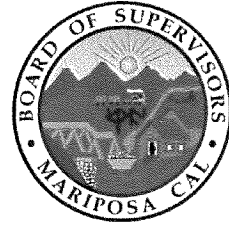




MARIPOSA COUNTY

Administration · 966-3222



ORDINANCE 2017-1124

MEETING: May 23, 2017
TO: The Board of Supervisors
FROM: Dallin Kimble, Interim CAO
RE: Purchasing Ordinance

RECOMMENDED ACTION AND JUSTIFICATION:

Waive the Second Reading and Adopt an Ordinance Rescinding Chapter 3.08 of the Mariposa County Code regarding purchasing authority; and creating a new Chapter 3.08 (Purchasing) pursuant to California Government Code Section 25500 Et Seq.

Mariposa Code Section 3.08 "Purchasing" was last revised in 2005. As it now reads, the County Administrative Officer (CAO) is named as the purchasing agent for the County and authorized to make purchases up to \$3,000 and enter contracts for services up to \$10,000. Department heads are named as assistant purchasing agents authorized to make purchases up to \$1,000 and are not permitted to enter contracts for services. While these limits may have been appropriate in 2005, they frequently add significant time to the purchasing process and hinder the ability of staff to operate in an efficient manner.

Current code also requires the Board of Supervisors to declare any personal property owned by the County to be surplus before it can be sold or disposed. In some cases, this has led to unnecessary storage costs or excess items at County facilities that create safety hazards for the public and/or employees.

The proposed ordinance seeks to promote a simpler and more efficient purchasing code for the benefit of the County and the residents and visitors it serves. It does so in the following ways:

- Names the CAO as purchasing agent for the County with all the duties and powers prescribed by the laws of the State of California. This would authorize the CAO to make purchases or enter contracts up to \$50,000 without prior approval from the Board. Contractual agreements would be limited to one year and subject to review by county counsel. Pursuant to Resolution 05-400, the CAO would be required to notify the Board of contracts entered.

- Names each department head as an assistant purchasing agent for the County with authority to purchase services, supplies and equipment at the best possible value for their department. Department heads would be authorized to make purchases or enter contracts as

allowed by a resolution to be approved at a future Board meeting. It is proposed that said resolution would authorize purchases and contracts valued up to \$10,000 without prior approval from the Board. Contractual agreements would be limited to one year and subject to review by county counsel. Pursuant to Resolution 05-400, department heads will be required to notify the Board of contracts entered.

- Authorizes the CAO to sell, lease, or dispose of any personal property belonging to the County that is no longer required for public use as allowed by state code.

Approving this ordinance will allow the CAO and department heads to keep the County's operations moving forward in an efficient way and reduce the number of contracts required for Board review at the beginning of each fiscal year. Because it makes more direct reference to state code, it also allows for updates to be implemented as state code is revised without requiring additional local ordinances.

For these reasons, staff recommends the Board approves the proposed ordinance as presented. It should be noted that staff intends to continue its review of this policy later this year to update purchasing procedure and address concerns related to the purchasing process, use of electronic signatures, purchases authorized in the budget process, use of purchasing cards, and other such items that need to be addressed.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

This ordinance was introduced at May 9, 2017, Board of Supervisors meeting.

Prior to that, the Board established a purchasing policy with Ordinance 649 Section I in 1986 and amended to its present form with Ordinance 1022 Section I in 2005.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve the ordinance and there will be no change to the current purchasing policy and authorities.

ATTACHMENTS:

Proposed Purchasing Ordinance (DOCX)

CAO RECOMMENDATION

Requested Action Recommended


Dallin Kimble, Interim CAO 5/4/2017

RESULT: ADOPTED [UNANIMOUS]

MOVER: Merlin Jones, District II Supervisor

SECONDER: Miles Menetrey, District V Supervisor

AYES: Rosemarie Smallcombe, Merlin Jones, Marshall Long, Miles Menetrey

EXCUSED: Kevin Cann

MARIPOSA COUNTY BOARD OF SUPERVISORS

ORDINANCE NO. 1124

AN ORDINANCE RESCINDING CHAPTER 3.08 (PURCHASING) OF THE MARIPOSA COUNTY CODE AND ADOPTING A NEW CHAPTER 3.08 (PURCHASING) OF THE MARIPOSA COUNTY CODE

WHEREAS, the Board of Supervisors desires to amend Chapter 3.08 of the Mariposa County Code; and

WHEREAS, this amendment is to improve the efficiency of County business by expanding the purchasing authority of the county administrative officer, who serves as the County's purchasing agent, and County department heads, who serve as deputy purchasing agents;

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, a political division of the State of California, does hereby ordain as follows:

SECTION I: Chapter 3.08 entitled "Purchasing", is adopted to read in its entirety as follows:

3.08.010 Purpose.

The purpose of this chapter is to adopt policies and procedures governing purchases of materials, supplies, furnishings, equipment, livestock and other personal property, and contractual services by the county in accordance with Article 7 of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code. This chapter is not intended to conflict with applicable provision of state law and shall be interpreted as supplementary thereto. Among other things, this chapter shall not apply to contracts for public projects as defined by the Public Contract Code. Said contracts shall be let in accordance with applicable state laws and any county ordinances or resolutions implementing such laws.

3.08.020 Definitions.

As used in this chapter:

A. "Agency" and "using agency" means any of the departments, offices, or other organizational units of the county government, and any special districts whose affairs and funds are under the supervision and control of the board of supervisors and/or for which the board of supervisors is the ex officio governing body.

B. "Contractual services" means any and all telephone, gas, water, electric light and power services; the rental of equipment and machinery; insurance; the services of attorneys, physicians, electricians, plumbers, engineers, consultants, auditors, general contractors, or other individuals or organizations possessing a high degree of technical skill; and all other types of agreements under which the contract provides services which are required by the county government. All contracts shall be approved as to form by county counsel. Purchase of expert services for county counsel and the district attorney, contracts to print legal briefs or legal notices required by statute, resolution or ordinance, and space for legal advertising shall not be subject to the provisions of this chapter to the extent funds are budgeted for such expenses or as otherwise approved by the board of supervisors.

C. "Aggregate" means the assembling or forming differing parts or components or separate services to accomplish a single purpose or outcome.

D. "Surplus property" is defined as property which is no longer used or of use to the County, or property without any value.

3.08.030 Purchasing agent and assistant purchasing agents.

A. Pursuant to Section 25500 et seq. of the Government Code of the state of California and consistent with provisions of Section 2.32.040 of this code, the office of purchasing agent is established and consolidated with the office of county administrative officer. The county administrative officer serves, ex-officio, as the purchasing agent for the county.

B. Each department head serves, ex-officio, as an assistant purchasing agent with respect to services, supplies and equipment for his or her department as contained in the approved budget.

C. The board shall have the authority to appoint, by resolution, other assistant purchasing agents.

3.08.040 Duties and authorities of the purchasing agent.

A. Pursuant to Section 25500 et seq. of the Government Code of the state of California, the purchasing agent shall have all the duties and powers prescribed by the laws of the state of California relating to county purchasing agents, by this chapter, and by resolutions of the board of supervisors. The authorization provided by this paragraph shall include but not be limited to contracts for special services under Government Code Section 31000.

B. Pursuant to Government Code Section 25350.51, the purchasing agent may also contract for the lease of real property or storage space where the funding is provided in the approved budget. The purchasing agent shall make purchases, rentals, and contracts only upon proper written requisition, lease or contract. No contract, purchase order, requisition, or lease by the purchasing agent shall be for a term longer than one year unless approved by the board of supervisors.

C. The purchasing agent shall establish policies and procedures to be used by all county departments.

3.08.050 Duties and authorities of assistant purchasing agents.

A. Assistant purchasing agents are authorized to obtain services, supplies and equipment, as contained in the approved budget and in amounts as authorized by a resolution of the board of supervisors. Such purchases shall not need the approval of either the purchasing agent or the board of supervisors. Assistant purchasing agents shall purchase services, supplies and equipment at the best possible price, giving due consideration to the use and quality of the item being purchased. Assistant purchasing agents are not authorized to purchase or lease real property or storage space without the purchasing agent's approval.

B. Any single item or service, or interrelated items or services, purchased by an assistant purchasing agent in excess of the authority granted by a resolution of the board of supervisors shall be approved by the purchasing agent prior to purchase. Items or services in excess of the authority granted to the purchasing agent pursuant to Government Code Section 25500 et seq. shall be approved by the board of supervisors prior to purchase.

C. When the board of supervisors or the purchasing agent has entered into a contract with a vendor to supply all of the county's requirements for specified services, supplies or equipment, the assistant purchasing agent shall not have authority to purchase such supplies or equipment under this section.

D. Splitting or separating purchases of goods or services for purposes of circumventing the limits herein is prohibited.

3.08.060 Procedure for purchases by purchasing agent and assistant purchasing agent.

All purchases by either the purchasing agent or assistant purchasing agents shall be accomplished by virtue of a written invoice received from the seller, a purchase order, or contract. Each invoice, purchase order, or contract shall be signed and approved by the purchasing agent, or assistant purchasing agent prior to forwarding any request to the auditor's office for payment of the item(s) purchased, and shall contain an itemization of the item(s) purchased, date of purchase, the price of the item(s) and terms of the purchase. Any request for payment not accompanied by an invoice and approved, in writing, by either the purchasing agent or the assistant purchasing agent will be returned without action by the auditor. Any and all non-services purchases in excess of the authorities granted herein shall require the written approval of the purchasing agent and/or the board of supervisors prior to any request being forwarded to the auditor's office for payment. No purchase order shall be issued until the county auditor shall have certified that sufficient money is available in the proper budgeted fund of the department to pay for the purchase. Failure to forward such written approval to the auditor will result in the request being returned without action by the auditor.

3.08.070 Purchases by board of supervisors.

The purchasing agent and each assistant purchasing agent shall submit to the board of supervisors, in writing, requests for purchase of any items in excess of the authority granted herein. When in its judgment the public interest requires, the board of supervisors may purchase, require bidding as allowed or otherwise required by law, or otherwise acquire such items on the open market at the lowest available price for the quantity and quality of item and/or service required. When bidding is required bids shall be solicited by public notice except where the board of supervisors makes a finding recorded in its minutes that competitive bidding would not be in the public interest. The method and extent of public notice shall be prescribed by the board of supervisors. All bids shall be submitted sealed to the department which solicited the bids. All bids shall be opened by the appropriate department head at the time and place noted in the public notice for the opening of the bids. The time and place of the bid opening shall additionally appear on the board of supervisors' agenda prior to the opening of the bids. The appropriate department head may reject any or all bids for all or any portion of the items bid. A tabulation of all bids received, whether accepted or rejected, shall be open for public inspection for a

period of not less than thirty (30) days after the bid opening. In all cases, the award shall be made by the appropriate department head to the lowest responsible bidder, the appropriate department head shall take into consideration the quality of the item offered and its conformity with the specifications, the delivery and discount terms and conditions of the bid, service of item, and other information and data required. All bids shall require final approval by the board of supervisors and shall be placed on the routine agenda immediately after approval by the appropriate department head. No purchase or authorization to proceed shall be entered into by the appropriate department head until final approval by the board of supervisors of the bid award. This section shall not apply to labor, materials or equipment for public construction projects unless the requirements specified in this Title for such projects have been satisfied. Nothing contained herein shall alter the purchasing procedures required by state or federal law.

3.08.080 Bulk purchasing.

The board of supervisors may purchase supplies and equipment in bulk for the use and benefit of all departments of the county. If the board of supervisors engages in such purchases in bulk, each department shall be required to obtain its materials and supplies, if available, from the supplies and equipment purchased in bulk by the board of supervisors.

3.08.081 Surplus property.

Surplus property shall be disposed pursuant to California Government Code Section 25504. Any notice required for the sale or disposal of surplus property shall be provided as required by Government Code Section 6061.

3.08.090 Written contracts.

All requests by a using agency for contractual services require a written contract. The purchasing agent shall have authority to approve contracts for services not exceeding a term of one year. The board of supervisors may negotiate contracts for any services as it determines is necessary.

3.08.100 Gratuities--disciplinary action.

The acceptance of any gratuity in the form of cash, merchandise, or any other thing of value by an official or employee of the county from a vendor or contractor, or prospective vendor or contractor unless otherwise allowed by state or federal law, is prohibited and shall be cause for disciplinary action.

3.08.110 Unlawful purchases.

Except as otherwise provided by law, no purchase of supplies, equipment, or contractual services shall be made in excess of the amount of the appropriations allowed by the budget.

3.08.120 Selection of professional services firms.

In selecting and contracting for private architectural, professional engineering, environmental, land surveying, and construction project management services, the board of supervisors shall use as a basis for the selection demonstrated competence and qualifications for the types of services to be

performed in conjunction with assurances of fair and reasonable prices to the County of Mariposa. All contracts for professional services shall be approved as to form by county counsel pursuant to California Government Code Section 4526.

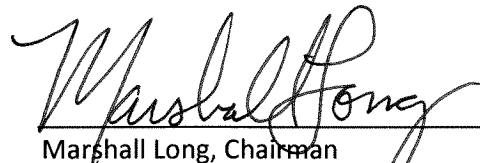
3.08.130 Violation of chapter 3.08.

The board of supervisors may require any county officer or employee to personally pay for any items purchased in violation of the purchasing requirements of Chapter 3.08. The purpose of this chapter is to adopt policies and procedures governing purchases of materials, supplies, furnishings, equipment, livestock and other personal property, and contractual services by the county in accordance with Article 7 of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code. This chapter is not intended to conflict with applicable provision of state law and shall be interpreted as supplementary thereto.

SECTION II: This Ordinance shall become effective thirty (30) days from the date of passage, pursuant to Government Code Section 25123.


PASSED AND ADOPTED this 23rd day of May, 2017, by the Board of Supervisors of Mariposa County by the following vote:

AYES:	SMALLCOMBE, JONES, LONG, MENETREY
NOES:	NONE
ABSENT:	CANN
ABSTAIN:	NONE



Marshall Long, Chairman
Mariposa County Board of Supervisors

ATTEST:



René LaRoche, Clerk of the Board

APPROVED AS TO FORM:



Steven W. Dahlem, County Counsel