to local vendors when comparing bids or quotations for the City's purchase of discretionary goods and services, subject to the guidelines set forth in this section.

The preference shall only apply to the City's procurement of materials, supplies, equipment, and services as set forth in this procedures manual. In addition, the preference shall not apply to procurement that is restricted by Federal or State laws or regulations that proscribe such a preference, or to public projects subject to the California Public Contracts Code.

The preference may be granted only if the City's Purchasing Agent determines that the local vendor is able to provide comparable goods or services as the next lowest bidder. In determining whether to grant the preference, the Purchasing Agent may take into account the criteria set forth in Section 6.04.370 of the City's Municipal Code.

The preference shall be five percent (5%) of the local vendor's bid or quotation, provided, however, that in no event shall the total preference exceed \$5,000 for any single purchase order or contract. This means that when comparing bids or quotations, a local vendor's bid or quotation will be deemed reduced by 5% (or \$5,000 if the 5% reduction equals or exceeds \$5,000). The 5%

preference will be used solely to determine to whom the contract should be awarded and will not in any way alter the final contract amount.

A 'local vendor' must meet all of the following criteria:

1. The vendor owns, leases, rents or otherwise occupies a fixed office or other commercial building, or a portion thereof, having a street address within the City. A post office box shall not qualify as a local business address.

2. The vendor possesses a valid and verifiable business license issued by the City that reflects the vendor's local address.

3. The vendor's business is staffed during business hours by an employee, or employees, employed by the vendor and conducting the vendor's local business.

4. Where State sales tax will be paid for the purchase, the vendor must possess a valid resale license from the State Franchise Tax Board reflecting the vendor's business address within the City and evidencing that payment of the local share of the sales tax will revert to the City.

To qualify for the preference, a vendor must certify in writing, in its bid or quotation to the City, that it meets the criteria of a 'local vendor.' The City's Purchasing Authority, in consultation with the Director of Administrative Services, shall determine if a vendor qualifies as a 'local vendor.' Any vendor falsely claiming to qualify as a 'local vendor' shall be ineligible to transact any business with the City for a period of not more than 24 months as determined by the City's Purchasing Authority. The Purchasing Authority may also terminate all or part of any contract entered into with such a vendor. The decision of the Purchasing Authority may be appealed pursuant to the review process used for bid protests."

SECTION 6. Section 6.0 of the City's Purchasing and Payment Procedures Manual is hereby revised to read as follows:

"Section 6.0 PROFESSIONAL SERVICES

The procurement of professional services shall be based on qualifications. Such professional services shall include, but not be limited to those provided by: engineers, management services for construction projects, architects, geologists, hydrologists, land surveyors, landscape architects, rate consultants and assayers, real estate appraisers, licensed environmental assessors and ecologists, accountants and providers of financial services, actuaries, personnel and insurance consultants, psychologists, medical doctors, entertainers and performers, claims consultants, and attorneys at law. If the cost of the work to be performed is of an estimated value in excess of \$20,000, the purchasing authority shall obtain the approval of the City Council prior to issuing a purchase order pursuant to Section 4.0. If the cost of the work to be performed is not estimated to exceed \$20,000, the City's purchasing authority may issue a purchase order pursuant to Section 4.0 without City Council concurrence."

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles this _____, 2009, by the following roll call vote:

AYES:

NOES:

ABSTAIN:
ABSENT:

Duane Picanco, Mayor

ATTEST:

Cathy David, Deputy City Clerk

ORDINANCE NO. 09-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES MAKING CERTAIN AMENDMENTS TO CHAPTER 6.04 OF THE CITY'S MUNICIPAL CODE

WHEREAS, the City of El Paso de Robles (the "City") endeavors to stimulate the local economy by using its purchasing power to support local businesses and promote the creation and retention of local jobs;

WHEREAS, to further this goal, the City Council desires to grant a preference to local vendors when evaluating bids or quotations for the City's purchase of discretionary goods and services; and

WHEREAS, the City Council desires to clarify the provisions in the City's Municipal Code pertaining to the hiring of consultants.

THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 6.04.160 of the City's Municipal Code is hereby revised to read as follows:

"6.04.160 Authority to hire consultants.

The restrictions and provisions of this chapter shall not apply to contracts involving the acquisition of professional or specialized services such as, but not limited to, those rendered by architects, attorneys, engineers, programmers, economists and other specialized consultants. Selection for such services will be made on the basis of qualifications and approved by the City Council whenever the cost of the work to be performed is greater than \$20,000."

SECTION 2. Section 6.04.210 of the City's Municipal Code is hereby revised to read as follows:

"6.04.210 Quotations – Notice of invitation.

Quotations from prospective sellers, vendors, suppliers or contractors, shall be solicited either by verbal or written request.

SECTION 3. Section 6.04.220 of the City's Municipal Code is hereby revised to read as follows:

"6.04.220 Quotations - Submission.

Quotations shall be submitted to the purchasing authority, who shall keep a record of open market quotations and orders for a period of ninety days after the receipt of such quotations."

SECTION 4. Section 6.04.250 of the City's Municipal Code is hereby revised to read as follows:

"6.04.250 Award of purchase orders.

Purchase orders shall be awarded by the purchasing authority to the person submitting the lowest responsible quotation, except as follows:

- a. If two or more quotations are received for the same total amount or unit price, quality and service being equal, and if, at the discretion of the purchasing authority, the public interest will not permit the delay of inviting new quotations, then the purchasing authority may accept the lower quotation obtained through negotiation with the persons submitting the tie quotations;
- b. In comparing quotations for discretionary goods or services to be purchased by the City, the City may grant local vendors a preference pursuant to the guidelines set forth in the purchasing manual, as described in Section 6.04.130; or
- c. If no quotations are received, the purchasing authority may make the required purchase without further notice."

SECTION 5. Section 6.04.350 of the City's Municipal Code is hereby revised to read as follows:

"6.04.350 Award of contract.

Subject to the prior approval of the city manager, contracts shall be awarded by the purchasing authority to the lowest responsible bidder, except as follows:

- a. If, at the time of bid opening, two or more bids received are for the same total amount or unit price, quality and service being equal, and if in the discretion of the purchasing authority the public interest will not permit the delay of readvertising for bids, then the purchasing authority may accept the one he chooses or the lowest bid obtained through subsequent negotiation with the tie bidders;
- b. In computing bids for discretionary goods or services to be purchased by the City, the City may grant local vendors a preference pursuant to the guidelines set forth in the purchasing manual, as described in Section 6.04.130."

SECTION 6. Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 7. Publication.

The City Clerk will certify to the passage of this Ordinance by the City Council of the City of El Paso de Robles, California, and cause the same to be published once in a newspaper of general circulation, published and circulated in the City of El Paso de Robles.

SECTION 8. Effective Date.

This Ordinance will take effect thirty (30) days after its final passage.

INTRODUCED at a regular meeting of the City Council of the City of El Paso de Robles on _____, 2009, and PASSED AND ADOPTED by the City Council this _____, 2009, by the following roll call vote:

AYES:

NOES:

ABSTAIN:
ABSENT:

Duane Picanco, Mayor

ATTEST:

Cathy David, Deputy City Clerk