



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: DECEMBER 14, 2021**

FROM: FINANCE DEPARTMENT **WARDS: ALL**

SUBJECT: PURCHASING RESOLUTION REVISION OF THE CITY'S CENTRALIZED PURCHASING SYSTEM ADMINISTERED THROUGH THE FINANCE DEPARTMENT'S PURCHASING DIVISION

ISSUE:

Approve an amended and revised Purchasing Resolution to implement recommended enhancements of the City's Centralized Purchasing system.

RECOMMENDATIONS:

That the City Council:

1. Approve an amended and revised Purchasing Resolution to implement recommended enhancements of the City's Centralized Purchasing system; and
2. Repeal Purchasing Resolution 23256.

LEGISLATIVE HISTORY:

City Charter Section 1105, Centralized Purchasing, and the City's Municipal Code Chapter 3.16, Centralized Purchasing requires the City to have a Centralized Purchasing System. Section 601(d) of the City Charter, Powers and Duties of the City Manager, requires the City Manager to prepare rules and regulations governing contracting/purchases, subject to approval of the City Council.

BACKGROUND:

In August 2016, as a response to an audit by the Matrix Consulting Group and feedback from other departments, the Finance Department formed a Citywide Purchasing Task Force. The Purchasing Task Force was comprised of 83 members, representing all City Departments. The *goal* of the Task Force was to create a more streamlined, transparent and effective approach to purchasing. The *approach* of the Task Force was to assess the City's current purchasing policies, procedures, and workflow, and recommend changes to accomplish the above goal.

On August 10, 2016, the Finance Committee provided feedback on the goals and objectives of the City's Purchasing Task Force and directed staff to return to the Finance Committee with recommendations on the City's existing purchasing processes and policies.

Based on the work of the Citywide Purchasing Task Force and subsequent additional input from City departments, the Finance Department developed the Action Plan to improve the Citywide Purchasing Process ("Action Plan"). The Action Plan presented a series of recommendations, many of which were incorporated into Purchasing Resolution No. 23256.

On December 17, 2017, the City Council approved the enhanced Purchasing Resolution No. 23256.

On February 8, 2021, the California Governor's Office of Emergency Services (Cal OES) initiated a desk compliance assessment of the 2018-005 Homeland Security Grant Program. Cal OES did not identify any instances of non-compliance as a result of this assessment, but they did provide advisory recommendations.

Over the past four years, Purchasing staff has made note of clerical errors, legislative updates, principles and practices of public procurement oversights, and department recommendations. This data has been used to amend and revise Purchasing Resolution No. 23256, which has been attached in redline form for review.

DISCUSSION:

During the past three (3) months, staff has worked with the City Attorney's Office to finalize an updated Purchasing Resolution that reflects the recommendations of Cal OES, department end-users, and to address procurement best practices. Listed below are the major revisions presented within the amended resolution:

	Revision	Document Location	Purpose/Explanation
1.	Services and Professional Services - Redefine	Definitions	Amending this definition clarifies that anywhere in the Resolution that provides for Services, will also include Professional Services unless otherwise specified.
2.	Procurement Code of Ethics - Addition	Section 201	This addition reflects the Principles and Practices of Public Procurement on Ethical Procurement.
3.	Museum Department Exception - Addition	Section 406	This addition provides an exception to purchase supplies and services that are peculiar to the needs of the Museum.
4.	Soliciting Bids – Revision and Addition	Section 503	This is to update to City's current practice with the online bidding platform. Also to accommodate construction panels that are not usually open to the entire public for bidding.
5.	Tabulation or Evaluation and Inspection of Bids – Revision	Section 506	The City follows the Public Records Act for disclosure of Bids and Proposals, so this section was revised to avoid contradictions.

6.	Public Records – Revision	Section 512	Same as number 5. The City has a process for following the Public Records Act, which applies to procurement records.
7.	Separated Sole Source and Single Source Exception – Revision	Section 602, 702 and 802	This is to remove ambiguity between the two types of procurement exceptions. “Sole Source” – A sole source purchase is one where there is only one vendor capable of providing an item or service, and therefore it is not possible to obtain competitive bids. “Single Source” - A Single Source procurement is one in which two or more vendors can supply the commodity, technology and /or perform the services required by an agency, but the department selects one vendor over the others.
8.	Fleet Related Exception – Revision	Section 602 and 702	Clarifies the type of “Other” equipment qualifies to meet the exception.
9.	Grant Purchases, “Code of Federal Regulations”– Addition	Section 603, 703, 803, 903 and 1003	Added Code of Federal Regulations (CFR) language to all grant sections to adhere to the recommendation from Cal OES to ensure compliance for future State/Federal Grant projects.
10.	Local Preference – Addition	Section 605	Provides clarification as to when the Local Preference can be applied according to Proposition 218 and/or Proposition 26.
11.	Construction Services Exceptions – Addition	Section 802	Clarifies for departments that when they are working with section 1109, they should only look to the text of 1109 for exceptions and not attempt to use these. The following exceptions are only for the under \$50k construction purchases.
12.	Change Orders – Addition	Section 1104	Clarifies when contract modifications require, City Council approval. Also allows departments the flexibility to request short term contract extensions for Services and Professional Services without needing additional City Council approval.

STRATEGIC PLAN ALIGNMENT:

The amending and revisions of the Purchasing Resolution supports **Strategic Priority 3 – Economic Opportunity** – Champion a thriving, enduring economy that provides opportunity for all and specifically **Goal 3.4** – Collaborate with key partners to implement policies and programs that promote local business growth and ensure equitable opportunities for all.

This also aligns with **Strategic Priority 5 – High Performing Government** – Provide world class public service that is efficient, accessible and responsive to all and specifically **Goal 5.3** – Enhance communication and collaboration with community members to improve transparency, build public trust and encourage shared decision-making.

The recommended Purchasing Resolution revisions align with EACH of the Cross-Cutting Threads as follows:

1. **Community Trust** – The Purchasing Resolution is the City’s procurement policy that incorporates transparency to ensure that deviations from fair and equal treatment are detected early and also makes such deviations are less likely to occur. It protects the integrity of the bid process and the interest of the organization, stakeholders, and the public. The revisions incorporate clarifications and additions to the policy that support open and frequent communication between procurement and the supplier.
2. **Equity** – The addition to the Resolution of the Purchasing Code of Ethics provides additional impartiality of suppliers, without discrimination and without imposing unnecessary constraints on the competitive market. The modification supports good supplier relationship management while maintaining consistency in business conduct.
3. **Fiscal Responsibility** – The Purchasing Resolution clarifications and additions fully support this cross-cutting thread through the utilization of sourcing and solicitation processes. The incorporation of the Code of Federal Regulations ensures that the City can obtain and keep federal funding by guaranteeing compliance by following the use of the most current version of government regulations, manuals, and publications.
4. **Innovation** – The amended Purchasing Resolution incorporates the global best practices of public procurement of ethical procurement, strategic procurement planning, and leadership through stakeholder relationships.
5. **Sustainability & Resiliency** – The recommended Resolution changes support sustainability through the acquisition and disposition process, which is embedded in all procurement decision making. The framework considers economic factors, environmental and social impacts of the City’s spending.

FISCAL IMPACT:

There are no fiscal impacts associated with the recommendations in this report.

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Certified as to
availability of funds: Edward Enriquez, Chief Financial Officer/Treasurer
Approved by: Kris Martinez, Interim Assistant City Manager
Approved as to form: Phaedra A. Norton, City Attorney

Attachments:

1. Redlined Purchasing Resolution No. 23256
2. Resolution