



## STAFF REPORT

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### Purchasing Control System:

1. Motion To Introduce Ordinance By Title Deleting Chapter 2, Article V Of The Belmont Municipal Code, Purchasing, And Introducing Chapter 2, Article V Regarding Purchasing Control System, Set 2nd Reading And Adoption For July 22, 2003;
2. Resolution Establishing Powers And Duties Of The Purchasing Officer;
3. Resolution Establishing Bidding Procedure Exceptions;
4. Resolution Setting Purchase Limits;
5. Resolution Establishing A Prequalification Process For Bidders Of Public Construction Projects;
6. Resolution Establishing Procedures For Bid Appeal Hearings;
7. Resolution Establishing Procedures For Ratification And Approval Of Warrants, Checks Or Electronic Disbursements;
8. Resolution Establishing Procedures For Disposing Surplus Property; And
9. Resolution Adopting Financial Polices Pertaining to Practices Of The Purchasing Control System

June 16, 2003

Honorable Mayor and Members of the City Council:

**Summary:** Pursuant to the Priority Calendar, attached are an ordinance, resolutions and financial policies recommended for implementing a comprehensive update to the organization's purchasing control system. The purpose of this comprehensive update is to reflect modern office practices, improve accountability commensurate with responsibility, establish procurement policy and implement changes in the law since the adoption or last amendment of the purchasing ordinance. At the conclusion of the public hearing, staff recommends adopting a motion(s) introducing the new ordinance, related resolutions and financial policies.

**Background and Discussion:** Recognizing the need to address shortcomings with the City's procurement policy, the City Council, based on recommendations from the Finance Commission, authorized a comprehensive review of the purchasing ordinance. As a result of that effort, the purchasing ordinance has been rewritten in its entirety. The proposed ordinance is more than an update; rather, it is a replacement of the existing ordinance.

By design, the proposed ordinance is a high level, policy document that is expected to withstand the passage of time. It is expressly written with the intent to accommodate the evolution of modern procurement practices, while at the same time provide improved control over the expenditure of public funds. Supporting the proposed ordinance is a series of resolutions and financial policies that provide greater detail and flexibility and can be more readily adapted to change if required or desired.

The proposed ordinance was also written with a number of specific objectives in mind. Those objectives included:

1. Higher spending thresholds,
2. Greater administrative authority,
3. Streamlined bid, quote and solicitation requirements,
4. Recognition of modern office practices and procurement technologies,
5. Improved accountability, and
6. Comprehensiveness.

For the most part, these objectives were accomplished by reference to resolutions or specific administrative policies.

In order to facilitate an understanding of the difference between the current ordinance and the proposed ordinance, resolutions and policies, Table 1 attached to this report provides a comparison of the two systems by major category.

Lastly, the Finance Commission reviewed the proposed ordinance at their May and June meetings. At the conclusion of their review, the Commission commented that the proposed ordinance and resolutions provided an appropriate balance between improved internal control and greater administrative responsibility. They further concurred with the proposed methodology for addressing the specific objectives outlined above.

**Fiscal Impact:** None.

**Public Contact:** The hearing has been appropriately noticed

**Recommendation:** It is recommended that the proposed purchasing ordinance and related resolutions be introduced at this meeting by the City Council and that the ordinance be placed on the next agenda for a second reading and adoption.

**Alternatives:**

1. Continue to follow current purchasing system or
2. With direction, propose additional changes to clarify Council policy.

**Attachments:**

1. Table 1 – Comparison Of Purchasing Systems;
2. Purchasing Control System Ordinance And Related Resolutions;
3. Financial Polices Pertaining to Practices Of The Purchasing Control System And Related Resolution; And
4. Current Purchasing Ordinance (Chapter 2, Article V Purchasing).

Respectfully submitted,

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Thomas Fil, Finance Director

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Jere Kersnar, City Manager

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**TABLE 1**  
**Comparison of Purchasing Systems**

Category	Current System	Proposed System
<b><i>General Provisions</i></b>		
Definitions	Not Applicable.	A comprehensive list of definitions has been developed.
Powers and duties of Purchasing Officer	Limited to purchase of supplies and equipment. Essentially non-authoritative.	Expanded to provide authoritative oversight of all expenditures for supplies, services, equipment and public construction projects controlled by the City.
Procurement Procedures	Set by resolution requiring requisitions and purchase orders.	<p>Set by administrative policy. Establishes manual of purchasing procedures. Requires all departments to follow policies and procedures manual. New policies include:</p> <ul style="list-style-type: none"> <li>▪ Purchasing Control System Overview</li> <li>▪ Purchasing Guidelines</li> <li>▪ Elements and Waivers of Competitive Purchasing</li> <li>▪ Over-The-Counter Purchases</li> <li>▪ Open Market Purchases</li> <li>▪ Formal Contract Purchases</li> <li>▪ Contracting For Professional Services</li> <li>▪ Public Construction Projects</li> <li>▪ Emergency Purchases</li> <li>▪ Purchasing With A Purchase Card</li> <li>▪ Purchasing with Petty Cash</li> </ul> <p>Procedures also established to include Internet purchasing and governmental purchasing alliances.</p>

<p>Bidding Procedures - Exceptions</p>	<p>Limited exemptions:</p> <ul style="list-style-type: none"> <li>▪ Emergencies</li> <li>▪ Under \$200</li> <li>▪ Sole source vendor</li> </ul>	<p>Exemptions expanded to include:</p> <ul style="list-style-type: none"> <li>▪ Over-The-Counter Purchases (\$5,000 with subsequent, incremental increases of \$1,000 indexed to CPI)</li> <li>▪ Standardized Supplies Or Equipment</li> <li>▪ Governmental Cooperative Purchases</li> <li>▪ Purchase For Preservation Of Public Peace, Health, Safety Or Welfare Of Persons Or Property</li> <li>▪ Where Request For Proposal More Favorable</li> <li>▪ Electronic Purchases With Pre-Approved Safe Harbors</li> <li>▪ Personal Service Contracts</li> <li>▪ Risk Retention Claims</li> </ul> <p>Further requires discretion and judgment of the Purchasing Officer to consider the best interests of the City.</p>
<p>Consultants</p>	<p>Not Applicable.</p>	<p>Scope expanded to include selection for services made by an evaluation of proposals solicited from capable professionals.</p>
<p>Unlawful Purchases</p>	<p>Not Applicable.</p>	<p>Establishes personal liability for willful failure to comply. Prohibits split purchasing to evade provisions.</p>
<p><b><i>Open Market Purchases</i></b></p>		

Purchase Authorization	Limited to \$5,000.	<p>Spending thresholds increased as follows:</p> <ul style="list-style-type: none"> <li>▪ Open Market <i>Level 1</i> - \$50,000 (Purchase Order Requires Authorization Of Purchasing Officer; Contracts Require Authorization Of City Manager)</li> <li>▪ Open Market <i>Level 2</i> - \$100,000 (Purchase Order Requires Authorization Of Purchasing Officer and City Manager; Contracts Require Authorization Of City Manager)</li> <li>▪ Amounts in excess of thresholds require City Council approval</li> </ul> <p>Amounts indexed to CPI and increase in increments of \$5,000 and \$10,000, respectively.</p>
Quotations	Where possible, required minimum of three (3) bids.	Unchanged.
Award of Purchase Orders	Not Applicable.	Requires purchase order award to the lowest responsive and responsible quotation.
<b><i>Formal Contract Procedures</i></b>		
Requirements for Purchase	Required on purchases of supplies and equipment valued at \$5,000 or more.	<p>Unless otherwise exempted, formal contract procedures apply.</p> <p>Applies to:</p> <ul style="list-style-type: none"> <li>▪ Amount in excess of Open Market Level 2 Threshold</li> <li>▪ Public Construction Contracts (Code Section 22032)</li> </ul>
Bids	Notice required. Ten (10) days in advance in newspaper of general circulation. To be posted in three (3) public places.	No change to time frame. Eliminates posting requirement.
Contract Award	Award to lowest responsible and responsive bidder.	Further allows negotiating between tie bidders.
Bonding	When necessary, security and performance bonding may be prescribed.	No change.

Lowest Responsive and Responsible Bidder Defined	Not Applicable.	Defined to include such criteria as: <ul style="list-style-type: none"> <li>▪ Character, integrity, reputation, judgment, experience and efficiency</li> <li>▪ Ability to perform the contract</li> <li>▪ Ability to provide future maintenance, repair parts and replacement of purchased equipment or supplies</li> </ul>
Pre-Qualification of Bidders	Not Applicable.	Includes standardized pre-qualification process for applicable public construction contracts.
Bid Appeal Hearing	Not Applicable.	Establishes administrative review process which includes: <ul style="list-style-type: none"> <li>▪ Written request must be made within five (5) days of the adverse determination</li> <li>▪ A hearing shall be conducted within five (5) days of the request</li> <li>▪ Hearing officer shall render a written decision within five (5) days, based on evidence, affirming or rescinding the determination of the Purchasing Officer</li> <li>▪ Any petition for review must be filed not later than ninety (90) days following the date the decision becomes final</li> </ul>
<b><i>Payment and Accounting Procedures</i></b>		
Payment Requirements	Not Applicable.	Prescribes all purchases shall be made by requisition, or other document, signed by the Purchasing Officer and paid by warrant signed by the City Treasurer. Requires Finance Director to satisfy that: <ul style="list-style-type: none"> <li>▪ Sufficient moneys are appropriated</li> <li>▪ Expenditure is in accordance with budget authority</li> <li>▪ Proposed expenditure is legal</li> </ul>

Warrant Ratification and Approval	Not Applicable.	Adopts California Government Code Section 37208, establishing an administrative warrant approval practice as follows: <ul style="list-style-type: none"> <li>▪ Disbursements approved by the Purchasing Officer conforming to the budget need not be audited by the City Council prior to payment</li> <li>▪ Disbursements may be presented to the City Council for ratification and approval in the form of an audited comprehensive annual financial report</li> </ul>
Encumbrance of Funds	Not Applicable.	Requires no award of contract or purchase order issued until the Purchasing Officer certifies that sufficient unencumbered balance is available to defray the amount of contract or purchase order.
<b><i>Unclaimed Property and Surplus Property</i></b>		
Unclaimed Property	Not Applicable.	Requires process consistent with the California Civil Code.
Surplus Property	Recommend to City Manager transfer or sale of surplus or unused supplies and equipment.	Includes disposition of real and personal property. Establishes the following key procedures: <ul style="list-style-type: none"> <li>▪ Personal property may be transferred to or between departments</li> <li>▪ Allows for open market surplus if within the Open Market Level 1 threshold value</li> <li>▪ Contracting for sale of surplus real property shall be authorized by the City Council.</li> <li>▪ Closed market sales to public agencies of real and personal property authorized when disposition would be in the public interest</li> <li>▪ Closed market sales to city employees authorized when sale designed to prevent collusion, waste or destruction of city property</li> </ul>



## PURCHASING ORDINANCE

ORDINANCE NO. \_\_\_\_\_

### **ORDINANCE DELETING IN ITS ENTIRETY CHAPTER 2, ARTICLE V OF THE BELMONT MUNICIPAL CODE, PURCHASING, AND INTRODUCING AND ADOPTING CHAPTER 2, ARTICLE V REGARDING PURCHASING CONTROL SYSTEM**

The City Council of the City of Belmont does ordain as follows:

**SECTION 1: Chapter 2 of the Belmont City Code is hereby amended to read as follows:**

#### **ARTICLE V**

#### **PURCHASING CONTROL SYSTEM**

##### **DIVISION I: GENERAL PROVISIONS**

Sec. 2-100. Applicability of Provisions.

All expenditures by the city for supplies, services, equipment and public construction projects controlled by the City, shall be made only in accordance with and pursuant to the provisions of this chapter.

Sec. 2-101. Purpose of Provisions

A purchasing control system for the City is hereby adopted in order:

- (a) To secure those items set out in Section 2-100 at the lowest possible cost commensurate with quality requirements;
- (b) To ensure effective financial control over expenditures;
- (c) To clearly define authority and accountability for the purchasing function;
- (d) To minimize the written documentation, administrative actions, and expense of processing purchase transactions;
- (e) To assure the quality of purchases made on behalf of the city; and
- (f) To facilitate accurate forecasting and planning of department needs and expenditures.

Sec. 2-102. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (a) *Bidders list* means a current file of sources of supply of articles for each category of

- commodities repetitively purchased for City use.
- (b) *Capital improvement project* means any public improvement undertaken by the City, including the construction or reconstruction in whole or in part of any building, plant, structure, road, park or other facility necessary in carrying out the activities of the city government. Capital improvement project shall have the same meaning as "public project" defined in Section 20161 of the California Public Contracts Code.
  - (c) *City Attorney* means the City of Belmont Chief Legal Officer or a person designated by the City Attorney.
  - (d) *City Manager* means the City of Belmont Chief Administrative Officer or a person designated by the City Manager.
  - (e) *City Treasurer* means the elected City Treasurer of the City of Belmont.
  - (f) *Closed market* means limited participation in a property sale, purchase, lease, disposal, or other transaction to a defined universe of participation to the exclusion of the general public.
  - (g) *Contractual services* means any and all telephone, gas, water, electric light and power service; towel, window washing and cleaning service; insurance and fidelity bonds; leases for all grounds, **buildings, offices or other space required by the using departments; the rental or maintenance of equipment, machinery and other city owned or operated personal property; and contracts for labor required by the City but not furnished by its own employees.**
  - (h) ***Department or using department* means any of the departments or other organizational units of the City of Belmont.**
  - (i) ***Emergency* means an occurrence that could not, with reasonable diligence, have been foreseen.** Emergencies shall include, but not limited to, an unforeseen disruption of an essential service, a malfunction in machinery resulting in disruption of the public service, or unforeseen delays by contractors or transportation and unanticipated volumes of work.
  - (j) *Finance Director* means the City of Belmont Chief Financial Officer or a person designated by the Finance Director.
  - (k) *Government Purchasing Alliances (GPA's)* means collective purchasing power leverage savings on competitive bid contracts.
  - (l) *Open market* means providing the general public the opportunity to participate in a property sale, purchase, lease, disposal or other transaction.
  - (m) *Over-the-counter* means no specific purchasing requirements are prescribed, but . competitive bidding should be used whenever practical. Bid award may be made by department using voucher or purchase order.
  - (n) *Personal property* means all property not defined herein as real property.
  - (o) *Personal services* means the service of accountants, attorneys, physicians, architects, engineers, consultants, and other individuals or organizations possessing a high degree of technical skill or specialized service.
  - (p) *Public construction projects* means projects as defined by California Public Contract Code 2100, et. seq.
  - (q) *Public notice* means posting of required bid solicitations on a public bulletin board in a manner prescribed by the Purchasing Officer and mailing of notice to a reasonable number of vendors.

- (r) *Purchasing Officer* shall be the Finance Director or his or her designee responsible for the purchasing system.
- (s) *Real property* means land and that which is affixed to, incidental to, or appurtenant to land, including that which is defined as real property pursuant to Section 658 of the Civil Code.
- (t) *Responsible bid* means a responsive offer to furnish supplies, materials, equipment, capital improvements, or contractual services, submitted on forms approved by Purchasing Officer by a responsible bidder in conformity with the specifications, delivery terms, and conditions and other requirements included in the invitation for bids.
- (u) *Responsible bidder* means a bidder who submits a responsible and responsive bid, who has furnished, when requested, information and data to establish possession of the financial resources, production or service facilities, service reputation and experience adequate to make satisfactory arrangements for the supplies, materials, equipment or contractual services bid for, or to complete any capital improvement bid for; and who has not violated, or attempted to violate, any provisions of this chapter.
- (v) *Safe harbor* means a purchasing conduit which has been pre-certified by the Purchasing Officer.
- (w) *Supplies, materials and equipment* means any and all articles or things which shall be furnished to or used by any department, including any and all printing, binding or publication of stationary, forms, laws, journals and reports.
- (x) *Unclaimed property* means any and all property in the possession of the police department for which no claim or demand has been made and property for which no owner has been found.

Sec. 2-103. Powers and duties of Purchasing Officer.

The Finance Director shall be the Purchasing Officer. Functions, powers and duties of the Purchasing Officer shall be established by council resolution.

Sec. 2-104. Procurement Procedure.

Pursuant to the provisions of this chapter the Purchasing Officer or designee shall approve and implement a manual of purchasing policies and procedures. All departments shall follow the purchasing policies and procedures manual.

Sec. 2-105. Procurement Documents.

All departments shall expend money for those items set forth in Section 2-100 only in such a manner, at such times, and by submission of such purchase documents as the Purchasing Officer or designee shall prescribe. The City Attorney shall approve all forms that contractually bind the City.

Sec. 2-106. Bidding Procedures; exceptions.

Purchase of those items listed in Section 2-100 shall be by bid procedure except for those set by Council resolution which may be dispensed with, at the discretion and judgment of the

Purchasing Officer or designee, in the best interests of the City.

**Sec. 2-107. Authority to hire Consultants**

The restrictions and provisions of this chapter shall not apply to contracts involving the acquisition of personal services. Selection for such services will be made by an evaluation of proposals solicited from capable professionals, and subject to approval by the City Council, whenever the cost of the work to be performed is of an estimated value in excess of the amount specified by council resolution. This section shall not prohibit the City Manager or designee from requiring proposals for work with an estimated cost of less than the council specified amount if, in the discretion of the City Manager, selection based upon the evaluation of proposals would better serve the interests of the City.

**Sec. 2-108. Unlawful Purchases.**

If any department purchases or contracts for any supplies, materials, equipment or contractual services contrary to the provisions of this chapter or to the rules and regulations made hereunder, such purchase or contract shall be void and of no effect. The person responsible for making such purchase transaction shall be personally liable for the costs of such purchase or contract, and, if already paid for out of city funds, the amount thereof may be recovered in the name of the City in an appropriate action therefore.

It shall be unlawful for any department to split its requirements for supplies, materials, equipment and contractual services into lesser amounts in order to evade the provisions of that section.

**Sec 2-109. Reserved.**

**DIVISION II: OPEN MARKET PURCHASE PROCEDURES.**

**Sec. 2-110. Purchase Authorization.**

Purchase orders of supplies and equipment having an estimated value less than that specified by council resolution for bid, may be made by the Purchasing Officer or designee in the open market without observing the formal contract procedures set out in Division III of this chapter. Contracts having an estimated value less than that specified by council resolution for bid, may be made by the City Manager or designee in the open market without observing the formal contract procedures set out in Division III of this chapter.

**Sec. 2-111. Quotations—Notice of invitation.**

The Purchasing Officer or designee shall invite, either by verbal or written request, quotations from prospective sellers, vendors, suppliers or contractors.

**Sec. 2-112. Quotations—Submission in writing—Recordkeeping.**

Written quotations shall be submitted to the Purchasing Officer or designee, who shall keep a

record of open market quotations and orders for a period of ninety days after the receipt of such quotations.

Sec. 2-113. Quotations—Number required.

Open market purchases shall be based, whenever reasonably possible, on at least three quotations.

Sec. 2-114. Quotations—Rejection.

The Purchasing Officer or designee may reject:

- (a) Any quotations which fail to meet the specific purchase requirements in any respect; or
- (b) All quotations, for any reason whatsoever, and may invite new quotations.

Sec. 2-115. Award of purchase orders.

Purchase orders shall be awarded by the Purchasing Officer or designee, to the person or entity submitting the lowest responsive and responsible quotation, except as follows:

- (a) If two or more quotations are received for the same total amount or unit price, quality and service being equal, and if at the discretion of the Purchasing Officer, the public interest will not permit the delay of inviting new quotations, then the Purchasing Officer may accept the lower quotation obtained through negotiation with the persons or entity submitting the tie quotations; or
- (b) If no quotations are received the Purchasing Officer may make the required purchase without further notice.

**Sec. 2-116 – 2-119. Reserved.**

**DIVISION III: FORMAL CONTRACT PROCEDURE.**

Sec. 2-120. Requirements for purchase.

Except as otherwise provided in this chapter, purchases and contracts for supplies, services, equipment and public construction, which are equal to or in excess of the bid requirement amount specified by council resolution, shall be by written contract with the lowest responsive and responsible bidder pursuant to the procedures described in this division.

Sec. 2-121. Bids—Notice of Invitation and submission.

- (a) Notices inviting bids shall include, but not be limited to, the following:
  - (1) A general description of the item(s) or service(s) to be purchased, or the public work to be constructed or improved;
  - (2) The location where bid blanks and specifications may be secured;
  - (3) The time and place assigned for the opening of sealed bids;
  - (4) The type and character of bidder's security required, if any; and

- (5) The location and deadline for submission of bids.
- (b) Notices inviting bids shall be published at least once in the official newspaper of the City, with the first publication occurring at least ten days before the date of opening the bids.
- (c) Sealed bids shall be identified as bids on the envelopes and shall be submitted to the Purchasing Officer or designee.

Sec. 2-122. Bids – Security requirement.

Bidder's security may be required when deemed necessary by the Purchasing Officer or designee. Unsuccessful bidders shall be entitled to return of bid security. The successful bidder shall forfeit its bid security upon refusal or failure to execute a contract within fifteen days after notice of award of that contract. In that instance, the contract may be awarded to the next lowest responsive and responsible bidder upon the refusal or failure of the successful bidder to execute the contract within the time herein prescribed.

Sec. 2-123. Bids – Opening and retention.

Sealed bids shall be opened in public at the time and place stated in the notice inviting bids. A tabulation of all bids received shall be made available for public inspection thereafter. All bids shall be retained on file for a period of not less than two years.

Sec. 2-124. Bids – Rejection.

The Purchasing Officer or designee may reject:

- (a) Any bid that fails to meet the bidding requirements in any respect; or
- (b) All bids, for any reason whatsoever, and may readvertise for new bids.

Sec. 2-125. Contract Award.

Contracts shall be awarded to the lowest responsive and responsible bidder, except if, at the time of the bid opening, two or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay for readvertising for bids, then the contract will only be awarded after negotiations with the tie bidders.

Sec. 2-126. Requiring bond of successful bidder.

The Purchasing Officer or designee may require as a condition to executing a contract on behalf of the City, a performance bond, a labor and material bond, or both, in such amounts as the Purchasing Officer shall determine appropriate to protect the best interests of the City. The form and amounts of such bond(s) shall be described in the notice inviting bids.

Sec. 2-127. Determination of lowest responsive and responsible bidder.

In addition to the bid or quotation price, criteria for determining the lowest responsive and responsible bid or quotation, for the purposes of this chapter, shall include, but not be limited to, the

following:

- (a) The character, integrity, reputation, judgment, experience and efficiency of the bidder (this may include an analysis of previous work performed for the City);
- (b) The ability of the bidder to perform the contract, or provide the supplies, equipment or services required, within the time specified, without delay or interference;
- (c) The ability of the bidder to provide future maintenance, repair parts and replacement of purchased equipment or supplies;
- (d) Compliance by the bidder with federal acts, executive orders and state statutes governing nondiscrimination in employment; and
- (e) The results of any evaluation relating performance and price, such as testing, life-cycle costing, and analysis of service, maintenance and technical data.

Sec. 2-128. Pre-Qualification of Bidders.

The Purchasing Officer or designee may require a pre-qualification process for bidders for public construction projects in accordance with California Public Contract Code. The pre-qualification process shall be specified by Council resolution.

Sec. 2-129. Bid Appeal Hearing.

The bid appeal hearing process shall be specified by Council resolution.

**DIVISION IV: PAYMENT AND ACCOUNTING PROCEDURES.**

Sec. 2-130. Payment Requirements.

All purchases shall be made by requisition, or other prescribed document, signed by the Purchasing Officer or designee and paid by warrant signed by the City Treasurer or designee. Payment will only be made upon the satisfaction of the Finance Director that:

- (a) Sufficient moneys have been appropriated for the purchase;
- (b) The expenditure is in accordance with budget authority; and
- (c) The proposed expenditure is legal.

Sec. 2-131. Warrant Preparation – Accounting Documents required.

The Finance Department shall prepare a warrant after receiving properly completed accounting documents as prescribed by the Finance Director.

Sec. 2-132. Payment Date.

The Finance Director shall determine and assign the dates of warrant preparation.

Sec. 2-133. Ratification and Approval.

In addition to any other provision of law for the issuance and payment of warrants of the City, the City Council has established by resolution practices with respect to form, issuance,

delivery, endorsement and payment of warrants it deems convenient, efficient and in the public interest, conforming substantially to those practices specified in California Government Code Section 37208.

Sec. 2-134. Encumbrance of Funds

Except in emergencies as defined in section 2-102, no notice of award of contract shall be issued, no contract shall be signed, and no open market purchase order shall be issued, until the Purchasing Officer or designee shall have certified that the unencumbered balance in the appropriation or appropriations concerned, in excess of all unpaid obligations, is sufficient to defray the amount of such contract or purchase order.

**Sec. 2-135—2-139. Reserved.**

**DIVISION V: UNCLAIMED PROPERTY AND SURPLUS PROPERTY**

Sec. 2-140. Unclaimed Property Sale

Unclaimed property shall be disposed of pursuant to Section 2080.4 and 2080.6 of the California Civil Code by the Purchasing Officer or designee.

Sec. 2-141. Surplus Property Disposition

Real, personal and unclaimed property which has become surplus to the needs of the City shall be disposed of pursuant to procedures established by resolution authorized by City Council.

**Sec. 2-142—2-147. Reserved.**

**SECTION 2. EFFECTIVE DATE; PUBLICATION; POSTING.**

This Ordinance shall be in full force and effect thirty days from and after its passage. At least five days prior to its adoption and within fifteen days after its adoption, a summary of this Ordinance, the latter summary to include the names of those City Council members voting for and against the Ordinance, shall be published once in a newspaper of general circulation printed and published in the County of San Mateo and circulated in the City of Belmont. At the time of the publication of each summary, the City Clerk shall post in the Office of the City Clerk a copy of the full text of this Ordinance in compliance with Government Code Section 39633(c)(1).

**INTRODUCED** at a regular meeting of the City Council of the City of Belmont held on the \_\_\_\_\_ day of \_\_\_\_\_, 2003.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Belmont held on the \_\_\_\_\_ day of \_\_\_\_\_, 2003, by the following roll call vote:

AYES, COUNCILMEMBERS: \_\_\_\_\_

NOES, COUNCILMEMBERS: \_\_\_\_\_

ABSENT, COUNCILMEMBERS: \_\_\_\_\_

ABSTAIN, COUNCILMEMBERS: \_\_\_\_\_

\_\_\_\_\_  
MAYOR of the City of Belmont

ATTEST:

\_\_\_\_\_  
CITY CLERK

**RESOLUTION # \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT ESTABLISHING  
POWERS AND DUTIES OF THE PURCHASING OFFICER.**

**WHEREAS**, The Finance Director or designee shall be the Purchasing Officer;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council establishes the following powers and duties of the Purchasing Officer:

- (a) To develop and prescribe, for the departments, such administrative policies, forms and files as may be reasonably necessary for the internal management and operation of these purchasing procedures;
- (b) To authorize purchase orders for those items listed in Sec.2-100 and required by departments in accordance with these purchasing procedures;
- (c) To negotiate and recommend execution of contracts for purchase of those items listed in Sec.2-100.
- (d) To negotiate contracts for personal services, when designated by the City Manager, and, where applicable, submit them for approval and award to the City Council.
- (e) To procure the needed quality in supplies, services, equipment and public construction projects controlled by the City at minimum expense;
- (f) To ensure as full and open competition as possible on all purchases;
- (g) To consolidate department orders for like items, ensuring quantity discount pricing whenever possible;
- (h) To develop and maintain department awareness of purchasing and pricing principles, marketing conditions and new products;
- (i) To inspect supplies and equipment delivered, as well as contractual services performed, to determine their conformance with the specifications set forth in the orders and contracts; and, in this connection, to have the authority to require chemical, physical or other tests of samples, submitted with quotations or bids, or of delivery samplings, which may be necessary to determine quality and conformance with specifications;
- (j) To establish procedures for, and assign duties to, personnel engaged in receiving, storing and issuing purchased supplies, thereby ensuring that supply levels are consistent with usage requirements;
- (k) To facilitate the transfer of surplus or unused supplies and equipment among departments as needed; and
- (l) To sell or exchange surplus supplies and equipment, provided that the same cannot reasonably be used by any department.
- (m) To administer all storerooms operated by the City.
- (n) In the case of capital improvement projects, the Purchasing Officer will insure strict compliance with the provisions of Sections 20162 and 20688.2 of the California Government Code.
- (o) To establish procedures for certifying vendors and suppliers who are desirous of obtaining Safe Harbor designation.

\* \* \* \* \*

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on \_\_\_\_\_, 2003 by the following vote:

**AYES, COUNCILMEMBERS:** \_\_\_\_\_

**NOES, COUNCILMEMBERS:** \_\_\_\_\_

**ABSTAIN, COUNCILMEMBERS:** \_\_\_\_\_

**ABSENT, COUNCILMEMBERS:** \_\_\_\_\_

\_\_\_\_\_  
**City Clerk**

**APPROVED:**

\_\_\_\_\_  
**MAYOR of the City of Belmont**

**RESOLUTION # \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT ESTABLISHING  
BIDDING PROCEDURE EXCEPTIONS.**

**WHEREAS**, Purchase of those items listed in Section 2-100 of the municipal code shall be by bid procedures; and

**WHEREAS**, Such procedures may be dispensed when allowed by statute and when the discretion and judgment of the Purchasing Officer or designee determines as to the best interests of the City; and

**WHEREAS**, City Council hereby established exceptions to guide the Purchasing Officer in the administration of the purchasing system:

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council establishes the following exceptions to the bidding procedure:

- (a) Over-the-counter purchases when the amount which is expended is authorized by Resolution No. \_\_\_\_\_ - Resolution of the City Council of the Belmont Setting Purchasing Limits, and subsequently amended thereto;
- (b) When the amount to be expended is less than the bid requirement amount which shall be specified by resolution of the City Council;
- (c) When an emergency requires that an order be placed with the nearest available source of supply;
- (d) When the item(s) to be purchased can be obtained from only one vendor or supplier;
- (e) When supplies or equipment used in the City are standardized;
- (f) When the purchase will be made cooperatively with one, or more, other units of government;
- (g) When reasonably necessary for the preservation of protection of public peace, health, safety or welfare of persons or property;
- (h) When, given the indeterminate nature of the City's need, a request for proposal will result in a more favorable and efficient comparison of supplies, equipment and/or services or;
- (i) When electronic purchases are made through pre-approved Safe Harbors authorized by the Purchasing Officer.
- (j) Personal service contracts may be awarded without competitive bid based on qualifications and negotiated price by the Purchasing Officer. The award shall be made if the amount which is expended is authorized by Resolution No. \_\_\_\_\_ - Resolution of the City Council of the Belmont Setting Purchasing Limits , and subsequently amended thereto.
- (k) Contracts for products that the Purchasing Officer determines are the only products that can meet the City's needs and which are available only from a single source may be awarded without competitive bid.

- (l) Contracts for products that are purchased in a pool formed with another public or private entity, including but not limited to, purchase of products competitively bid by the state or other governmental agencies under a Governmental Purchasing Alliance (GPA), may be made without competitive bid when the Purchasing Officer determines that substantial cost savings will be thereby achieved.
- (m) Claims paid to others under risk retention programs and through settlement negotiations, if the amount to be expended is authorized by Resolution C, Resolution No. \_\_\_\_\_ - Resolution of the City Council of the Belmont Setting Purchasing Limits, and subsequently amended thereto.

\* \* \* \* \*

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on \_\_\_\_\_, 2003 by the following vote:

**AYES, COUNCILMEMBERS:** \_\_\_\_\_

**NOES, COUNCILMEMBERS:** \_\_\_\_\_

**ABSTAIN, COUNCILMEMBERS:** \_\_\_\_\_

**ABSENT, COUNCILMEMBERS:** \_\_\_\_\_

\_\_\_\_\_  
City Clerk

**APPROVED:**

\_\_\_\_\_  
**MAYOR of the City of Belmont**

**RESOLUTION # \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT  
SETTING PURCHASE LIMITS.**

**WHEREAS**, In the course of conducting City operations it is necessary to purchase a broad range of goods and services; and

**WHEREAS**, Chapter 2 of the municipal code requires the Council to specify by resolution the dollar amount of purchases and contracts requiring the use of either over-the-counter, open market or formal bidding procedures and the level of authority required to authorize invitations for bids and award of contracts; and

**WHEREAS**, The Council desires to establish guidelines to reflect current conditions and implement improved procedures;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council recommends the setting of purchase limits and subsequently adjusting said limits based on the Consumer Price Index, San Francisco Bay Area, CPI (u) as presented in Exhibit 1.

\* \* \* \* \*

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on \_\_\_\_\_, 2003 by the following vote:

**AYES, COUNCILMEMBERS:** \_\_\_\_\_

**NOES, COUNCILMEMBERS:** \_\_\_\_\_

**ABSTAIN, COUNCILMEMBERS:** \_\_\_\_\_

**ABSENT, COUNCILMEMBERS:** \_\_\_\_\_

\_\_\_\_\_  
**City Clerk**

**APPROVED:**

\_\_\_\_\_  
**MAYOR of the City of Belmont**

**EXHIBIT 1**

The dollar thresholds in Exhibit 1, Table 1 will be increased once each year on July 1, based on the Consumer Price Index, San Francisco Bay Area, CPI (u) for the twelve-month period ending the preceding April 30 of each year, and such increases shall not become effective until the cumulative total of the increased amount reaches the incremental value. All threshold increases shall be rounded to thousand-dollar increments and the City Council will be advised of the date of any dollar threshold change and the new dollar threshold.

<b>TABLE 1</b>			
<b>Type</b>	<b>Description</b>	<b>Threshold Value</b>	<b>Incremental Value</b>
Over-the-Counter	Authorized by the Department. No specific purchasing requirements established. Competitive bidding should be used whenever practical. No formal bid required.	\$5,000.00	\$1,000.00
Open Market Level 1	Purchase orders authorized by the Purchasing Officer or designee and contracts authorized by the City Manager or designee pursuant to procedures established in Section 2-110 of the municipal code.	\$50,000.00	\$5,000.00
Open Market Level 2	Purchase orders authorized by Purchasing Officer and City Manager, or designees, or contracts authorized by the City Manager or designee pursuant to procedures established in Section 2-110 of the municipal code.	\$100,000.00	\$10,000.00
Formal Contract	Requires competitive bid by sealed envelope delivered to Purchasing Officer on a bid form approved by Purchasing Officer. Formal contracts for personal services are exempted from competitive bid process pursuant to procedures established in Section 2-107 of municipal code. Award of contract shall be authorized by City Council.	Amount in excess of Open Market Level 2 Threshold Value	Not applicable
Public Construction	Requires plans, specifications and estimates of cost to be prepared and shall submit them to the City Council for approval. Such approval may occur at the	Pursuant to Public Contracts Code Section	Not applicable

	<p>time of final award of contract. Requires competitive bids. Final award shall be made by the City Council.</p> <p>Authorizes the Purchasing Officer or designee to approve change orders on purchase orders up to Open Market Level 1 limits and the City Manager and Purchasing Officer to approve change orders on purchase orders up to Open Market Level 2 limits. Authorizes the City Manager or designee to approve change orders for contracts up to Open Market Level 2 limits. Expenditures in excess of limits, or in excess of the amount budgeted for such purpose shall be subject to approval by the City Council.</p>	<p>22032</p>	
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**RESOLUTION # \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT ESTABLISHING  
A PREQUALIFICATION PROCESS FOR BIDDERS  
OF PUBLIC CONSTRUCTION PROJECTS**

**WHEREAS**, The Purchasing Officer or designee may require a prequalification process for bidders in accordance with California Public Contract Code Section 20101 .

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council establishes a prequalification process as defined in Exhibit 1.

\* \* \* \* \*

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on \_\_\_\_\_, 2003 by the following vote:

**AYES, COUNCILMEMBERS:** \_\_\_\_\_

**NOES, COUNCILMEMBERS:** \_\_\_\_\_

**ABSTAIN, COUNCILMEMBERS:** \_\_\_\_\_

**ABSENT, COUNCILMEMBERS:** \_\_\_\_\_

\_\_\_\_\_  
City Clerk

**APPROVED:**

\_\_\_\_\_  
**MAYOR of the City of Belmont**

## EXHIBIT 1

The Purchasing Officer or designee may require a pre-qualification process for bidders for public construction projects in accordance with California Public Contract Code. The pre-qualification process shall include the following:

- (1) Require at a minimum that prospective bidders answer questions that are contained in a pre-qualification questionnaire.
- (2) Notice of the pre-qualification requirement shall be given in the same manner as is required to receive bids or proposals.
- (3) Responses to the pre-qualification requirements shall be provided within the time frames designated and any written responses shall be provided in a sealed envelope under penalty of perjury.
- (4) The pre-qualification questionnaire shall include, but not be limited, to questions pertaining to the following criteria:
  - (a) The familiarity and experience of the prospective bidder with the particular type of purchase or contract designated;
  - (b) The sufficiency and availability of personnel, equipment, materials, and other facilities or resources of the prospective bidder to accomplish the designated work or provide the construction or contract supplies, materials, or reports and opinions.
  - (c) The ability of the prospective bidder to provide required bonds and insurance, including indemnity.
  - (d) The financial ability/condition of the prospective bidder to perform the designated work as well as the experience in performing similar work.
  - (e) The experience of the prospective bidder to perform the designated work as well as the experience in performing similar work.
  - (f) The safety record of the prospective bidder.
  - (g) The record of the prospective bidder within the preceding five years regarding claims, arbitration, mediation, or litigation filed by or against the prospective bidder regarding public or private construction contracts or other contracts where the prospective bidder provided services, supplies, materials, opinions or reports.
  - (h) Such other information as is deemed appropriate for the particular purchase or contract.
- (5) The Purchasing Officer or designee shall apply a uniform rating system to the prospective bidders for each purchase or contract.
- (6) Bidders that are deemed qualified shall be provided the opportunity to submit bids or proposals. No other bids are required to be sought, although the City may solicit additional bids if in the exercise of its discretion, it determines it to be in the City's best interest.

If the Purchasing Officer or designee determines any bidder is not qualified to bid a project, the Purchasing Officer shall provide a written notice to the bidder which includes the bases for the determination and an opportunity for the bidder to appeal the determination pursuant to Section 2-129 of the municipal code.

**RESOLUTION # \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT ESTABLISHING PROCEDURES FOR BID APPEAL HEARINGS**

**WHEREAS**, Any person aggrieved by a determination made by the Purchasing Officer or designee pursuant to this chapter may seek review of such administrative action.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council establishes the following procedures:

- (a) Review must be requested within five days of the adverse determination by a written request, along with a complete written description of all factual and legal bases for the appeal, to the Purchasing Officer or designee. Such an aggrieved person or entity shall be referred to in this section as the “appellant”.
- (b) A hearing on the appeal shall be conducted within five days of the written request.
- (c) Any relevant evidence may be considered by the hearing officer that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.
- (d) The hearing officer shall cause to be made a recording of the hearing. Any hearing under this section may be continued for a reasonable time for the convenience of either party.
- (e) The hearing officer shall render a written decision within five days of the close of the hearing affirming or rescinding the determination of the Purchasing Officer.
- (f) Any petition for review must be filed not later than ninety days following the date the decision becomes final as provided in Section 1094.6 of the Code of Civil Procedure.
- (g) The dates identified in this section for providing notices may be continued only by consent of the City and the appellant.

\* \* \* \* \*

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on \_\_\_\_\_, 2003 by the following vote:

**AYES, COUNCILMEMBERS:** \_\_\_\_\_

**NOES, COUNCILMEMBERS:** \_\_\_\_\_

**ABSTAIN, COUNCILMEMBERS:** \_\_\_\_\_

**ABSENT, COUNCILMEMBERS:** \_\_\_\_\_

\_\_\_\_\_

**City Clerk**

**APPROVED:**

**MAYOR of the City of Belmont**

**RESOLUTION # \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT ESTABLISHING PROCEDURES FOR RATIFICATION AND APPROVAL OF WARRANTS, CHECKS OR ELECTRONIC DISBURSEMENTS.**

**WHEREAS**, The Purchasing Officer or designee shall cause to be prepared a warrant after receiving properly completed accounting documents as prescribed by the Purchasing Officer; and

**WHEREAS**, Such accounting documents include, but are not limited to, purchase authorization, purchase orders, receiving reports and vendor invoices.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council establishes the following procedures as authorized by Section 37208 of the California Government Code:

- (a) Payroll warrants, checks or electronic disbursements need not be audited by the City Council prior to payment. Payrolls shall be presented to the City Council for ratification and approval at the first meeting after delivery of the payroll warrants, checks or electronic disbursements.
- (b) Warrants, checks or electronic disbursements drawn in payment of demands certified or approved by the Purchasing Officer as conforming to a budget approved by ordinance or resolution of the City Council need not be audited by the City Council prior to payment.
- (c) Notwithstanding (a) and (b) above, budgeted payrolls and demands paid by warrants, checks, or electronic disbursements, may be presented to the City Council for ratification and approval in the form of an audited comprehensive annual financial report.

\* \* \* \* \*

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on \_\_\_\_\_, 2003 by the following vote:

**AYES, COUNCILMEMBERS:** \_\_\_\_\_

**NOES, COUNCILMEMBERS:** \_\_\_\_\_

**ABSTAIN, COUNCILMEMBERS:** \_\_\_\_\_

**ABSENT, COUNCILMEMBERS:** \_\_\_\_\_

\_\_\_\_\_  
**City Clerk**

**APPROVED:**

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**MAYOR of the City of Belmont**

**RESOLUTION # \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT ESTABLISHING  
PROCEDURES FOR DISPOSING SURPLUS PROPERTY**

**WHEREAS**, The City periodically requires the disposition of real and personal property.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council establishes the following procedures:

- (a) Personal property may be transferred to or between departments.
- (b) Real and personal property may be sold, leased or licensed by competitive bid on the open market or by other means when, in the estimation of the Purchasing Officer, the value of said surplus property is within the Open Market Level 1 threshold value.
- (c) Contracts for sale of surplus real property shall be awarded by the Purchasing Officer or designee when authorized by the City Council. Surplus real property shall be sold to the highest responsive and responsible bidder; provided, however, that where the size, shape, or other topographical conditions of a lot are such that it could not be developed as a separate unit in a manner consistent with the zoning and subdivision ordinances, the specifications under which such lot is to be sold may restrict eligible purchasers to persons who are able to combine such lot with an abutting lot.
- (d) Closed market sales, leases, trades, transfers, loan, license, gift or other disposition to public agencies of real and personal property may be authorized by the Purchasing Officer when such disposition would be in the public interest.
- (e) Closed market sales to city employees may be authorized by the Purchasing Officer on terms designed to prevent collusion, waste or destruction of city property.
- (f) The Purchasing Officer shall prescribe rules to prevent inappropriate sales, trade, transfer, gift or other disposition of firearms and specialized apparatus which could be utilized contrary to the public interest.
- (g) When state or federal grant fund are used to purchase items, as the items become surplus, disposal shall be governed by the grant conditions and state or federal regulations.

\* \* \* \* \*

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on \_\_\_\_\_, 2003 by the following vote:

**AYES, COUNCILMEMBERS:** \_\_\_\_\_

**NOES, COUNCILMEMBERS:** \_\_\_\_\_

**ABSTAIN, COUNCILMEMBERS:** \_\_\_\_\_

**ABSENT, COUNCILMEMBERS:** \_\_\_\_\_

\_\_\_\_\_  
**City Clerk**

**APPROVED:**

\_\_\_\_\_  
**MAYOR of the City of Belmont**

**RESOLUTION NO.** \_\_\_\_\_

**RESOLUTION ADOPTING FINANCIAL POLICIES PERTAINING TO PRACTICES OF THE PURCHASING CONTROL SYSTEM**

**WHEREAS**, in 2001, the City Council adopted a comprehensive set of financial policies;  
and

**WHEREAS**, the policies are designed to provide staff with guidance on sound financial management practices; and

**WHEREAS**, the policies are intended to enhance techniques and provide effective strategies for staff; and

**WHEREAS**, the policies have been updated to include new and modified recommended practices pertaining to the Purchasing Control System; and

**WHEREAS**, the new and modified policies were reviewed by the Finance Commission; and

**WHEREAS**, the Finance Commission recommend that the City Council adopt the policies;  
and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council adopts the Financial Policies as presented on July 8, 2003.

\* \* \* \* \*

**I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on July 8, 2003 by the following vote:**

**AYES, COUNCIL MEMBERS:** \_\_\_\_\_

**NOES, COUNCIL MEMBERS:** \_\_\_\_\_

**ABSTAIN, COUNCIL MEMBERS:** \_\_\_\_\_

**ABSENT, COUNCIL MEMBERS:** \_\_\_\_\_

\_\_\_\_\_  
**Clerk of the City of Belmont**

**APPROVED:**

\_\_\_\_\_  
**Mayor of the City of Belmont**