

**ORDINANCE NO. 1068**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS BANOS REPEALING AND REPLACING CHAPTER 10 OF TITLE 3 OF THE LOS BANOS MUNICIPAL CODE RELATING TO THE PURCHASING SYSTEM**

The City Council of the City of Los Banos does ordain as follows:

WHEREAS, the State of California, in Government Code Section 54201-54205 requires every local agency to adopt policies and procedures, including bidding regulations, governing purchases of supplies and equipment by the local agency; and

WHEREAS, the City of Los Banos last updated the Municipal Code Section relating to the Purchasing System in 1992; and

WHEREAS, many of the provisions in the Municipal Code relating to the Purchasing System need to be updated and new provisions need to be added.

Section 1. Chapter 10 of Title 3 of the City of Los Banos Municipal Code is hereby repealed in its entirety and a new Chapter 10 of Title 3 of the City of Los Banos Municipal Code is hereby added to read as follows:

**PURCHASING SYSTEM**

**Article I. General**

3-10.10 Purpose. The purpose of this chapter is to:

- A. Establish efficient procedures for the purchase of commodities, equipment, and general services at the lowest possible cost commensurate with the quality needed;
- B. Establish procedures for contracting for professional services;
- C. Exercise positive financial control over purchases;
- D. Clearly define authority for the purchasing function;
- E. Assure the quality of purchases;
- F. Provide for the authority of City officers to enter into contracts.

3-10.020 Definitions. For the purposes of this Chapter, the following definitions shall apply:

- A. *Change Order.* Change, or modification, or addendum to a contract after it has been executed.
- B. *City Employee.* An individual who performs services for the City in the capacity of an elected or appointed official, or as a compensated employee of the City or of a temporary services agency retained by the City. "City employee" does not include independent contractors.

C. *Commodities.* Any tangible goods or items such as supplies, parts and materials. Generally, they are consumable in City operations, become part or a component of City equipment or City facilities and/or have a useful life of one year or less.

D. *Contract.* Any agreement to do or not do a certain thing. "Contract" and "agreement" are synonymous. The term "contract" includes, among other things, a purchase order, a contract for services, and an addendum or change order.

E. *Emergency.* Includes,

1) The existence or threatened existence of conditions of extreme peril to the safety of persons and property within the City caused by fire, flood, storm, epidemic, riot, earthquake, drought, energy shortage, or other causes, the existence or threatened existence of which has been proclaimed by the City Council or the Director of Emergency Services; or

2) The existence of an immediate need to prepare for national or local defense; or

3) The existence of a breakdown in machinery, equipment or essential governmental services which requires the immediate purchase of materials, supplies or equipment to protect the public health, safety or general welfare of the residents of the City; or

4) Where an essential governmental operation affecting the public health, safety or general welfare could be greatly hampered or disrupted by following the standard purchasing procedures.

F. *Equipment.* Tangible personal property with a useful life of more than one year. It may be mobile, portable or fixed; and is an independent functioning unit, as opposed to parts which are components. It would include office equipment, furniture, field equipment, shop, lab, and plant equipment, vehicles and rolling stock.

G. *Financial Interest.* Includes,

1) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person has received compensation within the past year, or is entitled to, or is currently receiving compensation;

2) Ownership, whether wholly or in part, of any property or business;

or

3) Status as an officer, director, trustee, partner, employee, or manager of a business.

H. *General Services* includes,

1) Any work performed or services rendered by an independent contractor, with or without the furnishing of materials, including, but not limited to, the following:

a) Maintenance or nonstructural repair of City buildings, structures or improvements which does not require engineering plans, specifications or design, including, but not limited to, unscheduled replacement of broken window panes, fire extinguisher maintenance, minor roof repairs, plumbing, electrical, mechanical, elevator maintenance, custodial services, and pest control.

b) Installation, repair, modifications, and maintenance of City equipment.

c) Cleaning, analysis, testing, moving, removal or disposal (other than by sale) of City supplies, equipment, and waste products.

d) Providing other technical services to facilitate City operations such as communications, transportation, utilities.

e) Performing repair, demolition or other work required to abate nuisances under this Code,

2) Leasing or rental of equipment (personal property) for use by the City.

3) A maintenance agreement for equipment owned or leased by the City.

General Services does not include work defined as a public project under the Public Contract Code or services that are considered consultants or professional services.

I. *Gratuity.* A gift, payment, loan, advance, deposit of money, or service, presented or promised in return for or in anticipation of favorable consideration in the procurement process. "Gratuity" does not include the compensation paid by or due from the City or from a temporary service agency under contract with the City to an employee in connection with the employee's services for the City.

J. *Immediate Family.* Any spouse, child, stepchild, parent or stepparent of a City employee. The relationship of parent to child includes both natural and adoptive relationships.

K. *Local Business.* A person or legal entity which has a place of business (other than a post office box) within the City and has a valid, current business license issued by the City.

L. *Professional Services.* Services which involve the exercise of professional discretion and independent judgment based on an advanced or specialized knowledge, expertise or training gained by formal studies or experience. Such services include, but are not limited to, those provided by appraisers, architects, attorneys, auditors, engineers, financial advisors, instructors, insurance advisors, physicians, planning, environmental and traffic consultants, and other specialized consultants.

M. *Recycled Products.* Products manufactured with waste material that have been recovered or diverted from the waste stream. Recycled material may be derived from post-consumer recovered material (material that has served its intended end use and been discarded by a final consumer), pre-consumer recovered material (material that has not reached the end use consumer but would otherwise be discarded) industrial scrap, manufacturing waste and/or other waste that otherwise would not have been utilized.

N. *Sole Source.* Contracts for which the City's Purchasing Officer has determined, after conducting a good faith review of available products and sources, that the City's requirements can be met solely by a single patented, copyrighted or proprietary article or process available from a single source. Examples of acceptable sole source purchases are equipment for which there is no comparable competitive product, a component or replacement part for which there is no commercially available substitute and which can be obtained only from the manufacturer, and an item where compatibility with items in use by the City is the overriding consideration.

O. *Specifications.* A description of the physical or functional characteristics or of the nature of the required goods and/or services.

P. *Surplus Personal Property.* Goods owned by the City which are no longer needed or which are obsolete or unserviceable or, property that is a by-product (scrap metal, used tires and oil, etc.).

Q. *Technology Product.* Hardware, software, or communications equipment, or related equipment and goods which incorporate any such items.

### 3-10.030 Purchasing Officer Powers and Duties.

As provided in Section 2-3.121 of this Code, the City Manager shall be responsible for the purchase of all supplies for all of the departments of the City. No expenditures shall be

submitted or recommended to the City Council except on the report and approval of the City Manager. As Purchasing Officer, the City Manager shall have the authority to:

- A. Purchase or contract for commodities, equipment, and services required by any using department in accordance with purchasing procedures prescribed in this Chapter.
- B. Negotiate and recommend execution of contracts for the procurement of commodities, equipment, and services.
- C. Act to procure for the City the needed quality in commodities and equipment at least expense to the City.
- D. Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases.
- E. Prepare and recommend to the City Council amendments to ordinances governing the procurement of commodities, equipment, and services.
- F. Keep informed of current development in the field of purchasing, prices, market conditions and new products.
- G. Prescribe and maintain such forms as are reasonably necessary to the operation of this Chapter and other administrative rules and regulations.
- H. Supervise the inspection of all commodities and equipment purchased to ensure conformance with specifications.
- I. Transfer surplus or unused commodities and equipment between departments as needed, and sell or dispose of surplus or unused commodities and equipment which have become unsuitable for City use.
- J. Maintain records needed for the efficient operation of the purchasing program.

3-10.040 Decentralized Purchasing. The Purchasing Officer may, by written authorization grant authority to any Department Head to purchase, or contract for specific supplies and equipment independently of the Purchasing Officer; but shall require that such purchases or contracts be made in conformity with the procedures established by this Chapter and may further require periodic reports from the Department Head regarding the purchases and contracts made pursuant to such authority.

3-10.050 Availability of Funds. A purchase or contract may be initiated only if sufficient funds have been appropriated and for which there is an unexpended and unencumbered remaining balance, sufficient to pay for the purchase or contract. The only exception to this provision is in cases of emergency as defined in this Chapter.

3-10.060 Ethics.

A. Conflict of Interest. No City employee shall participate in the award or administration of a purchase contract if a conflict of interest, real or apparent would be involved. Such a conflict would arise when the employee, any member of his/her immediate family, his/her partner, or an organization which employs or is about to employ any of the above, has a financial or other interest in the firm selected for award.

B. Gratuities. No City employee may accept, directly or indirectly, any gift, rebate, money, or anything else of value whatsoever from any person or entity if the gift, rebate, money or item of value is intended as a reward or inducement for conducting business, placing orders with, or otherwise using the employee's position to favor the contributor.

C. Interference with Bidding. No City employee shall aide or assist a bidder in securing a contract to furnish commodities, equipment or services, or, favor one bidder over

another, or give or withhold information from any bidder not given or withheld from all other bidders, or willfully mislead any bidder in regard to the bid specification, or knowingly certify to a greater level of service performed, or commodities or equipment furnished, than has respectively been performed or received.

3-10.070 Record Keeping. A record of all informal and formal bid quotations, bids and proposals shall be kept for a period of three years after audit of the fiscal year in which the purchase of contract was made. This record, while so kept, shall be open to public inspection.

3-10.080 Voidability. Any transaction failing to comply with this chapter in any respect is voidable at the discretion of the City Council.

## Article II. Contract Authority

3-10.100 City Council Authority. City Council approval is required for each contract regulated by this chapter unless authority to sign the contract is granted to another City officer. Such authority shall be exercised consistent with this Chapter.

3-10.110 City Manager Authority. The City Manager is authorized to enter into and sign on behalf of the City, without the prior approval of the City Council, a contract:

- 1) Which contains an initial maximum compensation figure of Thirty Thousand and No/100ths (\$30,000.00) Dollars. As to a change order, the limit of authority may not exceed ten (10%) percent of the original contract without additional authority at the time of awarding the contract;
- 2) For City-managed professional services in an amount up to One Hundred thousand and No/100ths (\$100,000.00) Dollars if the following criteria are met:
  - a) A City Council approved reimbursement agreement exists,
  - b) An applicant for development entitlements has deposited the full amount of the contract with the City, and
  - c) The funds are to be used for development related studies, such as an environment impact report; and
- 3) In an emergency, as defined in this Chapter, the City Manager may authorize the expenditure of any unencumbered moneys, notwithstanding the fact that such moneys may not have been appropriated for such purpose, to the extent that other moneys have not been appropriated or are otherwise unavailable.
- 4) Approve monthly progress payments, release contract retention.

## Article III. Methods of Procurement – Commodities, Equipment and General Services

3-10.200 Purchases of Five Thousand and No/100ths (\$5,000.00) Dollars or Less – Small Purchases. Procurements, the cost of which are Five Thousand and No/100ths (\$5,000.00) Dollars or less in any one transaction, shall be made using simplified and cost effective operational procedures without the required use of formal or informal bids. However, if there is a benefit to the City, competitive bidding should be used whenever practical.

3-10.210 Purchases of More than Five Thousand and No/100ths (\$5,000.00) Dollars, to Thirty Thousand and No/100ths (\$30,000.00) Dollars or Less – Informal Bid Process.

A. Informal bid procedure. The purchase of commodities equipment and general services greater than Five Thousand and No/100ths (\$5,000.00) Dollars to Thirty Thousand and No/100ths (\$30,000.00) Dollars or less, may be made in the open market, following the procedure prescribed below:

1) Minimum number of quotations. Open-market purchases shall, whenever possible, be based on at least three (3) quotations and shall be awarded to the lowest responsible quotation.

2) Notice inviting quotations. The department making the purchase shall solicit quotations by written (including e-mail) or verbal request to prospective vendors.

3) Quotations. Quotations shall be submitted in writing (including facsimile and e-mail) to the department, which shall keep a record of all open-market orders and quotes for a period specified in Section 3-10.070. This record is open for public inspection.

4) Award of contracts. The City Manager is authorized to award a contract of Thirty Thousand and No/100ths (\$30,000.00) Dollars or less when the City Council has budgeted funds for the item(s) and the amount of the award is not more than the budgeted amount.

B. Exceptions. The open-market procedure may be dispensed with in accordance with provisions set forth in Section 3-10.250.

3-10.220 Purchases of More Than Thirty Thousand and No/100ths (\$30,000.00) – Formal Bid Process.

A. Formal contract procedures. The City shall purchase commodities, equipment and general services of a value greater than Thirty Thousand and No/100ths (\$30,000.00) Dollars following the formal bid procedure prescribed below:

1) Notice inviting bids. The notice inviting bids shall include a general description of the articles or general services to be purchased, and shall state where bid forms and specifications may be secured and the time and place for opening bids.

a) Published notice. The notice inviting bids shall be published at least ten (10) days before the date of the opening of the bids. Notice shall be published at least once in a newspaper of general circulation.

b) Bidders' list. The City shall also solicit sealed bids from responsible prospective suppliers whose names are on a bidders' list.

2) Bidders' security. When deemed necessary, the City shall require bidders' security. Bidders' security shall be in accordance with the provisions of the California Public Contract Code.

3) Bid opening procedure. Bidders shall submit sealed bids to the City Clerk and shall identify them 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 (30) calendar days after the bid opening.

4) Rejection of bids. At its discretion, the City Council may reject any and all bids presented, and may re-advertise for bids.

5) Award of contracts. The City Council shall award a contract for the purchase of commodities or equipment or general services with a value more than Thirty Thousand and No/100ths (\$30,000.00) Dollars. A contract shall be awarded to the lowest responsible bidder, except as otherwise provided here. A contract may be awarded to the next lowest responsible bidder if the successful bidder refuses or fails to execute the contract.

6) Tie bids. If two (2) or more bids received are for the same total amount of unit price and quality, service and delivery being equal, and if the public interest will not permit the delay of re-advertising for bids, the City Manager or City Council may accept the one it chooses, or accept the lowest good faith offer by negotiation with the tie bidders.

7) Performance bonds. The City has the authority to require a performance bond before entering a contract, in such amount as is reasonably necessary to protect the best interest of the City. If a performance bond is required, the form and amount of the bond shall be described in the notice inviting bids.

B. Exceptions. Bidding under this section may be dispensed with in accordance with provisions set forth in Section 3-10.250.

### 3-10-230 Competitive and Non-Competitive Negotiations.

A. Applicability. A purchase may be had by negotiations when the purchase is for:

- 1) A technology product as defined in Section 3-10-020;
- 2) An addition to, repair to, or, maintenance of existing equipment which can be more efficiently added to, repaired or maintained by a particular company or manufacture;
- 3) Equipment which must be compatible with existing equipment, by reason of the training of the personnel or, an inventory of existing replacement parts kept by the City.

The affected department head shall state in writing the basis for determination that this section applies. Before any negotiations take place, that determination and the method of negotiation (competitive or noncompetitive) must be first approved by the City Manager when the purchase is Five Thousand and No/100ths (\$5,000.00) Dollars or more.

### B. Competitive Negotiation

1) Request for Proposals. Proposals are requested from a minimum of three (3) vendors. The notice inviting proposals shall be published at least ten (10) days before the date of the opening of the bids if the value of the product is expected to reach more than \$30,000. Notice shall be published at least once in a newspaper of general circulation. The Request for Proposals must identify all of the significant evaluation factors, including cost and their relative importance.

2) Receipt of Proposals. Sealed proposals must be submitted by the date and time specified on the notice inviting proposals and shall be identified by the Request for Proposal number.

3) Negotiation. The most qualified and responsive proposer will be selected for contract negotiations. If agreement cannot be reached with the first proposer, the second choice proposer (and then the third and so on) will be contacted with the first choice proposer (or other proposers, in order) dismissed from further consideration on that particular project. All elements of the negotiation

process shall be documented by the negotiating department and submitted to the City Manager. Responsible proposers shall be accorded fair and equal treatment with respect to opportunity for discussion and revision of proposals. Any revisions are permitted after submission in writing and prior to the award of a contract.

4) Award and Notification. A contract award in accordance with Article II of this Chapter may be made to the responsible proposer whose proposal will be best for the City considering evaluation factors outlined in Section 3-10.240 of this Chapter. All proposers participating in the process shall be notified in writing of the successful award.

C. Noncompetitive Negotiations. When there is only one source, purchase can be made through solicitation and negotiation directly with that source. The affected department head shall state in writing that basis for the determination that this subsection applies, and before any purchase is made, that determination must be approved in writing by the City Manager.

3-10.240 Determination of the Lowest Responsible Bidder. In determining the lowest responsible bidder, the following shall be considered in addition to price:

- A. Quality of the materials, supplies and/or equipment offered.
- B. The ability, capacity and skill of the bidder to perform the contract or provide the materials, supplies or equipment.
- C. Whether the bidder can perform the contract or provide the materials, supplies or equipment promptly or within the time specified, without delay or interference.
- D. The sufficiency of the bidder's financial resources to perform the contract or provide the materials, supplies or equipment.
- E. The ability of the bidder to provide future maintenance and services if essential to adequate performance.
- F. The compatibility of the materials, supplies and/or equipment with the City's existing inventory of same.
- G. The quality and timeliness of the bidder's performance on previous orders or contracts for the City.
- H. Litigation by the bidder on previous orders or contracts with the City.
- I. The ability of the bidder to provide future maintenance and service where such maintenance and service is essential.
- J. The character, integrity, reputation, judgment, experience and efficiency of the bidder.

3-10.250 Exceptions to the Bidding Process. Contracts for goods and/or services for which the cost to the City in one transaction will be more than Five Thousand and No/100ths (\$5,000.00) Dollars, shall be let by either informal or formal competitive bidding or proposals pursuant to this Chapter. Procurement requirements shall not be artificially divided so as to avoid the competitive bidding requirement. Nothing in this section shall preclude the solicitation of competitive bids or proposals, when possible. The following are exemptions to the competitive bidding requirements:

- A. Professional or specialized services.
- B. Emergency procurements, as defined in Section 3-10.270.
- C. Situations where solicitations of bids or proposals would for any reason be impractical, unavailing or impossible.
- D. Cooperative procurements as defined in Section 3-10-290
- E. Sole source goods or services.

- F. Insurance and bonds.
- G. Procurements funded by grants, donations or gifts when the special conditions attached to the grants, donations or gifts require the procurement of particular goods and/or services.
- H. Goods and/or services obtained from or through agreement with any governmental, public or quasi-public entity.
- I. Works of art, entertainment or performance.
- J. Surplus personal property owned by another governmental, public or quasi-public entity.
- K. Membership dues, conventions, training, and travel arrangements.
- L. Advertisements in magazines, newspapers, or other media.
- M. Where competitive bids or proposals have been solicited and no bid or proposal has been received. In such a situation the City Manager may proceed to have the services performed or the goods procured without further competitive bidding.

3-10.260 Splitting Orders. It is unlawful to split into smaller orders the purchases of commodities, equipment or general services for the purpose of evading the competitive bidding provisions of this Article.

3-10.270 Emergency Purchases. The City Manager, or designee, may make or authorize others to make emergency procurements, regardless of the cost, if there is an urgent necessity to do so for the preservation of life, health or property as defined in this Chapter. Such emergency procurements shall be made with such competition as is practical under the circumstances and shall be limited to those goods and services necessary to satisfy the emergency need. In such circumstances, a written report of the procurement will be given to the City Manager including a description of the emergency and the basis for selection of the particular contractor; and a copy of this report shall be included in the procurement records. In the event that such emergency action is necessary and the procurement cost is more than Thirty Thousand and No/100ths (\$30,000.00) Dollars in any one transaction, the City Manager shall make a full and complete report to the City Council at its next regularly scheduled meeting.

3-10.280 Pre-Bid Conferences or Site Inspections. When deemed necessary for an adequate understanding of requirements, the City is authorized to require bidders or proposers to attend pre-bid conferences or site inspections prior to the time and date set for receipt of bids or proposals and to consider non-responsive bidders or proposers not in attendance.

3-10.290 Cooperative Procurement.

A. Cooperative Purchasing Agreements – Nothing in this Article prohibits the voluntary participation by the City in any cooperative purchasing agreement(s) or programs entered into between the City and the State, County, or other cities or public agencies situated within the State. The City Manager is authorized to act under the provisions of this article to procure for the City commodities, equipment and/or services in conjunction with such voluntary cooperative purchasing agreement(s) or programs as may be entered into by the City. All formal contract and bidding procedures to be followed in such cases shall be those specifically enumerated in the voluntary cooperative purchasing agreement or program.

B. Use of Another Entity's Contract – The City Manager may authorize the procurement of commodities, equipment and/or services through the use of a contract initiated by another governmental, public agency, provided that the original parties to the contract agree, the contract was awarded within twelve months of the date of authorization, the contract is for identical or nearly identical goods and/or services, and the contract resulted from a competitive bid using methods similar to those required by this Chapter.

3-10.30 Equipment Leasing.

A. Leasing of purchasable or non-purchasable equipment shall be in accordance with the authority limits set forth in Article II, depending upon the annual cost of the lease.

B. Each contract for the leasing or rental of equipment for the City shall contain a provision permitting the City to terminate the contract at the end of any fiscal year during the term of the contract upon not less than thirty (30) days' written notice to the other party.

3-10.310 Inspection and Testing. The City may inspect supplies, equipment and general services delivered, and determine their conformance with the specifications set forth in the order or contract. A department head has the authority to require chemical and physical tests of samples submitted with bids, and samples of deliveries which are necessary to determine their quality and conformance with specifications.

3-10.320 Local Business Preference. In evaluating competitive bids, the City Council shall determine the lowest responsible bidder, and any local bidder shall be granted a preference in an amount equal to five (5%) percent of the lowest responsible bid, if that low bid has been submitted by a non-local bidder. If, after deduction of the five (5%) percent preference from a local bidder's bid, it is equal to or less than the lowest bid, the bid shall be awarded to the local bidder.

To qualify as a local bidder, firms or individuals must submit written proof of the address of their principal place of business and a copy of their current City business license with each bid for which a preference is claimed. Proof of address is normally the address to which contract and payments will be sent.

Local preference only applies to supplies, materials and/or equipment, and will not apply to bids conducted with other public agencies nor when prohibited by State or Federal statutes or regulations to be awarded to the lowest responsible bidder, or otherwise exempted from local preferences. A total amount of such a preference granted in a single bid shall not exceed Five Thousand and No/100ths (\$5,000.00) Dollars over a non-local bidder.

3-10.330 Recycled Products Procurement. The City of Los Banos promotes and supports the use of recycled products and will support the development of stable markets for recyclables by purchasing recycled products whenever such products perform satisfactorily and are available at a reasonably competitive price. Each City Department shall:

A. Procure recycled products whenever practical, including: recycled paper; other office paper products; janitorial supplies; corrugated products, toner cartridges; lubricating and hydraulic oils; outdoor wood substitutes; recycled construction, building and maintenance products; re-crushed or recycled cement concrete, aggregate and asphalt products; recycled rubber products; compost, mulch and other recycled bio-solid products; re-manufactured paint and other products that may be identified by the City.

B. Identify, evaluate and maintain information about recycled products containing the maximum practical amount of recycled materials.

C. Develop specifications used in public bidding aimed at eliminating barriers to recycled content products.

D. Encourage contractors and grantees to participate in the City's Recycle and Buy Recycled Program as feasible.

E. Ensure that procurement documents issued by the Department require recycled or waste reducing alternatives whenever practical.

#### Article IV. Methods of Procurement – Professional Services

3-10.400 Professional Services With a Value of Five Thousand and No/100ths (\$5,000.00) Dollars or Less. Professional Services valued at Five Thousand and No/100ths (\$5,000.00) Dollars or less, shall be contracted using simplified and cost effective operational procedures without the requirement of soliciting Request for Proposals from multiple professional service providers.

3-10.410 Professional Services With a Value of More Than Five Thousand and No/100ths (\$5,000.00) Dollars to Thirty Thousand and No/100ths (\$30,000.00) Dollars.

A. Informal request for proposal (RFP) procedure. The procurement of services with a value greater than Five Thousand and No/100ths (\$5,000.00) Dollars up to Thirty Thousand and No/100ths (\$30,000.00) Dollars shall be made following the procedure prescribed below:

1) Solicitation of proposals. The department may solicit proposals by written (including e-mail) or verbal request to prospective consultants. Informal requests for proposals shall, whenever possible, be based on at least three written proposals and shall be awarded to the best qualified and most responsible proposer. The dollar amount of the proposal shall be considered but the award need not be made to the lowest dollar proposal.

2) Award of contracts. The City Manager is authorized to award a contract in accordance with the authorization granted in Section 3-10.110.

B. Exceptions. The request for informal proposal procedure may be dispensed with in an emergency or when the City Manager in his/her best judgment makes a written finding that compliance with these procedures is not in the best interest of the City.

3-10.420 Professional Services With a Value of More Than Thirty Thousand and No/100ths (\$30,000.00) Dollars.

A. Formal request for proposal (RFP) procedures. The City shall procure services with a value of more than Thirty Thousand and No/100ths (\$30,000.00) Dollars following the procedure prescribed below:

1) Request for proposals. The request for proposal (RFP) shall include a general description of the services to be procured, shall include a proposed professional services agreement, and the time and place for submission of proposals. A notice inviting proposals shall be distributed to at least three (3) consultant firms and shall be posted on the City bulletin board at least ten (10) days prior to the deadline for submission of proposals. Proposers shall submit sealed proposals and shall identify them as proposals on the envelope.

2) Evaluation of proposals. All responsive proposals shall be reviewed and evaluated by the City in order to determine which proposer best meets the City's

needs by demonstrating the competence and professional qualifications necessary for the satisfactory performance of the required services. The criteria by which the City shall evaluate proposals will be set forth in the request for proposals. The City reserves the right to reject any and all proposals or waive any irregularities in any proposal or the proposal process.

3) Award of contract. The City Manager shall award a contract for the services with a value of Thirty Thousand and No/100ths (\$30,000.00) Dollars or less. The City Council shall award a contract for services with a value, or greater than Thirty Thousand and No/100ths (\$30,000.00) Dollars.

B. Exceptions. Formal requests for proposals under this section may be dispensed with:

1) In an emergency.  
2) When the services can be obtained from only one source which has been reviewed and approved in writing by the City Manager.

3) When processed through a cooperative purchasing agreement with another public agency whose procurement process is consistent with the provisions of this chapter.

4) Contracts for City-managed professional services in an amount up to One Hundred Thousand and No/100ths (\$100,000.00) Dollars if the following criteria are met: a) a City Council approved reimbursement agreement exists, b) an applicant for development entitlements has deposited the full amount of the contract with the City, and c) the funds are to be used for development related studies, such as an environmental impact report.

5) When, in the determination of the City Council, compliance with the procedure is not in the best interest of the City for those professional services, the costs of which are Thirty Thousand and No/100ths (\$30,000.00) Dollars or more.

#### Article V. Disposition of Surplus Personal Property

##### 3-10.500 Disposition of Surplus Personal Property.

A. Authority. The City Manager is authorized to sell or dispose of surplus personal property having a salvage value in the open market, by public auction, by competitive sealed bids or by exchange or trade-in for new goods. The sale or lease of surplus personal property to a governmental, public or quasi-public agency may be without advertisement for, or, receipt of bids.

B. Property with No Salvage Value. Surplus personal property with no salvage value shall be disposed of in a manner that salvages recyclable components, if practical.

C. Records. The City will keep records which indicate surplus personal property disposed of, the method of disposal, and the amounts recovered from its disposal and shall maintain records for public inspection relative to the disposal of surplus personal property for a period of time in compliance with the recordkeeping provisions of this Chapter.

D. Donations. Surplus personal property may be donated to governmental, public or quasi-public agencies, charitable or non-profit organizations.

E. Proceeds of Sale. Proceeds from the sale of surplus personal property shall be deposited into the appropriate City fund.

Section 2. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen days

after passage and adoption as may be required by law; or, in the alternative the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

Introduced by Council Member Brooks and seconded by Council Member Faria on the 19<sup>th</sup> day of January, 2007.

Passed on the 2<sup>nd</sup> day of January, 2008 by the following vote:

AYES: Council Members Brooks, Faria, Sousa, Mayor Jones  
NOES: None  
ABSENT: Council Member Villalta

APPROVED:

/s/ Tommy Jones  
Tommy Jones, Mayor

ATTEST:

/s/ Lucille L. Mallonee  
Lucille L. Mallonee, City Clerk