

Purchasing

City of Bell

POLICY FOR PURCHASE REQUISITIONS AND PURCHASE ORDERS

POLICY

The City of Bell uses a decentralized purchasing system. Under this system, each operating department is responsible for coordinating the purchase of goods and services needed for its operations with the Finance Department's Business License/Purchasing Account Clerk. However, to ensure compliance with the City's Purchase Ordinance, Chapter 3.12, , the City's Purchasing Ordinance designates that certain purchases must be approved by the Purchasing Officer. BMC Chapter 3.12 designates the City Manager as Purchasing Officer in the majority of circumstances.

PAYMENT METHODS

Purchases may only be made by the following acceptable methods: 1) Purchase Order, 2) Request for Payment, 3) Request for Forthwith Payment, 4) Petty Cash, or 4) a City-Issued Credit Card. Funds must exist in the account to which the purchase is to be charged.

PROCEDURES

1. The document used to encumber funds is called a purchase order. When a purchase order is created, approved and entered into the Finance Department's accounting system, it reserves a portion of the budget allocated to the particular line item in an amount equal to the purchase order. For example, if the office supply line item budget is \$1,000 and a purchase order is created for \$250, \$250 is considered encumbered and no longer available for appropriation.
2. Requests for purchase orders (requisitions) are executed by authorized department representatives. Purchase order requests must be supported by bid information, contracts, informal quotes, etc., as stipulated by BMC 3.12.
3. Expenditure account numbers must be included in any and all purchase order requests and purchase orders.
4. Purchase orders are signed by the City Manager. Purchase orders must be supported by bid information, contracts, informal quotes, etc., as stipulated by BMC 3.12.
5. Executed purchase orders are entered in the Finance Department's computerized accounting system by the Business License/Purchasing Account Clerk.
6. Completed purchase orders are returned to requesting departments each Tuesday and Thursday. To effectuate this delivery schedule, purchase order requests must be delivered to the Finance Department on Monday (for Tuesday completion) and Wednesday (to Thursday completion).

7. Encumbered funds may be contractually obligated at the time the purchase order is created (such as when there is a corresponding contract with a vendor to provide contractually specified goods or services). Once a purchase order is created the funds are no longer available for payment to any vendor (or for any other purpose) other than that specified on the purchase order.
8. Once created a purchase order may later be increased, decreased or cancelled.
9. In cases of emergency, when purchase order requests do not conform to the schedule elaborated in 5. above, it is best practice to communicate the emergency request directly to the Finance Director or Business License/Purchasing Account Clerk face-to-face or by telephone.
10. When goods or services are rendered to the City, payment may then be authorized through four appropriate approval levels against a purchase order. When a payment is issued, the balance of the purchase order is reduced and the encumbrance becomes an expenditure.



Municipal Code Chapter

3.12

Summary

Bell Purchasing Ordinance – Chapter 3.12
Summary of Significant Requirements

3.12.010 Adoption of Purchasing System

City Manager or designee is Purchasing Officer (PO).

3.12.030 Authorization to Execute Documents

- All documents may be executed by PO when authorization granted by City Council.
- Contracts up to \$24,999.99 may be approved by PO and attested by City Clerk.
- Contracts equal to or over \$25,000 shall be approved by City Council.

3.12.040 Unauthorized Purchases or Contracts

- Any invoice or payment requisition not supported by written contract is invalid.
- All contracts shall be approved as to form by the City Attorney.

3.12.050 Specialized Contracting Procedures

- When authorized by State law, specialized contracting procedures are permitted if adopted by City Council resolution.
- Contracts conditioned by the terms of State or Federal grants shall comply with the purchasing standards of granting agency.

3.12.060 Formal Bidding Procedures for Contracts Equal to or Exceeding \$25,000

- A. No splitting of contracts to lower total price below \$25,000.
- B. Budgeted funding source must be confirmed before solicitation. For unbudgeted contracts, budget transfer or appropriation from reserves shall be accomplished before solicitation.
- C. Invitations to bid shall be distributed to at least three prospective bidders
- D. Bid security requirements shall be in form acceptable to City Attorney and Finance Director
- E. Oral interpretation of bid specifications shall not be made to prospective bidders. Rather, bidder shall request a written interpretation from City. **If interpretation or modification is deemed necessary, written addendum shall be issued to all bidders.**
- F. Sealed bids submitted to City Clerk and opened by PO in presence of witnesses. **Relevant information shall be announced by PO and recorded.** If no bids received, procurement proceeds without competitive bidding requirements. **After City has identified awardee, Notice of Intent to**

EXHIBIT 2

EXHIBIT 1

Award will be sent to actual bidders. Response period begins on date notice sent that will include text pertaining to bidder protest procedures (see 3.12.140).

EXHIBIT 3

H. Correction or withdrawal of inadvertently erroneous bids permitted at discretion of PO. Mistakes may be corrected or withdrawn by written notice received prior to bid opening. Not more than three days after opening, corrections may be accepted only when bidder offers convincing evidence that mistake was made in completing bid documents, not from error in judgment or carelessness.

I. Awards made to lowest responsive and responsible bidder (see 8 evaluation criteria).

Required file documentation for formal bidding process:

- Purchasing file shall contain written summary of the basis on which the award is made.
- If bidder is rejected because of determined incapability of performing, written determination of irresponsibility shall be provided to rejected bidder. Bidder shall be given opportunity to rebut evidence.
- PO shall make final determination on bidder challenge and notify bidder in writing. Aggrieved bidder may protest according to 3.12.140.

EXHIBIT 4

EXHIBIT 5

J. If equal bids are received, the PO or City Council may choose a vendor using options as described in this section.

L. City may reject any and all bids and may re-solicit at its discretion. City may waive any irregularities or informalities in any bid or bidding.

3.12.080 Exceptions to Formal Bidding Requirements

A. Informal Purchases

1. Purchases of \$10,000 to \$24,999.99 To the extent practical, three vendors shall be solicited. Names of vendors, their local addresses and date and amount of quotation shall be recorded in purchasing file as public record.

2. Purchases up to \$9,999.99

- Purchases of \$5,000 to \$9,999.99. Purchasing department must provide proof of informal bidding, and maintain documentation adequate to document procurement and facilitate audit.
- Purchases of \$0 to \$4,999.99. Proof of informal bidding not required.

EXHIBIT 6

B. Sole Source Procurement

1. Purchases of \$10,000 or more May be awarded when PO determines in writing there exists only one source. A written record of sole source procurement shall be maintained as a public record.

EXHIBIT 7

2. Purchases up to \$9,999 See 3.12.080 A 2 above

3. Public Works Sole Source Purchases Shall conform to statutory requirements, not above requirements. Record of sole source procurement shall be incorporated into written record established in 3.12.080 B 1.

EXHIBIT 6

C. Emergency Purchases A written determination of the basis for the emergency and selection of particular vendor shall be maintained in the purchasing file. Procurements exceeding \$10,000 shall be approved by City Manager or Finance Director or, in their absence, a department head. Within five (5) business days after purchase, a record of each emergency purchase shall be made with vendor's name, amount and type of contract, the terms of contract, and identification number of the purchasing file. Expenditures during locally declared emergency must be reported to City Council at next regular City Council meeting if approval for such expenditures would otherwise have been subject to their approval.

EXHIBIT 8

D. Cooperative Purchasing City can enter agreement with another governmental entity if (1) agreement is result of competitive bidding or negotiation made in compliance with their requirements, (2) purchase conforms to Bell's specifications, (3) price established by their bid is not more than 6 months old, and (4) estimated price of purchase is lower than that estimated for purchase if made by Bell.

E. Standardization When supplies, materials, equipment or services have been uniformly adopted or otherwise standardized, purchase is not subject to this Chapter. Justifications for standardization shall be recorded and maintained as a public record.

EXHIBIT 9

F. Competitive Proposals When PO determines that conditions are inappropriate for the use of competitive bidding or that sealed bidding is infeasible or contrary to the City's best interest, contract may be entered by use of competitive proposals. The facts supporting such a determination shall be recorded and maintained as a public record.

EXHIBIT 10

1. Requests for Proposals The PO shall issue RFP that shall possess all appropriate requirements, including evaluation criteria.

2. Notice of Solicitation Notice of RFP shall be published at least 10 calendar days prior to date of proposal opening on City website.

3. **Proposal Opening** Proposals opened by PO or designee at time and place specified in RFP. Name of offeror and other relevant information shall be announced and recorded. If no bids received, procurement proceeds without competitive bidding requirements.

4. **Proposal Evaluation** City may, at any time, waive or modify any element of RFP and/or any evaluation criteria. If so stated in the RFP, selection may be made, without negotiation, solely on written submittals. If negotiation is elected, City may negotiate with all offerors that PO determines have a reasonable chance of selection.

5. **Professional and Personal Services Procurement** Procurement of professional services of any architect, landscape architect, engineer, artist, environmental consultant, land surveyor, construction project manager, accountant, appraiser, financial advisor, attorney, or other provider of professional services requiring a high degree of technical or individual skill shall be based on demonstrated competence, professional qualifications and a fair and reasonable price. **The contract file shall contain a written summary of the basis on which notice to potential offerors was given and on which the award was made.** Contracts of less than \$25,000 may be awarded as informal purchases **on the written recommendation of the department or division head.** Professional services for environmental reports or special regarding private projects, when applicant has deposited full amount of contract, may be awarded by the City Engineer or Community Development Director.

EXHIBIT 11

G. **Notice of Award** Contracts awarded under 3.12.080 do not require publication of Notice of Intent to Award, and protest procedures do not apply.

H. **Other Purchases** Provisions of 3.12 do not apply to purchase of following items:

1. Items of services purchased from public or private non-profits serving the handicapped;
2. Public library materials;
3. Software and other intellectual property with unique purpose, **as documented in writing by PO;**
4. Items or services acquired by Federal or State grants when the terms of the grant conflict with 3.12;
5. Insurance, insurance adjusting, legal and related services;
6. Vendor servicing agreements where the equipment has been purchased competitively.

EXHIBIT 12

3.12.090 Multi-Year Contracts

CAO may approve contracts for terms not exceeding three years, including any options to new or extend, provided that the annual value of the contract does not exceed \$15,000. Otherwise, multi-year contracts must be approved by the City Council.

3.12.100 Awards of Contracts to Bell Businesses

Bell businesses that possess a current business license and generate sales taxes for the City may be given preference by the City Council or PO in amount not to exceed 5% or \$15,000, whichever amount is lower.

In order for local business to be eligible to claim preference, the business must request the same in its solicitation response, provide a copy of its business license, and meet one of the following criteria:

1. Difference between bids from Bell business and outside business is less than the current sales tax benefit the City would receive from the local sales tax; or
2. Any other reason which reasonably justifies selection of Bell business based upon criteria that do not illegally discriminate against outside businesses.

3.12.111 Employee Interest Prohibited

Employees, City Council members, or any appointed member of a City board or commission shall not be financially interested, directly or indirectly, in any purchase order or contract. Any purchase order or contract affecting the financial interest of any former City official shall be awarded solely by the City Council and may not be awarded during a period which is five years after the end of that person's term of City service.

3.12.120 Waiver of Bids (Negotiated Contract)

When competitive bidding is impossible, impractical, undesirable or unlikely to produce an advantage or other result, the City may waive competitive bidding requirements and authorize a negotiated contract. Waiver authorized by PO for contracts up to \$25,000 and by the City Council for contracts greater than \$25,000.

3.12.130 Contracts for Public Works Projects

See Ordinance 1192

3.12.140 Procurement Protest Procedures

B. **Grounds for Protest** Bidder may file a written protest on any of the following grounds:

1. Existence of substantial defect, error or omission in the solicitation documents issued by City;

2. Failure of City to follow procedures of Chapter 3.12;
3. Failure of City to apply correctly the standards of review, evaluation, or scoring of a bid or proposal as specified in the solicitation documents;
4. Award of the contract by the City to a bidder other than on the basis stated in solicitation documents; or
5. Such other grounds as would state a cause of action at law or in equity.

C. **Disallowed Protest Grounds** Protests based on the following shall not be considered:

1. An evaluator's judgment on the quality of a response; or
2. The proposer's assessment of the City's needs or requirements; or
3. Any grounds other than those listed in B above.

D. **Protest Filing and Delivery** Pursuant to 3.12.060 F, a Notice of Intent to Award is issued prior to award of contract. Protests made in accordance with 3.12.060. F are processed as follows. Protestors shall bear all costs other than salary costs of City employees. Protests shall be in writing and hand delivered or set by certified US mail, return receipt requested.

1. To the PO (for protests of purchases of materials, equipment or services); or
2. To the City Clerk (for protests related to Public Works projects).

E. **Protest/Appeal Contents**

1. Include name, address, business telephone, email and fax number of protestor;
2. Identify the procurement or project under protest by name, solicitation number, and submission date;
3. A precise statement of grounds for protest and the facts supporting such grounds, including all support documentation (documents submitted after filing will not be reviewed); and
4. State the form of remedy requested.

F. **Pre-Opening Protest Period – Solicitation Documents** Protests involving City solicitation documents must be made before final date to accept bids and within 5 days after Notice of Intent to Award is transmitted.

G. **Post-Opening Protest Period** Protests involving aspects of City procurement other than solicitation documents shall be made within 5 business days after Notice of Intent to Award is transmitted.

H. Protest Process

1. PO shall review submitted materials and create written record of review. Not later than 10 days after receipt of protest, PO shall respond in writing to protest and to each material issue raised.
2. If a timely protest, PO shall not proceed with award until all remedies exhausted, unless CAO determines that award without delay is necessary to protect substantial City interest.
3. Procurement staff may elect, but are not obligated, to resolve protest. Resolution means formal withdrawal of the protest, or written acknowledgment of protest resolution signed by PO and protestor.
4. If PO attempts resolution, protestors shall be notified in writing of the date of consideration and shall be afforded opportunity to present evidence.
5. PO shall make formal decision – the Protest Determination – to deny or uphold protest and shall notify protestor of decision by mail, email or fax. Protest Determination shall include a statement that protestor has right of appeal to the City Council within 3 business days of decision.
6. Award of contract shall be deferred until completion of protest procedure provided that if award of contract is by the City Council, the Protest Determination may be made by the City Council concurrent with the decision to award the contract. Protestor shall be given at least 5 days written notice of City Council meeting to consider award and the right to appear and be heard, but no further appeal rights.

3.12.150 Disposition of Surplus Property

1. Departments shall submit to PO reports showing supplies and equipment no longer needed or which have become obsolete or worn out.
2. PO has authority to dispose of surplus property by competitive bidding or public auction. Property shall be sold to highest bidder responding to request for sealed bids or public auction.
3. If PO elects to dispose of surplus property by competitive bidding, these procedures shall be used:
 - (a) Property shall be sold to highest bidder submitting a sealed bid in response to a notice of sale by sealed bid.
 - (b) PO shall publish, at least 3 days before the sale, in a locally adjudicated newspaper, notice setting forth description of property, and date, time and

EXHIBIT 13

location for submittal of sealed bids, which shall not be less than 5 calendar days following last publication of the notice; the location where property may be inspected; and the place, date and time when bids will be opened.

(c) PO shall accept highest bid or may reject all bids, and at a later date hold another public auction.

4. If PO elects to dispose of property by auction, these procedures shall be used:

(a) Property shall be sold to highest bidder at public auction conducted by licensed auctioneer or through participation in a cooperative auction of government agencies.

(b) PO shall publish, at least 3 days before the sale, in a locally adjudicated newspaper, notice setting forth description of property, and date, time and location of the auction. If auction is part of a cooperative auction, the notice given by lead agency will satisfy the requirements of this subdivision.

(c) Property shall be sold to highest bidder, provided bid exceeds minimum price, if any.

(d) All property to be sold "as is."

(e) PO may contract with professional auctioneer and allow a flat fee, hourly fee or percentage amount of the sale.

5. PO may recommend to City Council be donated to another government organization, non-profit group or corporation exempt from federal taxes.

6. If no bids received in response to sale by sealed bids or auction, PO may dispose of property per terms of Section ____.

7. PO shall keep written record of surplus property sold or donated. If property is sold, record shall include price and identity of purchaser. If property donated, record shall include identity of donee.

EXHIBIT 14

8. All sales proceeds shall benefit the General Fund, unless otherwise provided. Proceeds from sale of enterprise, federal grant or other special designation property will be reimbursed to the appropriate fund.



Municipal Code Chapter

3.12

Exhibits

2/11/13



*Ali Saleh, Mayor
Danny Harbor, Vice Mayor
Violeta Alvarez, Council Member
Ana Maria Quintana, Council Member
Nestor E. Valencia, Council Member*

January 7, 2013

To: All Bidders
From: Joe Perez, Community Development Director
Re: City of Bell Bid #1234 – Facilities Maintenance Contract

In circumstances where a bidder seeks interpretation of bid specifications, the City's purchasing ordinance, Chapter 3.12.060(E) requires that written addendum be issued to all bidders.

A bidder has inquired as to the total square footage of all City facilities listed in the bid specifications.

The total square footage of.....

City of Bell

Memorandum

DATE: 15 December 2012
TO: Contract File
FROM: Doug Willmore, City Manager/Purchasing Officer
SUBJECT: Results of Bid for Contracted Street Median Maintenance Service

.....

At 3pm today bids were unsealed in the presence of City staff and bidders. The final results of the bids are as follows:

1. Mighty Median Maintenance: \$65,000 per year
2. In the Middle of the Median LLC: \$82,500 per year
3. Median, Miney, Moe, Inc.: \$90,000 per year



*Ali Saleh, Mayor
Danny Harbor, Vice Mayor
Violeta Alvarez, Council Member
Ana Maria Quistans, Council Member
Nestor E. Valencia, Council Member*

January 18, 2013

To: All Bidders
From: Joe Perez, Community Development Director
Re: City of Bell Bid #1234 – Facilities Maintenance Contract

Notice of Intent to Award

The City of Bell has completed review of bids for Bell Bid #1234, Facilities Maintenance Contract

Per the terms of Bell Municipal Code 3.12.060(F), let it be known that the City has selected Tidy Maintenance Service of Commerce, California and will be recommending to the Bell City Council that the City engage contract with Tidy Maintenance.

Bell Municipal Code 3.12.140, Procurement Protest Procedures, outlines the protest process available to a potential vendor. Chapter 3.12 has been provided as an attachment to this letter.

Note that the post-opening protest period opens on the date referenced above, and closes five business days later, on January 25th at 4 pm.

City of Bell

Memorandum

DATE: 28 January 2013
TO: Contract File
FROM: Joe Perez, Community Development Director
SUBJECT: Basis of Award – Bell Bid #1234 Facilities Maintenance Contract

.....

The City has selected Tidy Maintenance Service of Commerce, California and will be recommending to the Bell City Council that the City engage contract with Tidy Maintenance at the City Council's regularly scheduled meeting of 24 February 2013.

The following narrative describes the process of bid evaluation that formed the basis for award to Tidy Maintenance.....



Ali Saleh, Mayor
Danny Harbor, Vice Mayor
Violeta Alvarez, Council Member
Ana Maria Zolotareva, Council Member
Nestor E. Valencia, Council Member

January 18, 2013

Mr. Slimy T. Cleanup
Clean Up Well Maintenance
3012 E. Whippoorwill
Blackberry AR 30201

Written Determination of Irresponsibility

Per BMC 3.12.060

Mr. Cleanup:

This letter shall serve to inform you that Clean Up Well Maintenance has been disqualified for further consideration by the City of Bell with reference to Bell Bid #1234, Facilities Maintenance Contract.

A determination of irresponsibility has been made on the basis of your company's inability to supply information, even after two written requests, in response to research conducted by the City of Bell into unsatisfactory references.

Adverse evidence consists of....

Per the terms of Bell Municipal Code 3.12, a bidder shall be afforded an opportunity to rebut adverse evidence and to present evidence of qualification. After consideration of the evidence and the rebuttal evidence, the Procurement Officer shall make a final determination of the lowest bidder's responsibility and promptly so notify the bidder in writing. A bidder aggrieved by any such determination may protest as provided in Section 3.12.140 of the Bell Municipal Code.

A copy of Bell Municipal Code 3.12 has been attached for your reference.

City of Bell

Memorandum

DATE: 15 December 2012
TO: Purchasing File
FROM: Pamela Wasserman, Director of Community Services
SUBJECT: BMC 3.12.060(A1) Informal Purchase of Community Center Furniture

.....

We solicited three informal bids for purchase of furniture in the Community Center.

Quill Products has been selected. The results of the bids are as follows:

- | | |
|--|----------|
| 1. Quill Products, 8179 Atlantic, Monterey Park, 91754: | \$15,500 |
| 2. Custom Office Products, 30181 Van Nuys Blvd, LA, 90280: | \$15,750 |
| 3. Office Depot, 182 Main, Bellflower, 91871: | \$16,000 |

City of Bell

Memorandum

DATE: 8 January 2013
TO: Doug Willmore, City Manager/Purchasing Officer
FROM: Anthony Miranda, Police Chief
SUBJECT: BMC 3.12.080(B1) Petition for Sole Source Bidding – Amount \$10,000 or More

.....

The after-market outfitting of our recently acquired patrol vehicles can only be done by Stars and Bars Outfitters, 31208 Harmony Lane, Santa Fe Springs, 94127. Stars and Bars outfits all police agencies in the Southern California area with standardized safety equipment.

The estimated cost to outfit the three vehicles in question is \$22,000.

With your approval of this request, this record of sole source procurement shall be maintained as a public record within the Police Department.

Upon completion of the work, copies of billings and payments, inclusive of the items procured under this contract, and the identification number of the procurement, will be attached to this memorandum.

Approved for sole source purchase:

Doug Willmore, City Manager/Purchasing Officer

City of Bell

Memorandum

DATE: 8 January 2013
TO: Finance Department Purchasing File
FROM: Josh Betta, Finance Director
SUBJECT: BMC 3.12.080(C) Emergency Purchase – OPEB Evaluation with Total Compensation Systems for \$3,950

.....

Field work for the FY 2011 audit begins this week. I was notified today that our client PBC listing will require a new Other Post Employment Benefits (OPEB) actuarial valuation.

With little time available to complete this task, I judge this to be an emergency purchase.

Mr. Geoffrey Kischuk of Total Compensation Systems, Inc. in San Diego (805) 496-1700 has agreed to perform the work for \$3,950 and will forward formal proposal on 9 January 2013.

City of Bell

Memorandum

DATE: 31 March 2012
TO: Finance Department Purchasing File
FROM: Josh Betta, Finance Director
SUBJECT: BMC 3.12.080(E) Standardized Purchases – Hewlett Packard Computer Equipment

.....

The Finance Department works in collaboration with Brea IT Services to provide a variety of technology services. Primary among them is the acquisition and maintenance of equipment for employees.

Our desk top PCs and related components have become standardized by the acquisition of Hewlett-Packard equipment. Such standardization not only drives price points lower when purchasing, but it also facilitates maintenance and parts replacement activities.

City of Bell

Memorandum

DATE: 12 May 2013
TO: Doug Willmore, City Manager/Purchasing Officer
FROM: Joe Perez, Director of Community Development
SUBJECT: BMC 3.12.080(F) Competitive Proposals for Housing Element

.....

The use of sealed bids for this project is not in the best interest of the City because there are several evaluation criteria other than price that will make this a successful project.

We will evaluate closely each proposal for the qualitative aspects of their approach to the project. How will each proposer outreach and interact with the Bell community? Will they suggest community meetings? How will they involve our staff and City Council?

Important also will be the resources that each firm proposes for the project; that is: number of staff assigned; experience of each staff member; and support personnel.

Last, given that these projects are long-term in nature and involve a high degree of collaboration between staff and the selected firm, evaluation of "compatibility" issues between our staff and the proposers will be important.

Approved for Competitive Proposal (RFP):

Doug Willmore, City Manager/Purchasing Officer

City of Bell

Memorandum

DATE: 1 April 2013
TO: Finance Department Purchasing File
FROM: Josh Betta, Finance Director
SUBJECT: BMC 3.12.080(F5) Professional and Personal Services Procurement

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In seeking part-time accounting assistance, the Department sought quotes and references from Mindy Jacobs of MGO, AccounTemps, and Robert Severson (a former part-time employee of the City).

We selected Mr. Severson to again join the City. The quality of his work was excellent while with us, and his hourly price, \$50, is far less than the \$65 to \$85 range quoted by the others.

City of Bell

Memorandum

DATE: 14 January 2013
TO: Doug Willmore, City Manager/Purchasing Officer
FROM: Josh Betta, Finance Director
SUBJECT: BMC 3.12.080(H) Purchase of Software with Unique Purpose

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Per the above BMC reference, the purchasing ordinance does not apply to "software and other intellectual property with unique purpose."

The Finance Department's pending purchase of a new finance and accounting software clearly falls within this exception to the Code. Our approach has been to invite two industry-leading companies known for quality products that work best for smaller cities and present half-day long demonstrations.

Our evaluation criteria will concentrate on cost and customer references (as they pertain to implementation experience and after-purchase customer support).

Approved for Purchase of Software with Unique Purpose:

Doug Willmore, City Manager/Purchasing Officer

City of Bell

Memorandum

DATE: 13 February 2013
TO: Doug Willmore, City Manager/Purchasing Officer
FROM: Tony Miranda, Police Chief
SUBJECT: BMC 3.12.150(1) Disposition of Surplus Property

.....

Following the recent purchase of new patrol vehicles, two of the patrol vehicles in our fleet have become obsolete.

1. 1998 Crown Victoria, VIN 123456789
2. 1999 Crown Victoria, VIN 987654321

It is our intention to dispose of these vehicles by auction through contract with a professional auctioneer.

City of Bell

Memorandum

DATE: 29 February 2013

TO: Doug Willmore, City Manager/Purchasing Officer

FROM: Tony Miranda, Police Chief

SUBJECT: BMC 3.12.150(7) Surplus Property Sold

.....

Per your earlier approval, we disposed of two vehicles by auction through contract with a professional auctioneer.

The following is record of sale:

1. 1998 Crown Victoria, VIN 123456789, \$6,500 to Auto Wreckers of Los Angeles
2. 1999 Crown Victoria, VIN 987654321, \$7,000 to Auto Wreckers of Los Angeles

The professional auctioneer's contract stipulated that we would receive 80% of sale value. The net proceeds as thus \$10,800.



Municipal Code Chapter

3.12

Detail

Bell Municipal Code Chapter 3.12
“Purchasing System”

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3.12.010 Adoption of Purchasing System.

The procurement system contained in this Chapter is adopted in order to establish an efficient, equitable and uniform procedure for the purchase of materials, supplies, equipment, and services at the lowest possible cost commensurate with the quality needed, to exercise financial control over purchases, and to clearly define authority for procurement functions. All City procurement shall comply with applicable provisions of the City Charter, this Code and all relevant provisions of law, and shall be only used to acquire materials, supplies, equipment and services for which the City Council has appropriated funds. The provisions of this Chapter apply to all procurement of any nature including as follows: materials, supplies, equipment, labor, public works projects, and services, including professional services.

3.12.020 Authority of Purchasing Officer.

A. The Chief Administrative Officer or his or her designee shall serve as the Purchasing Officer for the City. Except as otherwise provided, the Purchasing Officer shall serve as the principal public purchasing official for the City, and shall be responsible for the purchase of materials, supplies, equipment, and services, in accordance with this Code, and for the authority to properly administer and manage contracts, and for the disposal of materials, supplies, and equipment. The Purchasing Officer shall use his or her best efforts to secure the acquisition of materials, supplies, equipment, and services in the manner that is the most advantageous to the City and to the public. The legal form of specifications, formal and informal purchase contracts, warranties, bid and performance security, and similar matters shall be approved by the City Attorney. Consistent with this Code, and with the approval of the Chief Administrative Officer, the Purchasing Officer may adopt operational procedures relating to the execution of his or her duties. The Purchasing Officer shall also prepare a local recruitment program, compliance with which shall be required as a standard provision in City contracts.

B. All purchases are conditioned upon specifications being met. All specifications shall be drafted so as to promote overall economy for the purposes intended and to encourage competition in satisfying the City's needs. This policy applies to all specifications, including those prepared for the City by non-City employees. The Purchasing Officer or designee may inspect supplies, equipment, materials, and review services to determine if they meet specifications and may require any inspection or test as necessary. Costs of testing will be charged to the department initiating the procurement.

C. The Purchasing Officer is authorized to sell and dispose of City property no longer of use in a manner providing maximum return to the City and in accordance with Section 3.12.140. The subject matter, manner, and timing of such sales shall be subject to the approval of the Chief Administrative Officer. Expenses of sale shall be a proper charge against the income therefrom. The disposition of unclaimed property is subject to Chapter 2.80 of this Code.

3.12.030 Authorization to Execute Documents.

All documents may be executed by the Chief Administrative Officer whenever such authorization is granted in a resolution, motion, or minute order adopted by the City Council. All contracts under twenty-five thousand dollars (\$25,000) may be approved and executed by the

Chief Administrative Officer and attested by the City Clerk and do not require Council approval. Contracts equal to or over \$25,000 shall be approved by the City Council.

3.12.040 Unauthorized Purchases and Contracts.

It shall be unlawful for any officer, employee, or agent of the City to order the purchase of materials, supplies or equipment, or to contract for services or contract for the performance of Public Works projects, as defined in Public Contract Code §§ 1101 and 20161, or otherwise make any contract in violation of this Code. Any invoice or requisition for payment not supported by a written contract shall be deemed a False Claim pursuant to _____. All contracts shall be in a form approved by the City Attorney or deputy, except as specified in 3.12.080A2. Any order, purchase, or contract made contrary to the provisions of this Code is voidable by the City and the City shall not be obligated thereunder unless the City Council ratifies the action in response to an allegation that an order, purchase, or contract was made contrary to the provisions of this Code. Conversely, the inadvertent or intentional failure of the City to comply with any requirement of this Chapter shall not, in itself, constitute grounds for any order, purchase, or contract executed by the City Council, the Chief Administrative Officer, to be voided without action by the City Council or contrary to a determination made by the City Council.

3.12.50 Specialized Contracting Procedures.

A. Nothing in this Code shall prohibit the City from using specialized contracting procedures when authorized by State law. If State law authorizes such procedures, they need not also be specifically authorized by this Code, but may be adopted by resolution of the City Council. Such specialized procedures may include, without limitation, prequalification of general contractors or subcontractors and design/build contracting procedures.

B. Notwithstanding any other provision of this Code, for any contract totally or partially funded by the State or Federal Government, all applicable State and Federal laws shall be followed, including, but not limited to, applicable procurement standards and contracting procedures. Contractors must also comply with all standard provisions contained in State and Federal contracts establishing the source of State and Federal funds for work being performed by the contractor.

3.12.060 Bidding Procedures for Purchases of Materials, Supplies, Equipment and Services, Except Professional Services.

Except as otherwise provided in this Chapter, all contracts of the City for the purchase of materials, supplies, equipment, or services of an aggregate annual value equal to or exceeding \$25,000.00 shall be awarded after compliance with the sealed bid procedures contained in this Section. "Materials, supplies, equipment, and services" include all personal property and services, except professional services, procured by the City.

A. Evasion of Provisions of Chapter Prohibited. Orders for materials, supplies, equipment, or services shall not be split into smaller orders or projects, artificially aggregated into larger orders or projects, or willfully mischaracterized or misclassified for purposes of evading the provisions of this Chapter.

B. Budget verification. Prior to bid solicitation, the Purchasing Officer shall confirm the requested purchase is identified in the current fiscal year adopted budget. For items not identified in the current fiscal year adopted budget, the requesting City department shall be required to request a budget transfer to or receive City Council approval prior to bid solicitation.

C. Invitations to Bid. Invitations to bid shall be issued by the Purchasing Officer and shall include a general description of the product or service required, the place, date, and time of bid opening, and adequately detailed specifications and contract terms as applicable to the purchase. Invitations to bid shall be disseminated to at least three (3) prospective bidders approved by the Purchasing Officer and shall be posted at City Hall and other public posting locations, including the City's website, as determined by the Purchasing Officer. Notices shall include a general description of the articles for which bids are being sought, and the time, date and location for submitting and opening of the bids and identify the bid official who can answer any questions the bidders may have concerning the bid. Any invitation to bid, request for proposal, and other solicitation may be cancelled in whole or in part when there is good cause therefor or when in the judgment of the awarding authority cancellation is in the City's best interests.

D. Security. Security requirements shall be set forth in the solicitation. Bid bonds, performance bonds, payment bonds or other security may be required as the Purchasing Officer and department directors deem prudent to protect the City's interests. When the law permits, there may be allowed, in lieu of bonds or securities, a cash deposit, an irrevocable letter of credit, a negotiable time certificate or time certificate of deposit issued by a savings bank, a savings and loan investment certificate, or other form of security acceptable to the City's Finance Director and City Attorney, provided that the City is the assignee or beneficiary of the security, and the security conforms to provisions required by the City Attorney. Bonds or other security shall not be used as substitutes for determination of a bidder's or offeror's responsibility.

E. Interpretation of Bid Specification. Oral interpretation of written bid specifications shall not be made to prospective bidders. ~~If the prospective bidder discovers discrepancies or omissions in any specification, or if the bidder is in doubt as to the meaning of any specification, the bidder shall request a written interpretation or modification from the City. If interpretations or modifications are deemed necessary, the City will then issue a written addendum to all parties known to have received copies of the specifications.~~

F. Bid Submittal and Bid Opening. Sealed bids shall be submitted to the City Clerk and shall be opened publicly by the Purchasing Officer or his or her designee in the presence of one or more witnesses at the time and place designated in the invitation to bid. No bid shall be considered which has not been received at the place, and at or prior to the time, stated in the invitation for bids. No bid shall be considered which is transmitted by electronic facsimile, unless specifically authorized in the bid. ~~The amount of each bid, the name of each bidder, and such other relevant information as the Purchasing Officer deems relevant shall be announced and~~

EXHIBIT 1

EXHIBIT 2

recorded. If no bids are received, procurement may proceed without further compliance with competitive bidding requirements. After the opening of a sealed or formal bid/proposal, and after the City has identified the awardee, a "Notice of Intent to Award" will be sent to all actual bidders by mail, email, or fax at the option of the City, and all applicable response periods will begin on the date the notice was sent identifying the awardee and including at least the following text: "Protests must comply with the requirements of Bell Municipal Code Sections 3.12.140 et seq., and be submitted no later than five business days after the date of this notice."

EXHIBIT 3

G. Bid Acceptance and Bid Evaluation. Bids shall be evaluated on the requirements set forth in the invitation to bid, and no such criterion shall be used unless set forth in the invitation to bid or in this Chapter. Evaluation criteria may include criteria to determine acceptability, including but not limited to inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Criteria that will affect the bid price and be considered in evaluation of a bid shall be objectively measurable if possible, such as discounts, transportation costs, and total or life cycle costs.

H. Correction or Withdrawal of Bids. Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted in the sole discretion of the Purchasing Officer when he or she deems appropriate. Mistakes may be corrected or withdrawn by written notice received prior to bid opening. Not more than three days after bid opening, corrections to a bid may be accepted only when a bidder shows by clear and convincing evidence that a mistake was made which made the bid materially different from what was intended and that the mistake was made in completing bid documents rather than arising from an error in judgment, or carelessness in site inspection or reading plans and specifications. After bid opening, no changes in bid price or other bid component prejudicial to the City's interest or to fair competition shall be permitted.

I. Award to Lowest Responsive and Responsible Bidder. Unless bids are rejected as provided in this Chapter, all contracts of the City for the purchase of materials, supplies, equipment, and services of a value equal to or exceeding \$25,000, except for contracts entered pursuant to requests for proposals and exempted purchases, shall be awarded to the lowest responsible and responsive bidder. "Lowest responsible and responsive bidder" means the bidder who submits the lowest monetary bid that responds to the terms upon which bids were requested, and who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the contract. To the extent permitted by law, criteria for determining whether a bidder is responsible include, without limitation, all of the following:

1. The conformity of the supplies, materials, equipment, or services to the required specifications;
2. The ability, capacity, and skill of the bidder to provide the supplies, materials, equipment, or services as required;
3. The ability of the bidder to provide the required items or services within the time specified;

4. The character, integrity, reputation, judgment, experience, efficiency, financial resources, and financial responsibility of the bidder;
5. The ability of the bidder to promptly provide future maintenance, repair, parts, and service after purchase;
6. The bidder's prior record of performance on other procurements or projects, including timely completion of performance, quality of products and work provided, and completion of projects within the bid amount submitted and project budget;
7. The bidder's involvement in prior or current litigation or contract disputes that could impair satisfactory performance of the contract to be awarded; and
8. The bidder's history of noncompliance with occupational safety and health requirements, labor statutes and regulations, and other local, State, and Federal laws.

* EXHIBIT 4

The purchasing file shall contain a written summary of the basis on which the award is made. If a bidder is rejected because of an adverse determination of that bidder's capability of performing the contract, a written determination of irresponsibility, setting forth the basis of the finding, shall be prepared by the Procurement Officer or his or her designee. The unreasonable failure of a bidder promptly to supply information in connection with an inquiry regarding responsibility may be grounds for a determination of irresponsibility. Prompt written notice shall be sent to the bidder of the evidence reflecting upon the bidder's responsibility that has been either received from others or adduced from independent investigation. The bidder shall be afforded an opportunity to rebut such adverse evidence and to present evidence of qualification. After consideration of the evidence and the rebuttal evidence, the Procurement Officer shall make a final determination of the lowest bidder's responsibility and promptly so notify the bidder in writing. A bidder aggrieved by any such determination may protest as provided in Section 3.12.140 of this Chapter.

** EXHIBIT 1

J. Equal Bids. If prices quoted or received in two sealed bids are equal, then the Chief Administrative Officer or the City Council may choose whichever of the following options it deems to serve the best interest of the City:

1. Select one bid, giving preference to a business located within the City of Bell; or
2. Reject all bids and re-solicit for bids; or
3. Reject all bids and authorize negotiation of an agreement between the City and one of the equivalent bidders;
4. Select one bid, giving preference to the business which is the most experienced; or
5. Select one bid by a method of chance.

K. Vendor Preferences. Except for procurements made with Federal or State funds, or in cooperation with another public entity, the City's ultimate receipt of sales tax shall be considered in determining the lowest price. The City Council may provide incentives, from time to time, for vendors supplying recycled products. Local vendor preferences are further governed by Section 3.12.100.

L. Rejection or Waiver of Bid Requirements.

1. The awarding authority may reject any and all bids presented and may re-solicit for bids in its discretion.
2. The awarding authority may waive any irregularities or informalities in any bid or bidding.

3.12.70 Required Accounting Standards.

Contractors must submit appropriate documentation prior to the award of contracts in which the City agrees to reimburse costs, confirming that:

1. The proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and
2. The proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted accounting principles; and
3. The proposed contractor's accounting system is adequate to allocate costs in accordance with all requirements of local, State and Federal funding sources for the contract.

3.12.080 Exceptions to Bidding Requirements.

A. Informal Purchases. Any contract for a purchase of less than \$25,000.00 shall be let in accordance with the procedures established in this Section. Contract requirements shall not be artificially divided so as to constitute separate purchases under this Section.

1. Purchases of \$10,000 to \$25,000. So far as practical, for any purchase costing of \$10,000.00 or more and less than \$25,000.00, at least three vendors shall be solicited to submit price quotations by use of sealed bidding methods, electronic facsimile, or electronic mail. Award shall be made to the responsive and responsible vendor who offers the lowest acceptable quotation that best meets the needs of the City. **The names of vendors submitting quotations, their respective local addresses and principal places of business, and the date and amount of each quotation shall be recorded and maintained as a public record.**

EXHIBIT 6

2. Purchases under \$10,000.00. The Purchasing Officer shall adopt operational procedures for making small purchases of less than \$10,000.00. The operational procedures shall require the preparation and maintenance of written records adequate to

document the procurement, properly account for the funds expended, and facilitate an audit of the small purchase made.

B. Sole Source Procurement.

1. **Sole Source Purchases of \$10,000.00 and More.** A contract for a purchase may be awarded without competition when the Purchasing Officer determines in writing, after conducting a good faith review of available sources, that there is only one source for the required materials, supplies, equipment, or services. The Purchasing Officer shall conduct appropriate negotiations as to price, delivery, and other terms. A record of sole source procurements shall be maintained as a public record and shall list each vendor's name, local address and principal place of business, the amount and type of each contract, the item(s) procured under each contract, and the identification number of the procurement, if any. Contracts for purchases let pursuant to this subsection shall be awarded and executed in accordance with Section 3.12.060(I) of this Chapter.

EXHIBIT 7

2. **Sole Source Purchases Under \$10,000.00.** Purchases under \$10,000.00 shall be made in accordance with Subsection (A)(2) of this Section and do not require justification for sole source procurement.

3. **Public Works Sole Source Purchases.** All Public Works purchases required to conform to the requirements of Public Contract Code § 3400 et seq., pertaining to sole source procurement on Public Works projects, shall conform to said statutory requirements instead of to the requirements of Subsections (B)(1) or (B)(2) above. In addition, a record of such sole source procurements shall be maintained as a public record and shall list each vendor's name, local address and principal place of business, the amount and type of each contract, the item(s) procured under each contract, and the identification number of the procurement, if any.

EXHIBIT 6

C. **Emergency Purchases.** Notwithstanding any other provision of this Chapter, the Purchasing Officer may make or authorize others to make emergency purchases of materials, supplies, equipment, or services when there exists a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. Emergency purchases shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and the selection of the particular contractor shall be included in the contract file. Emergency procurements exceeding \$10,000.00 shall require approval of the Chief Administrative Officer or Finance Director. In the absence or unavailability of the Chief Administrative Officer or Finance Director, any department head shall have like authority. Within five (5) business days after such emergency purchase, a record of each emergency procurement shall be made setting forth the vendor's name, the amount and type of the contract, the terms of the contract, and the identification number of the purchasing file. Expenditures made during a locally declared emergency or in an emergency situation must be reported to the City Council at the next regular City Council meeting if approval for such expenditures would otherwise have been subject to the approval of the City Council.

EXHIBIT 8

D. **Cooperative Purchasing.** The Purchasing Officer may arrange for the City to enter an agreement involving the purchase of materials, supplies, equipment, vehicles, apparatus, or services in cooperation with another local, county, State, Federal, or other public entity, school district, or the League of California Cities, provided that:

1. The agreement is the result of competitive bidding or negotiation and is made in compliance with the competitive bid or proposal requirements of any participating entity or organization; and
2. The purchase conforms to the City's specifications for the item; and
3. The price established by the prior bid or negotiation is not more than six (6) months old.
4. The estimated price of the purchase is lower than that estimated for the purchase if made directly by the City pursuant to this Chapter.

Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between public agencies and public agency contracts negotiated to be available to other public agencies.

E. **Standardization.** When supplies, materials, equipment, or services have been uniformly adopted or otherwise standardized, or when an item is designated to match others in use by the City, the purchase is not subject to this Chapter. **Justifications for standardization shall be recorded and maintained as a public record.**

EXHIBIT 9

F. **Competitive Proposals.** When the Purchasing officer determines that conditions are inappropriate for the use of competitive bidding or that sealed bidding is infeasible or contrary to the best interests of the City, a contract may be entered by use of the competitive proposal method. **The facts supporting such a determination shall be recorded and maintained as a public record.**

EXHIBIT 10

1. **Request for Proposals.** The Purchasing Officer shall issue or approve a request for proposals describing the services or product to be procured, the format which proposals shall follow, the elements proposals shall contain, other appropriate requirements, and a statement of the time and place for the receipt and opening of sealed proposals. The request for proposals shall identify all significant evaluation criteria and the procedures to be used for evaluation and selection for negotiation and/or contract award.

2. **Notice of Solicitation.** Notice of a request for proposals shall be published at least ten (10) calendar days prior to the date of proposal opening on the City Web Site. The notice shall include a general description of the item or service required and the place, date, and time of proposed opening. The Purchasing Officer or department director may give such other notice as they deem appropriate.

3. **Proposal Opening.** Proposals shall be opened publicly by the Purchasing Officer or his or her designee in the presence of one or more witnesses at the time and place specified in the request for proposals. **The name of the offeror and such other information as the Purchasing Officer deems appropriate shall be announced and recorded.** If no proposals are received, procurement may proceed without further compliance with competitive proposal requirements.

4. **Proposal Evaluation.** The City may, at any time, waive or modify any element of the request for proposals and/or any evaluation criterion. If so stated in the request for proposals, selection may be made, without negotiation, solely on the written submittals. If negotiation is elected, the City may negotiate with one or all offerors that the Purchasing Officer determines have a reasonable chance of selection, based on price and other factors stated in the solicitation.

5. **Professional and Personal Services Procurement.** The procurement of the professional services of any architect, landscape architect, engineer, artist, environmental consultant, land surveyor, construction project manager, accountant, appraiser, financial advisor, attorney, or other provider of professional services involving a high degree of technical or individual skill shall be based on demonstrated competence, the professional qualifications necessary for satisfactory performance of the required services, and a fair and reasonable price, after notice to a number of potential offerors adequate to permit reasonable competition consistent with the nature and requirements of the procurement. Offerors shall provide evidence that the person or firm carrying out contract responsibilities possesses the expertise and experience to perform the requisite professional services. **The contract file shall contain a written summary of the basis on which notice to potential offerors was given and on which the award was made.** Professional services contracts, except as authorized below, shall be awarded in accordance with Section 3.12.060 of this Chapter. **Professional service contracts of less than \$25,000.00 may be awarded in accordance with Section 3.12.080(A) of this Chapter by purchase order, and without competition, on the written recommendation of the department or division head.** Professional services contracts for the preparation of environmental reports or special studies regarding private projects, when the project applicant has deposited the full amount of the contract, may be awarded by the City Engineer or the Community Development Director.

EXHIBIT 11

G. **Notice of Award.** With respect to contracts awarded under this Section 3.12.080, no Notice of Intent to Award shall be required to bidders as provided for contracts awarded pursuant to Section 3.12.060 and the procurement protest procedures under Section 3.12.140 shall not apply.

H. **Other Purchases.** The provisions of this Chapter do not apply to purchases of the following items, so long as funds have been properly appropriated therefor:

1. Materials, supplies, equipment or services from public or private nonprofit California corporations operating workshops serving the handicapped;
2. Books, periodicals, records, tapes, and similar materials used at the public library;

3. Software and other intellectual property with a unique or special purpose, **as documented in writing by the Purchasing Officer;** EXHIBIT 12
4. Items and services acquired with Federal or State loan or grant funds when the terms and conditions of the loan or grant conflict with this Code; and
5. Insurance, insurance adjusting, legal, and related services. If a new appropriation therefor is required or an existing appropriation is insufficient, the Chief Administrative Officer or Finance Director is authorized to bind coverage or otherwise provide for such services until the required appropriation has been approved.
6. Vendor servicing agreements where the equipment has been purchased competitively.

3.12.090 Multi-Year Contracts.

Unless otherwise limited by the City's Charter, this Code or applicable State or Federal law, the term of a contract shall be as set forth in the contract, and may include extensions as authorized in the contract. The Chief Administrative Officer may approve a multi-year contract for a term not exceeding three years, including any options to renew or extend; provided, the annual value of the multi-year contract as extended does not exceed fifteen thousand dollars (\$15,000). Otherwise, multi-year contracts shall require the approval of the City Council.

3.12.100 Awards of Contracts to Local Businesses.

In the bidding of, or letting for procurement of, supplies, materials, and equipment, as provided in this Chapter, the City Council or the Purchasing Officer may give a preference to a Local Business in making such purchase or awarding such contract in an amount not to exceed five (5%) percent of the Local Business' total bid price, or \$15,000.00, whichever amount is lower. Total bid price shall include only the base bid price but also adjustments to that base bid price resulting from alternates requested in the Solicitation. In order for a Local Business to be eligible to claim the preference, the business must request the preference in the Solicitation response, provide a copy of its current business license, and meet one of the following criteria:

1. The difference between bids from the Local Business and a business outside the City is less than the current sales tax benefit the City would receive from the local sales tax; or
2. Any other reason which would reasonably justify selection of a Local Business based upon criteria which do not illegally discriminate against outside businesses.

"Local business" means a business that is located within the City of Bell and meets both of the following criteria: (i) The business has a current City of Bell business tax certificate; and (ii) the local sales tax generated by the business is allocated to the City of Bell.

3.12.110 Employee Interest Prohibited.

No employee, member of the City Council, nor any appointed member of a City Commission, Board or Committee, shall be financially interested, directly or indirectly, in any purchase order or contract for furnishing equipment, goods, supplies or services within the purview of this Code. Any purchase order or contract affecting the financial interest of a former City employee, former member of the City Council, or any former appointed member of a City Commission, Board or Committee, shall be awarded solely by the City Council at a public meeting and may not be awarded during a period which is five years after the end of that person's term of service to the City.

3.12.120 Waiver of Bids.

When competitive bidding is impossible, impractical, undesirable, or unlikely to produce an advantage or other useful result, the City may waive the competitive bidding requirements in this Chapter and may authorize a negotiated contract. Waiver shall be authorized by the City Council or the appropriate awarding authority specified in Section 3.12.030 after their review of written justification for the waiver provided by the director of the department initiating the procurement.

3.12.130 Contracts For Public Works Projects.

A. Compliance With Public Contract Code. Contracts for Public Works projects, as defined in Public Contract Code §§ 1101 and 20161, shall be let in compliance with the California Public Contract Code, including, without limitation, Public Contract Code § 20160 et seq.

B. Change Orders.

1. Any alteration to, amendment of, or deviation from an awarded contract as to scope, cost, time for completion, material, or equipment furnished as a part of the contract, or any alteration to, amendment of, or deviation from the nature of work to be performed, shall require the completion and issuance of a Change Order or execution of a contract amendment. Additions to work cannot be combined with deletions to work to avoid the Change Order requirement.

2. The Change Order is approved by the awarding authority (the entity originally approving the contract) within their original approving authority or that contained within the contract itself, such that the original contract and change order do not exceed the officer's aggregate purchasing authority, or authority under the contract. All other Change Orders shall be approved by the City Council or the person, if any, designated in a contract approved by the City Council. No Change Order shall be binding on the City until approved as provided in this Code.

3. **Change Orders shall not be issued unless:**
 - (a) **The Change Order arises in good faith out of an unknown condition or unforeseen circumstance differing materially from the conditions of the contract; or the Change Order arises due to an error, as determined by the City, in the City's specifications that accompanied the bid solicitation; or the City desires to make a material substitution or addition to the project based on new information obtained during the construction phase of the project; and**
 - (b) **The Change Order does not change the purpose of the contract and is reasonably related to the scope of work authorized under the original contract;**
 - (c) **The Change Order is in writing; and**
 - (d) **The Change Order is signed by the Contractor and all the designated representatives of City (contract officer, project manager, architect (if any), or other representatives).**

3.12.140 Procurement Protest Procedures.

Procurements for Public Works projects, materials, supplies, goods and services shall be protested in accordance with this Section. Protests not complying with the provisions of this Section shall not be reviewed.

A. Definitions. For the purposes of this Section:

1. **"Bid" includes "offer" and "proposal" in the context of formal, informal, or negotiated procurements.**
2. **"Days" mean business days unless otherwise indicated.**
3. **"Filing date" or "submission date" means the final date for receipt by the City Clerk or the Purchasing Officer of the City of Bell.**
4. **"Interested party" means an actual bidder or offeror.**
5. **"Procurement staff" means the Finance Director, designated Purchasing Officer, City Engineer, Community Development Director or other department director initiating the procurement being requested, or the designees of any of these persons.**
6. **"Reviewing officer" means the Chief Administrative Officer or designee.**
7. **"Mail" means any delivery service such as US mail, UPS or FEDEX.**

B. Grounds for Protest. Any interested party may file a written protest on any of the following grounds:

1. The existence of a substantial defect, error or omission in the solicitation documents issued by the City;
2. Failure of the City to follow the procedures of this Chapter;
3. Failure of the City to apply correctly the standards of review, evaluation, or scoring of a bid or proposal as specified in the solicitation documents therefor;
4. Award of the contract by the City to a bidder other than on the basis stated in the solicitation documents; or
5. Such other grounds as would state a cause of action at law or in equity.

C. Disallowed Protest Grounds. Protests based on the following grounds shall not be considered:

1. An evaluator's professional judgment on the quality of a response; or
2. The proposer's assessment of the agency's needs or requirements; or
3. Any grounds other than those listed in B above.

D. Protest Filing and Delivery. Pursuant to Section 3.12.060 F, a Notice of Intent to Award shall be issued prior to the award of contracts awarded in accordance with Section 3.12.060. Protests made in accordance with said Section shall be processed in accordance herewith. Protestors shall bear all costs of the protest other than salary and personnel costs of City employees. Protests shall be in writing and hand delivered or sent by certified U.S. mail, return receipt requested.

1. To the Purchasing Officer (for protests of purchases of materials, supplies, equipment, and services); or
2. To the City Clerk (for protests related to Public Works projects).

E. Protest/Appeal Contents. Protest documents shall:

1. Include the name, address, business telephone, email, and fax number of the protestor;
2. Identify the procurement or project under protest by name, solicitation number, and submission date;
3. Contain a concise statement of the grounds for protest and the facts supporting such grounds, including all supporting documentation (documentation submitted after filing will not be reviewed); and

4. State the form of relief requested.

F. Pre-Opening Protest Period – Solicitation Documents. Interested parties wishing to protest City solicitation documents must do so before the final date to accept bids and within five business days after the date the solicitation documents are issued or amended.

G. Post-Opening Protest Period. In cases of protests involving aspects of City procurement other than solicitation documents, interested parties shall make such protest within five business days after the Notice of Intent to Award is mailed or otherwise transmitted.

H. Protest Process.

1. Upon receipt of a timely protest, procurement staff shall review all the submitted materials and create and retain a written record of their review. **Not later than 10 days after receipt of the protest, procurement staff shall respond in writing to the protest and to each material issue raised in the protest.**

2. In the event of a timely protest, procurement staff shall not proceed with the solicitation or award of the contract until all administrative remedies have been exhausted unless the Chief Administrative Officer determines that the award of a contract without delay is necessary to protect substantial interests of the City.

3. Procurement staff may elect, but are not obligated, to attempt to resolve the protest with the affected parties. **“Resolution” means the formal withdrawal of a protest by the protestor, or written acknowledgement of protest resolution signed by the City and the protestor.**

4. **If procurement staff attempts resolution, protestors shall be notified in writing of the date on which their matters shall be considered and shall be afforded an opportunity to present evidence for consideration to the City and such technical or other staff as the City deems necessary.**

5. Procurement staff shall make a formal decision (“Protest Determination”) to deny or uphold the protest **and shall notify the protestor of that decision by mail, email or fax.** The decision notification shall include a statement that the protestor has the right to appeal the Protest Determination to the City Council within three business days of the decision notification.

6. The award of contract shall be deferred until completion of the protest procedure provided that if award of the contract is by the City Council, the Protest Determination may be made by the City Council concurrent with the decision to award the contract. **The protestor shall be given at least five (5) days written notice of the date of the City Council meeting to consider the award and the right to appear and be heard, but no further appeal rights.**

3.12.150 Disposition of Surplus Property

1. **All City departments shall submit to the Purchasing Officer, at such times and in such form as the Purchasing Officer shall prescribe, reports showing all supplies and**

equipment which are no longer needed or which have become obsolete or worn out (herein as "surplus property").

EXHIBIT 13

2. The Purchasing Officer shall have the authority to dispose of surplus property by competitive bidding or public auction. Surplus property shall be sold to the highest bidder responding to a request for sealed bids or at a public auction.

3. If the Purchasing Officer elects to dispose of surplus property by competitive bidding, the following procedures shall be used:

- (a) Surplus property shall be sold to the highest bidder submitting a sealed bid in response to a notice of sale by sealed bid.
- (b) The Purchasing Officer shall cause to be published at least three days before the sale, in a locally adjudicated newspaper, a notice setting forth a general description of the surplus property to be sold; and the date, time and location for submittal of sealed bids, which date shall not be less than five calendar days following the last date of publication of the notice; the location where the property may be inspected; any special terms or conditions of sale; and the place, date and time when the bids will be opened and tabulated.
- (c) The Purchasing Officer shall accept the highest bid or may reject all bids, and at a later date hold another public sale by competitive bidding.

4. If the Purchasing Officer elects to dispose of surplus property by auction, the following procedures shall be used:

- (a) Surplus property shall be sold to the highest bidder at a public auction conducted by a licensed auctioneer or through participation in a cooperative auction of government agencies.
- (b) The Purchasing Officer shall cause to be published at least three days before the sale, in a locally adjudicated newspaper, a notice setting forth a general description of the surplus personal property to be sold, and the date, time and location of the auction. If the auction is part of a cooperative auction, the notice given by or on behalf of the agency coordinating the auction will satisfy the requirements of this subdivision and no additional notice is required.
- (c) The surplus property shall be sold to the highest bidder, provided the bid exceeds the minimum bid price, if any.
- (d) All surplus property shall be sold "as-is" without warranty express or implied.

- (e) The Purchasing Officer may contract with a professional auctioneer and allow a flat fee, hourly fee or percentage of the amount of the sale to be paid based upon that which is common and customary method and rate for such auctioneering services.

5. The Purchasing Officer, when in his or her judgment the competitive bid or auction of surplus property is infeasible or will result in minimal return to the City, may recommend to the City Council that such surplus property be donated to any other governmental organization, non-profit group or corporation exempt from federal taxes pursuant to Internal Revenue Code Section 501(c)(3) located within or serving the City of Bell. Surplus property shall only be donated upon approval of the City Council.

6. If no bids are received in response to a notice of sale by sealed bid or at auction, the Purchasing Officer may dispose of the surplus property pursuant to Section ___ of this Chapter.

7. The Purchasing Officer shall keep a written record of surplus property sold or donated pursuant to this chapter. If the property was sold, the record shall include the price or other consideration paid and the identity of the purchaser. If the property was donated, the record shall include the identity of the donee.

EXHIBIT 14

8. Unless otherwise provided, all proceeds from sale or auction of surplus property will be deposited into the City's general fund. Proceeds from sale of enterprise, federal, grant or other special designation property will be reimbursed, less prorated selling expenses to the appropriate fund, after completion of each sale.

SECTION 2: SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 3 LIBERAL CONSTRUCTION. The provisions of this Chapter shall be liberally construed as necessary to effectively carry out its purposes, which are hereby found and declared to be in furtherance of the public health, safety and convenience

SECTION 4 PUBLICATION. The City Clerk is directed to cause this Ordinance to be published within 15 days of its passage in a newspaper of general circulation published and circulated within the City of Bell

ORDINANCE NO. 1192

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELL,
CALIFORNIA, AMENDING CHAPTER 3.12 OF THE BELL
MUNICIPAL CODE ESTABLISHING A NEW PURCHASING SYSTEM**

WHEREAS, the Bell Municipal Code has not had a major review and update in ten years;

WHEREAS, in the last two years the City has been beset by major scandals which have led to significant audits by the State Controller, the State Department of Corporations, and the Internal Revenue Service;

WHEREAS, these investigations have revealed significant shortcomings with many municipal contracts including work performed without written contracts, contracts not properly authorized by the awarding authority, a lack of documentation verifying performance of work or payment in accordance with contract requirements, failure to follow requirements of state and federal grants, and other matters;

WHEREAS, some of these issues arise from deficiencies in the City's ordinances, some from the failure to prepare written contracts, and some from the failure to adequately manage contracts;

WHEREAS, a review of the city's purchasing ordinance has shown the ordinance to be outdated and inadequate for current contracting needs;

WHEREAS, for purposes of transparency, adopting a new ordinance following public review will allow a community dialogue concerning the procedures for bidding and award of contracts;

WHEREAS, this Purchasing Ordinance allows the Chief Administrative Officer to award contracts for less than \$25,000 without Council approval but through a public bidding process, and contracts for less than \$10,000 through informal bids; but competitive bids are not required (i) where there is only one source of supply for the materials or services, (ii) where it is an emergency purchase, (iii) where it is a cooperative purchase with another agency who did award a contract through competitive bids, or (iv) similar situations; but where competitive bids are not used the City shall use competitive proposals.

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

SECTION 1: ADOPTION OF PURCHASING ORDINANCE. That Title 3 of the Bell Municipal Code is hereby amended by replacing Chapter 3.12 in its entirety and adding a new Chapter 3.12 entitled "Purchasing" said chapter 3.12 to read as follows:

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Bell, California, this 16th day of January, 2013.

CITY OF BELL:

Ali Saleh, Mayor

ATTEST:

CITY OF BELL

Rebecca Valdez, CMC, City Clerk

**APPROVED AS TO FORM
AND LEGAL CONTENT:**

ALESHIRE & WYNDER, LLP

Dave Aleshire, City Attorney

CERTIFICATION

I, Rebecca Valdez, City Clerk of the City of Bell, California, do hereby certify that Ordinance No. 1192 was duly introduced at a regular meeting of the City Council of the City of Bell, held on the 2nd day of January, 2013, and was duly adopted at a regular meeting of said City Council on the 16th day of January, 2013, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Rebecca Valdez, CMC, City Clerk
City of Bell

Ordinance No. 1192
First Reading, January 2, 2013