



CITY COUNCIL STAFF REPORT

TO: Honorable Mayor and City Council **DATE:** March 30, 2020
FROM: Matthew Bronson, City Manager/Emergency Services Director
PREPARED BY: Deanne Purcell, Administrative Services Director
SUBJECT: City of Grover Beach Emergency and Disaster Purchasing Policy

RECOMMENDATION

Adopt the Resolution creating a City of Grover Beach Emergency and Disaster Purchasing Policy

BACKGROUND

On March 13, 2020, the County of San Luis Obispo Health Officer declared a public health emergency, the County of San Luis Obispo Emergency Services Director proclaimed a local emergency due to the COVID-19 pandemic, and local school closures went into effect. On March 14, 2020, the County of San Luis Obispo Public Health Department announced the first confirmed case of COVID-19 in the county and since that date numerous cases of COVID-19 have been confirmed.

The health, safety and welfare of city residents, businesses, visitors and staff are of utmost importance to the City and additional future measures may be needed to protect the community. It is imperative to prepare for and respond to suspected or confirmed COVID-19 cases within the City, and to prepare to respond to an increasing number or individuals who may require medical care. Preparing for, responding to, mitigating, and recovering from the spread of COVID-19 requires the City to divert resources from normal day-to-day operations, and has and will continue to impose extraordinary requirements on and expenses to the City. On March 16, 2020, the City Council ratified a local emergency declaration enacted by the City Manager/Emergency Services Director as a precautionary measure in responding to this public health situation and enable reimbursement of related costs.

Emergency and Disaster Purchasing Policy

Emergency and disaster purchasing has a number of unique elements different from normal purchasing activities. The first is that emergency spending limits are expanded and authorized by Council without the subsequent need to obtain prior approval of specific expenditures. Following Council authorization of the overall limits, there can be individual limits and aggregate limits which give emergency managers the necessary authority to act quickly under exigent circumstances.

Second, emergency purchasing practices includes special exemptions or processes for soliciting bids for emergency work. Emergency work covers two separate concepts. The first concept regards purchases made under “crisis” conditions, where there is an immediate threat to health, safety, or improved property. When this condition exists, the City has wider latitude to do what is necessary to save lives and prevent further damage to improved property including pursuing “sole

source” or “no bid” procurement. Once the “immediate threat” phase has passed, this wide latitude is greatly narrowed at which point the “sole source” or “no-bid” procurement is essentially no longer available.

However, serious emergency situations may still exist for which there is a need for “expedited” purchasing procedures. This is the purpose for alternative advertising methods, alternative locations for posting requests for proposals, the minimum number of bids required and shortened periods of time for submission of bids. The “normal” procurement process essentially continues, but with slightly lesser requirements than for the “normal” procurement process. Under both the “crisis” and “expedited” procurement provisions, the delegation of purchasing authority may still be to expedite the process.

A third facet of disaster purchasing is the identification and separation of “disaster purchases” from routine day-to-day purchases for the purpose of tracking disaster costs. All purchases made under emergency circumstances and that fall within this policy will be coded to a specific disaster project code, set up within the City’s finance system with disaster identification. This will help to track and identify disaster purchases and the City has done so with COVID-19 costs.

It is important to have a formal Emergency and Disaster Purchasing Policy which the City has not had to date and has now been developed for the Council’s approval. The purpose of the policy shown in Attachment 2 is to reduce the normal requirements for procuring goods where there is an immediate threat to health, safety or improved property to do what is necessary to save lives and prevent further damage to property. The proposed policy also provides for purchase priority for local vendors first in order to expeditiously receive goods and services and prevent further threat to public health and safety.

FISCAL IMPACT

There is no fiscal impact from adopting this policy.

ALTERNATIVES

The City Council has the following alternatives to consider:

1. Adopt the Resolution creating a City of Grover Beach Emergency and Disaster Purchasing Policy; or
2. Do not adopt the Resolution; or
3. Provide alternative direction to staff.

PUBLIC NOTIFICATION

The agenda was posted in accordance with the Brown Act.

ATTACHMENTS

1. Resolution, Exhibit A Emergency Purchasing and Disaster Policy

RESOLUTION NO. 20-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH, CALIFORNIA, ESTABLISHING THE CITY OF GROVER BEACH'S EMERGENCY AND DISASTER PURCHASING POLICY

WHEREAS, the City of Grover Beach wishes to establish an emergency and disaster purchasing policy; and

WHEREAS, the emergency and disaster purchasing policy is activated when a local state of emergency has been declared by the City Manager/Emergency Services Director; and

WHEREAS, the emergency and disaster purchasing policy provides more latitude to allow for expedited purchases when there is an immediate threat to health, safety or improved property; and

WHEREAS, the City Manager/Emergency Services Director on March 16, 2020 declared a local state of emergency in response to the COVID-19 crisis which was then ratified by the Grover Beach City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Grover Beach, California, the "Emergency and Disaster Purchasing Policy," as set forth in Exhibit A, attached hereto and incorporated herein, is hereby approved.

On motion by Council Member, seconded by Council Member, and on the following roll-call vote, to wit:

AYES: Council Members –
NOES: Council Members –
ABSENT: Council Members –
ABSTAIN: Council Members –

the foregoing Resolution was **PASSED, APPROVED, and ADOPTED** at a special meeting of the City Council of the City of Grover Beach, California this 30th day of March, 2020.

JEFF LEE, MAYOR

Attest:

WINDI SIMS, CITY CLERK



Exhibit A

EMERGENCY AND DISASTER PURCHASING POLICY

Policy Statement

The City of Grover Beach (City) is a full-service City, providing police, public works, parks and recreation and community development services. As such, it is the City's responsibility to establish policies for prudent financial oversight and accountability.

The City Council sets legislative financial management policies, as recommended by staff. During declared states of emergency, the City may be required to invoke emergency purchasing practices to maintain core public services. These emergency practices are only authorized when the City Manager, acting in the capacity of the Director of Emergency Services, or the City Council of the City of Grover Beach declares a local state of emergency.

Purpose

When the City of Grover Beach has declared a local state of emergency, any official or employee who is required to purchase materials, supplies or services on behalf of the City for their department shall use purchasing practices set forth in this document until such time as the local state of emergency has been lifted.

This Policy modifies the City's normal purchasing practices to assure that, in exigent circumstances caused by a proclaimed disaster or emergency, the City is able to acquire the goods and services required to address an immediate threat to health, safety or improved property while still maintaining an effective purchasing process and complying with applicable local and state purchasing laws. Where the City is included in a major disaster or emergency declared by the President of the United States, this Policy also assures that City procurements comply with federal regulations applicable to FEMA disaster grant reimbursement.

Definitions

For purposes of this Policy, (a) a proclaimed disaster or emergency exists if (i) the Governor has declared a state of emergency for an area which includes the geographic territory of the City; or (ii) the Chief Executive Officer of the City has declared an emergency in the City; (b) "Exigent Circumstances" are situations in which (i) a disaster or emergency has been proclaimed, and (ii) the public exigency for goods and services required to address an immediate threat to health, safety, or improved property will not permit competitive solicitation.

Emergency and Disaster Purchasing Policy

Disaster purchasing has a number of facets, first emergency spending limits are expanded and authorized by council without the need to obtain their prior approval. There can be individual limits and aggregate limits which give emergency managers the necessary authority to act quickly under exigent circumstances.

The concept of emergency purchases regards purchases made under "crisis" conditions, where there is an immediate threat to health, safety or improved property. When this condition (an immediate threat to

health, safety or improved property) exists, the city has wider latitude to do what is necessary to save lives and prevent further damage to improved property. Given this, and operating under the understanding that when an emergency is in place, the City will be in need of supplies, goods and services as quickly as possible, local vendors within the City and County will be contacted first to obtain the quickest possible acquisition to preserve immediate health and safety for the Grover Beach community. This is consistent with the policy directives outlined below.

Section 1 - Delegations of Purchasing Authority in Exigent Circumstances.

- (a) if the City Manager determines that goods and services must be procured before the City Council is able to assemble and approve purchases, the City Manager has authority, subject to the limitations set forth in sub-paragraphs (a)(i) and (a)(ii), to approve the immediate rental or purchase of any equipment, supplies, services or other items necessary to respond to an immediate threat to health, safety or improved property.
 - (i) Limits of Single Purchase Authority. The City Manager shall have the authority to make individual purchases up to \$250,000 on his or her signature alone. The City Manager shall have the authority to make purchases in excess of \$250,000 up to a maximum of \$500,000 when countersigned by the Mayor or in the Mayor's absence countersigned by another council member.
 - (ii) Limits of Aggregate Purchase Authority. The City Manager shall have the authority to make aggregate purchases up to \$500,000 on his or her signature alone. The City Manager shall have the authority to make purchases in excess of \$500,000 up to a maximum of \$1,500,000 when countersigned by the Mayor or in the Mayor's absence countersigned by another council member.
- (b) Sub-delegation to EOC Coordinator. The EOC Coordinator shall be a designee of the City Manager at any time that the City Manager is not available to approve purchases as allowed in this section.
- (c) Administrative Procedures: Reporting Requirements.
 - (i) As soon as possible after purchases are made under this section 1, the City Manager, EOC Coordinator, or department head shall submit to the Purchasing Officer (Administrative Services Director) a requisition and a notation that the commodity has been ordered on an emergency basis from the vendor designated.
 - (ii) The Purchasing Officer will inform the City Manager and the City Council of any individual purchase under this section with a contract amount greater than \$125,000, and also whenever the aggregate of purchases under this section is greater than \$200,000 dollars.
 - (iii) The Purchasing Officer will obtain the City Manager's (or EOC Coordinator as the City Manager's designee) approval prior to any purchase by a department head if the amount is \$150,000 dollars or more.
 - (iv) The Purchasing Officer shall have the authority to approve all disaster related purchases under \$150,000 thousand dollars.
 - (v) The Purchasing Officer will expedite the verification of funds available and complete the preparation of the purchase order.

Section 2 - Procurement Procedures in Exigent Circumstances.

Upon receipt of requisitions under Section 1 above, the Purchasing Officer shall prepare purchase orders for the emergency equipment, supplies, services or other items in accordance with the requirements of this section.

- (a) *Exempt Purchases.* Purchases below \$200,000 shall not be required to be formally bid. Purchases greater than \$200,000 may be made following the procedures specified in this section. The signature(s) of the City Manager, Purchasing Officer and/or Department Head are still required as provided in Section 1.
- (b) Justification of "Sole Source" or "No-bid" Contracts. Where exigent circumstances require immediate procurement from the nearest available source:
 - (i) the Procurement Officer shall complete a Sole Source Justification Form;
 - (ii) procurement should be limited to that portion of the work that must be performed immediately, allowing subsequent procurement by competitive proposals of the remainder of the work;
 - (iii) "Sole source" or "no-bid" acquisitions shall be necessary for one of the following reasons: placement of emergency protective measures; procurement of a scarce commodities, goods, or services; or acquisition or rental of emergency equipment , emergency consulting services, emergency road clearance or other emergency requirements.
- (c) *Provision for Alternate Bid Solicitation Procedures.* The City's normal requirements for sealed bids shall not apply to acquisitions under Section 1. However, the Procurement Officer shall conduct telephonic or other electronic bid solicitation from potential vendors or suppliers, in lieu of written and/or sealed bids, in an effort to obtain multiple competitive proposals when and if time allows in light of the exigent circumstances.
- (d) *Locations of Postings for Requests for Proposals or Solicitation of Bids.* The Procurement Officer may waive normal requirements for public posting of requests for proposals or solicitation of bids. Notices soliciting bids or requests for proposals shall be posted at the Emergency Operations Center or Alternate Emergency Operations Center, if the Primary Emergency Operations Center is not being used.
- (e) *Length of Time for Posting Requests for Proposals or Solicitation of Bids.* The Procurement Officer may shorten the normal bid period to expedite the award of contracts for emergency equipment, goods, or services. The Procurement Officer should seek to assure that the shortened bid period allows multiple suppliers to submit bids.
- (f) *Number of Bids Required.* Solicited bids that are non-responsive shall count towards the minimum numbers of bids required when there is a declared emergency or disaster in the City.

Section 3 - Notification and Ratification

- (a) *Posting of Contract Awards.* Under this section, all contracts awarded that exceed \$750,000 shall be presented to the City Council for ratification and shall be publicly posted within sixty (60) days of the award.
- (b) *Authority to Cancel Emergency Procurements.* As a provision of this policy, the City has the absolute authority to rescind a contract for non-performance within 24 hours when a contractor

or vendor, once awarded a contract, is unable to perform under the terms of the contract and the resulting delay or non-performance presents an immediate threat to life, safety or improved property.

- (c) *Notification Requirement for Emergency Purchases.* For any purchase in excess of \$150,000, the City Manager shall report all such purchases to the City Council within thirty (30) days.
- (d) *Requirement for Separate Invoicing.* All purchases or rentals made during proclaimed emergency or disaster conditions shall require separate invoicing from routine (non-disaster related) purchases. All invoices shall state the goods, services or equipment provided and shall specify where the goods or services were delivered and be coded to the designated disaster project code.
- (e) *Auditing of Invoices for Debris Clearance Prior to Payment.* All invoices for debris clearance and removal shall be audited by the City prior to payment to the vendor. Vendors shall be notified of this requirement prior to the awarding of any contract for debris clearance and/or removal. Audits shall be in accordance with procedures for debris removal monitoring specified in FEMA's Publication 325, Debris Management Guide.
- (f) *Limitations of Disaster Purchasing Policy.* For the purposes of this section, an emergency or disaster shall be deemed to exist when a condition exists that presents an immediate threat to health, safety or improved property and a local emergency or disaster has been proclaimed. Any purchases that do not meet the standard of being necessary for responding to an immediate threat to health, safety or improved property shall follow the City's regular purchasing provisions.