Meeting Date: 9/27/2011

ACTION	TYPE OF ITEM
☐ Approved Recommendation	☐ Info/Consent
☐ Ord. No(s). _____	X Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other _____

Prepared By: Bruce E. Dandy BD Agenda Item No. O-2

Reviewed By: City Manager KRD City Attorney MA Finance JC Other *(Specify)*

DATE: September 20, 2011

TO: City Council

FROM: Bruce E. Dandy, Accounting Manager BEDandy
Finance and Management Services

SUBJECT: **Purchasing Policies and Procedures**

RECOMMENDATION

That City Council consider a report on purchasing policies and procedures and provide direction to staff.

DISCUSSION

Council has asked staff to prepare a presentation on the City's purchasing policies and procedures. Staff will provide a Power Point Presentation covering purchases of professional and trade services and public work projects.

FINANCIAL IMPACT

None.

BED

Attachment #1 - Purchasing Ordinance and Resolution
Attachment #2 – Bidder's Questionnaire
Attachment #3 – Public Projects Matrix
Attachment #4 – Power Point Presentation

CITY COUNCIL OF THE CITY OF OXNARD

ORDINANCE NO. 2835

ORDINANCE OF THE CITY OF OXNARD, CALIFORNIA, AMENDING SECTIONS 4-9 AND 4-10 OF THE OXNARD CITY CODE GOVERNING PURCHASING PROCEDURES FOR PUBLIC PROJECTS

WHEREAS, the City Council desires to amend certain sections of the Oxnard City Code concerning purchasing procedures to be followed in connection with public projects;

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

Part1. Section 4-9 of the Oxnard City Code is amended in its entirety to read as follows:

SEC. 4-9. INFORMAL BIDDING PROCEDURES.

(A) When the city intends to contract for a public project from $25,000.01 to $125,000, or such informal bid limit amount as may from time to time be set forth in the California Public Contract Code for agencies which subscribe to the uniform construction cost accounting procedures set forth therein, the purchasing agent shall mail a notice inviting informal bids to all contractors on the list for the category of work being bid, to all construction trade journals on the list, and to such other contractors and trade journals as may be requested by the city staff in charge of the project. However, if a project or service essential to the project is proprietary and can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent only to such contractor or contractors.

(B) All mailing of notices inviting informal bids shall be completed not less than ten calendar days before bids are due.

(C) The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and shall state the time and place for the submittal of bids.

(D) The city council shall award the contract to the lowest responsible and responsive bidder and the purchasing agent may execute the contract.

(E) The purchasing agent and the director of the department in charge of the project are each authorized to reject or to execute any change order to such a contract if the total contract amount after the change order does not exceed $25,000. Any change orders causing a contract to exceed such amount shall be submitted for approval by the city council. A contract adjustment, whether or not labeled a change order, which changes the scope of work by reducing time, material or equipment devoted to one aspect of scope of work or contract line item

and increasing time, material and equipment devoted to another aspect or contract line item in an amount greater than $25,000 shall be submitted for approval to the city council. If the city council is not in session or if there exists in the view of the city manager an immediate need to do so, a change order in an amount greater than $25,000 may be approved jointly by the city manager and the most senior available member of the city council. The city manager shall place the jointly executed change order on the agenda for ratification at the next regular city council meeting occurring more than five (5) days after execution. All change orders that are jointly approved shall contain a provision that the authority to perform work under the change order will automatically terminate on the date that ratification is denied.

(F) If all bids received are in excess of $125,000 contract or such informal bid limit amount as may from time to time be set forth in the California Public Contract Code for agencies which subscribe to the uniform construction cost accounting procedures set forth therein, the city council may, by adoption of a resolution by a four-fifths vote, award the for an amount up to 10% greater than such sum to the lowest responsible bidder, if the city council determines that the city's cost estimate was reasonable.

(G) If no bids are received, the project may be performed by negotiated contract approved by the City Council and executed by the purchasing agent or by city employees by force account. "No bids" means that no bids at all were received or that no bids that conform to the city's specifications were received or that no bids that conform to the city's specifications were submitted by a responsible bidder.

(H) All contracts and change orders governed by this article shall be in a form approved by the city attorney.
('64 Code, Sec. 2-98) (Ord. No. 2332, 2520, 2533, 2584)

2004 S-2

Part 2. Section 4-10 of the Oxnard City Code is amended in its entirety to read as follows:

SEC. 4-10. FORMAL BIDDING PROCEDURES.

(A) The city council shall adopt plans, specifications and working details for all public projects of more than $125,000 or such other informal bid limit amount as may from time to time be provided in the Public Contact Code for agencies which subscribe to the uniform construction cost accounting procedures set forth therein.

(B) When the city is to contract for a public project of more than $125,000 or such informal bid limit amount as may from time to time be set forth in the California Public Contract Code for agencies which subscribe to the uniform construction cost accounting procedures set forth therein, the purchasing agent shall prepare a notice inviting formal bids, which shall distinctly describe the project and state the time and place for receiving and opening sealed bids.

(C) At least 14 days before the date of opening the bids, the purchasing agent shall publish the notice in a newspaper of general circulation, printed and published in the city. At least 30 days before the date of opening the bids, the purchasing agent shall mail the notice to all construction trade journals on the list referred to in subsection (B) of section 4-8. The purchasing agent may also give such other notice as the purchasing agent deems proper.

(D) The purchasing agent may reject any bids received. If, after the first invitation for bids, all bids are rejected, the purchasing agent may, after reevaluating the cost estimates for the project:

(1) Abandon the project;

(2) Readvertise for bids; or

(3) Request that the city council adopt a resolution by a four-fifths vote, declaring that the project can be performed more economically by city employees. If such a resolution is adopted, the purchasing agent may have the project completed by force account.

(E) The city council shall award any contract to the lowest responsible and responsive bidder and the purchasing agent is authorized to execute such contract.

(F) If no bids are received, the project may be performed by negotiated contract approved by the city council or by city employees by force account. "No bids" means that no bids at all were received or that no bids that conform to the city's specifications were received or that no bids that conform to the city's specifications were submitted by a responsible bidder.

(G) The purchasing agent is authorized to execute any change order to a contract awarded pursuant to subsections (E) or (F) of this section; provided, however, that the purchasing agent shall submit to the city council for approval any change order exceeding $25,000. In addition, a contract adjustment, whether or not labeled a change order, which changes the scope of work by reducing time, material or equipment devoted to one aspect of scope of work or contract line item and increase time, in material or equipment devoted to another aspect or contract line item, whether or not deemed a change order, shall, if greater than $25,000, be submitted for approval to the city council. If the city council is not in session or if there exists in the view of the city manager an immediate need to do so, a change order in an amount greater than $25,000 may be approved jointly by the city manager and the most senior available member of the city council. The city manager shall place a jointly approved change order on the agenda for ratification at the next regular city council meeting occurring more than five (5) days after execution. All change orders that are jointly executed shall contain a provision that the authority to perform work under the change order will automatically terminate on the date that ratification is denied.

(H) In the event of an emergency or if exigent circumstances exist or in the view of the project manager delay would result in a significant cost to the City, the project manager may direct work to the extent necessary to address the emergency or exigent circumstance or avoid the cost to the City. The project manager shall at the earliest opportunity notify the city manager who shall then contact the senior member of the City Council and follow the procedure set forth in subsection G.

('64 Code, Sec. 2-99) (Ord. No. 2332, 2520, 2533, 2584)
2004 S-1

Part 3. Within fifteen (15) days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation with the City. Ordinance No. _____ was first read on November 19, 2010, and finally adopted on _____ 2010,

to become effective thirty (30) days thereafter.

AYES: Councimembers Holden, Pinkard, MacDonald, Flynn and Ramirez.

NOES: None.

ABSENT: None.

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Alan Holmberg, City Attorney

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 13,932

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD ESTABLISHING PURCHASING PROCEDURES

WHEREAS, on March 8, 1994, the City Council adopted Resolution No. 10,696, adopting purchasing procedures to implement the City's purchasing ordinance; and

WHEREAS, on February 14, 1995, the City Council adopted Resolution No. 10,854, amending the purchasing procedures; and

WHEREAS, on May 2, 2000, the City Council adopted Resolution No. 11,716 amending the purchasing procedures; and

WHEREAS, on March 7, 2006, the City Council adopted Resolution No. 13,014, amending the purchasing procedures; and

WHEREAS, the City Council wishes to further amend the purchasing procedures in their entirety.

NOW, THEREFORE, the City Council of the City of Oxnard resolves:

1. The purchasing procedures attached hereto as Exhibit A and incorporated herein by reference are adopted.

2. Resolution Nos. 10,696 and 10,854, 11,716, and 13,014 are repealed.

PASSED AND ADOPTED this 16 day of Nov., 2010 by the following vote:

AYES: Councilmembers Holden, Herrera, Maulhardt, Pinkard, and MacDonald.

NOES: None.

ABSENT: None.

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Alan Holmberg, City Attorney

EXHIBIT A

PURCHASING PROCEDURES

Supplies, Equipment and Trade Services

1. Definitions

Definitions of "purchasing agent," "trade services," "professional services," "services" and "certain professional services" are contained in sections 4-1(B), 4-30(A), 4-30(B) and 4-41 of the city code, respectively. For purposes of this resolution, the following additional definition shall apply:

a. "Purchase" includes acquisition by the city or transfer to the city by purchase, lease, lease-purchase, trade or any other method involving the expenditure of money, the relinquishment of property or the creation of debt.

b. "Supplies" and "equipment" are personal property bought, sold or used for and by the city.

2. Purchase of supplies, equipment and trade services

a. City staff may purchase supplies, equipment and trade services costing $2,500 or less and need not obtain bids therefore.

b. After obtaining price quotations from three vendors, city staff may request the purchasing agent to purchase supplies, equipment and trade services costing from $2,500.01 to $25,000.

c. Without complying with the foregoing subsections (a) through (e) of this section 2, city staff and the purchasing agent, as designated by subsections (a) through (e) of this section 2, may purchase supplies, equipment and trade services in cooperation with other public entities by entering into contracts made available through the auspices of another public entity that has complied with its own procedures for making such purchase; provided, however, that if the amount of the purchase exceeds $25,000, the purchasing agent shall first obtain City Council approval of the purchase.

d. If the supplies, equipment or trade services to be purchased can be obtained from only one source, bids or price quotations are not required.

e. City staff and the purchasing agent shall not split or separate purchases into smaller purchases in order to evade the provisions of this resolution.

f. All purchases of supplies, equipment or trade services shall be made by written purchase order, contract or lease, in a form approved by the city attorney, and any amendments thereto or termination thereof shall be in writing in a form approved by the city attorney. Amendments and terminations of purchase orders, contracts and leases may be executed by the persons authorized to execute the purchase orders, contracts and leases; provided, however that such purchase orders, contracts and leases may not be amended to extend the term for more than three years, including the original term.

g. The purchasing agent is authorized to execute purchase orders, contracts and leases for supplies and equipment and contracts for trade services if the amount of the purchase order, contract or lease does not exceed $25,000. The purchasing agent is authorized to execute amendments to purchase orders, contracts and leases for supplies authorized to execute amendments to purchase orders, contracts and leases for supplies and equipment or trade services if the combined amount of the purchase order, contract or lease and the amendment and all previous amendments thereto does not exceed $25,000.

h. Purchase orders, contracts and leases for supplies and equipment and contracts for trade services in an amount over $25,000, and amendments thereto for which the combined amount of the purchase order, contract or lease and the amendment and all previous amendments thereto exceeds $25,000, shall be placed on a city council agenda for approval and execution. In addition, if an executed contract contains a scope of services or line items detailing the cost of particular supplies, equipment or services and any change in such scope of services or line items exceeding $25,000 shall be placed on a City Council agenda for approval.

i. If the city council is not in session and there is an immediate need for execution of a purchase order, contract or lease or amendment thereto referred to in subsection h above, the purchase order, contract or lease or amendment thereto may be executed jointly by the city manager and the highest-ranking available member of the city council. The city manager shall place the jointly executed document on the agenda for ratification at the next regular city council meeting occurring more than five days after execution. All purchase orders, contracts or leases or amendments thereto that are executed jointly shall contain a provision that the document will automatically terminate on the date that ratification is denied.

Professional Services and Certain Professional Services

a. On the request of city staff, the purchasing agent may purchase professional services and certain professional services and execute contracts therefore and amendments thereto and terminations thereof. Contracts for professional

services and certain professional services in an amount over $25,000, and amendments thereto for which the combined amount of the contract and the amendment and all previous amendments thereto exceeds $25,000, shall be placed on a city council agenda for approval and execution. If an executed contract contains a scope of services or line of items detailing the cost of particular services, any change in such services or line items exceeding $25,000 shall be placed on a city council agenda for approval. If the city council is not in session and there is an immediate need for execution of such a contract or amendment, the contract or amendment may be executed jointly by the city manager and the highest-ranking available member of the city council. The city manager shall place the jointly executed document on the agenda for ratification at the next regular city council meeting occurring more than five days after execution. All contracts or amendments thereto that are executed jointly shall contain a provision that the document will automatically terminated on the date that ratification is denied.

b. Every purchase of professional services or certain professional services shall be by written contract in a form approved by the city attorney, and every amendment thereto and termination thereof shall be in writing in a form approved by the city attorney.

Compliance with Procedures

Failure of city staff of the purchasing agent to comply with the procedures established by this resolution shall be grounds for disciplinary action and for loss of the privilege to make purchases on behalf of the City.

CITY OF OXNARD
PUBLIC WORK SPECIFICATION NUMBER PW00-00
BIDDER'S QUESTIONNAIRE

All Bidders **MUST** complete this form and it **MUST** be submitted with the Bid. The answers to these questions will be used to determine whether the Bidder is responsible. "Related Company," as used in this questionnaire, is any organization of which the responsible managing officer of the Bidder has been a responsible managing officer (as the term responsible managing officer is used for State of California licensing purposes) within the past 5 years and/or in which any equity holder (e.g. shareholder, partner, member) of the bidder holds or has held more than a 10% interest within the past 5 years; or has had an active role in the management of projects performed by Company. "Contact Information" means the name, address and telephone number of a person or entity. For all Yes answers please provide complete explanations on extra-attached sheets and identify by number the question to which the information pertains

EVALUATION ELEMENTS			
	Standard Bidder Questions (applies to all bids)	**Yes**	**No**
1	Is Bidder currently licensed and does Bidder meet the licensing requirements stated on Page F-0?		
2	Has Bidder or a Related Company within the past 5 years been assessed Liquidated Damages (LD's) on a public project of a government agency? If so, give project description, date of assessment, amount of assessment, name of entity, and contact information for each incident of LD assessment.		
3	Has the Bidder's insurance or a Related Company's insurance, within the past 5 years, been cancelled during a project? If so, give the dates of all cancellations and the contact information for all insurance companies that cancelled coverage. Insurance includes all insurance coverages of any kind, including commercial, general liability, fire and casualty, and workers' compensation.		
4	Has Bidder's surety or a Related Company's surety within the past 5 years paid any claims arising from any project performed by Bidder or a Related Company? If so, provide the contact information and state the date and amount of each claim paid.		
5	Has Bidder or a Related Company within the past 5 years been investigated by the Division of Labor Standards Enforcement (DLSE)? If so, provide the date(s) of investigations and the contact information for the DLSE.		
6	Has Bidder or a Related Company been found to have violated any prevailing wage requirement on any public agency project by any government agency or by any court of law? If so, describe each violation and provide the contact information for the agency and the jurisdiction, date and case number for each court case.		
7	Within the past 5 years, have stop notices been filed with any government agency on any project performed by Bidder or any Related Company? If so, please provide the following information for each stop notice: contact information for each claimant, amount of the claim, amount, if any, paid to settle the claim, date of the claim and the date of payment of the claim.		
8	Has Bidder or any Related Company within the past 5 years been named as a defendant in a lawsuit alleging non-payment of subcontractors, vendors or suppliers? If so, give the date, case name and case number of the suit(s), the amount of the claim, and the disposition of the case.		
9	Has Bidder or a Related Company ever filed a claim against a government agency that has resulted in a lawsuit? If so, describe the claim, circumstances and disposition of the lawsuit. Please provide the contact information for the agency.		
10	Has Bidder or any Related Company ever been debarred? If so, provide the date and name of each and explain the circumstances.		
11	Provide the name, date, contact information and approximate amount of contract and a description of work performed for each job performed by Bidder in the last 3 years involving work of the type for which this contract is being let.		

Contractor Officer's Signature:

Title

Date

Bidder's Failure to Complete All Items Contained On This Page May Cause Rejection of Your Bid

ATTACHMENT NO. 2
PAGE 1 OF 4

PUBLIC PROJECTS MATRIX

CITY OF OXNARD
PURCHASING GUIDELINES

Action Required	$25,000 or Less	$25,000.01 - $125,000	Greater than $125,000
APPLY TO ALL PROJECTS:			
Specifications	yes	yes	yes
Council Action - Approve Specifications	no	no	yes
Trade Journals	no	yes	yes
Legal Advertisement	no	optional	yes
Notice to Bidders	optional	yes	yes
Bid Period	min. 10 days	14 days	30 days
Pre-bid Conference	optional	optional	yes
Sealed Bids	optional	yes	yes
Requisition	optional*	no	no
Department Purchase Order	optional	no	no
Purchase Order	optional*	no	no
Price Quotation	yes	no	no
Public Opening	no	yes	yes
Office Opening	yes	no	no
Bid Bond	no	yes	yes
Post Bid Results	no	24 hours	24 hours
Bid Review	yes	yes	yes
Contractor License	yes	yes	yes
Contract	yes	yes	yes
Payment Bond (100%)	optional	yes	yes
Performance Bond (100%)	optional	yes	yes
Insurance	yes	yes	yes
Business License	yes	yes	yes
Prevailing Wage - State	yes	yes	yes
Payment Retention	10%	10%	10%
GRANT FUNDED PROJECTS - In addition to requirements above:			
Grantor Pre-review	yes	yes	yes
Environmental Review	yes	yes	yes
Approval, Release Funds	yes	yes	yes
Equal Employment Opportunity	yes	yes	yes
Prevailing Wage - Davis Bacon	over $2,000	yes	yes

Purchasing Policies and Procedures

May 3, 2011

Introduction

- Legal Basis – Purchasing Ordinance No. 2835 (December 2010)
- Resolution No. 13,932
- Resolution No. 792 – Redevelopment Agency, No. 10,855 Solid Waste, No. 10,856 Solid Waste, No. 10,310 Credit Cards

General Policies

- Decentralized
- Requires Appropriation
- Competitive Quotations
- Dollar Limits Established By Ordinance or Resolution

Types of Purchases

- Supplies, Equipment, and Trade Services
- Professional Services
- Public Work Projects

Supplies, Equipment and Trade Services

- $0 to $2,500 – no bids required, Department Authority
- $2,500.01 to $25,000 – bids required, may be verbal, Purchasing Agent Authority
- $25,000.01 to $100,000 – informal bid process requires written bids
- $100,000.01 or more – formal bid process

5

Certain Professional Services

- Engineering, Architectural, Land Surveying, Environmental, and Construction Project Management
- Regardless of $ require RFP process to evaluate competence and professional qualifications.
- Cost negotiated after ranking of qualifications.

6

Other Professional Services

- RFP optional, price not necessarily the predominant award criteria, qualification based.
- Award requires department recommendation to Purchasing Agent.
- Council approval required if more than $25,000.

7

Public Projects

FORMAL BIDDING

- **$125,000.01 or greater**
  - City Council Approval of Plans & Specifications to Bid
  - Bid Period 30 Days

INFORMAL BIDDING

- **$25,000.01 to $125,000**
  - Bid Period 14 Days
  - see attached Public Projects Matrix for guidelines.
- Public projects based upon the State of California Uniform Construction Cost Accounting Act

8

Agreement Review Process

- Department/Project Manager
- City Attorney
- Grants Management (if required)
- Contractor confirmation
- Risk Management
- Purchasing Agent
- Contract Compliance Review
- City Council/City Manager
- Agreement filed with City Clerk

9

Approvals

- $0 to $2,500: Department Authority
- $2,500.01 to $25,000: Purchasing Agent Authority
- $25,000.01 to $250,000: City Council Approval/City Manager Signature
- $250,000.01 or more: City Council Authority/Mayor Signature

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Public Projects Approvals

- $25,000 or more, City Council Approval of Award

Change Orders

- $0 to $25,000: Purchasing Agent
- Over $25,000: City Council Approval

11

PUBLIC PROJECTS

Additional Procedures

12

Award to Lowest Responsible, Responsive Bidder

- "Responsive" means addresses all **material** elements of the bid request.
  - Complies with bid procedures, is complete.
- "Responsible" means able to perform the contract.
  - Has bonding, has licenses, has done similar projects.

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Examples of Not Responsible

- Incidents of poor performance or failure to complete similar projects.
- Debarment from another agency.
- Numerous material violations of law on similar projects.
- Staff has developed a bid questionnaire to help make determinations.

14

Hearing on Responsibility Required

- May be less formal not "quasi-adjudicatory"
- Staff will conduct hearing.
- Cannot opt for "most responsible".
- Court review grants deference to City determination.

15

Bid Withdrawal

- May withdraw for any reason before bid opening.
- After bid opening, may withdraw without penalty for mistake in arithmetic or clerical error. Written proof required.
- Withdrawal for other reason can result in forfeiture of bid bond.

16

Bid Protest

- Protests may be made by unsuccessful bidders
- Responsibility issues – same as above hearing is required.

17

Other Issues

- Improper license.
- Staff determines.
- No formal review process.

18

Questions/Attachments

- Ordinance No. 2835 (December 2010)
- Resolution 13,932
- Public Projects Matrix
- Public Projects Bid Questionnaire

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