

Purchasing Policies and Procedures Manual

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Table of Contents

Chapter 1 – Introduction	1
1.1 Purchasing Policy Overview.....	1
1.2 Legal Requirements.....	1
1.3 Expectations of Fair and Open Procurement.....	1
1.4 Contract Award Authority.....	1
Chapter 2 – Ethics in Public Purchasing	2
2.1 Ethics in Public Purchasing Overview	2
2.2 Code of Conduct and Conflict of Interest	2
2.3 Gifts and Gratuities	3
2.4 Conduct with Vendors.....	3
Chapter 3 – Purchasing Approval Authorities and Responsibilities	4
3.1 Purchasing System Overview	4
3.2 Categories of Purchases.....	4
3.3 Purchasing Compliance Oversight	5
3.4 Purchasing Responsibilities of Department Heads	5
3.5 Authority to Award Contracts.....	7
3.6 Dollar Thresholds for Awarding Contracts.....	7
3.7 Amending Awarded Contracts	8
3.8 Award Authority Determined by Single Transaction.....	8
3.9 Annual Appropriation Required.....	9
3.9.1 <i>Multi-year Contracts</i>	9
3.10 Prohibition on Splitting	10
3.11 Important Considerations for Establishing Contracts.....	10
3.12 City Contract Types and Templates.....	11
Chapter 4 – Competitive Solicitation Procedures	13
4.1 Competitive Solicitation Procedures Overview	13
4.1.1 <i>Competitive Solicitation Terminology</i>	13
4.2 Competitive Solicitation Principles.....	14
4.3 Determining the Appropriate Solicitation Procedure	14
4.4 Solicitation Procedures for Goods and Services.....	15
4.5 Bid or Proposal Evaluation	17
4.5.1 <i>No Bids or Proposals Received</i>	20
4.5.2 <i>Bid or Proposal Rejection</i>	20
4.6 Exceptions to Competitive Solicitations.....	20

4.7	Solicitation Procedures and Dollar Thresholds for Public Projects.....	23
4.7.1	<i>Important Considerations for Bidding Construction and Maintenance Work.....</i>	27
Chapter 5	– Special Procurement Programs and Considerations.....	28
5.1	Overview	28
5.2	City-issued Credit Cards	28
5.3	Environmentally Preferable Purchases	28
5.4	Grant-funded Purchases.....	28
5.5	Prevailing Wage and Contractor Registration Requirements.....	29
5.6	Other Contractor Requirements	30
5.7	Specification Development and Product Standardization.....	30
5.7.1	<i>Specification Development.....</i>	30
5.7.2	<i>Product Standardization.....</i>	31
5.8	Surplus Personal Property Disposal.....	32
Chapter 6	– Procurement Risk Management	33
6.1	Overview	33
6.2	Insurance Requirements	33
6.2.1	<i>Evidence of Insurance Coverage</i>	33
6.4	Insurance Not Required.....	34
6.5	Limiting City Liability	34
	Glossary of Purchasing Terms and Terminology	35
	Attachments.....	39
	Attachment A: Delegation of Contract Award Authority	39
	Attachment B: Competitive Bid/Proposal Exemption Request Form.....	40

Tables

Table 1. Categories of City Purchases.....4
Table 2. Determination of Contract Award Authority9
Table 3. Solicitation Procedures for Goods, Services and Public Projects14

Figures

Figure 1. Dollar Thresholds for Awarding First, Second and Third Level Contracts.....8

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Chapter 1 – Introduction

1.1 Purchasing Policy Overview

The purpose of this document is to provide information and reference detail for procuring goods and services consistent with the Municipal Code, adopted policies and procedures and best practices. This document is intended to enable employees to be fully aware of and comply with City purchasing policies, and to effectively administer the procurement function.

1.2 Legal Requirements

[Chapter 3.08](#) of the Municipal Code (purchasing ordinance) establishes authorities and responsibilities associated with purchasing goods and services with public funds. Additionally, the City has adopted public works contracting procedures consistent with the California Uniform Public Construction Cost Accounting Act (CUPCCAA) codified in Section 22000 et. seq. of the Public Contract Code (with procurement requirements commencing with [Section 22030](#)).

When the purchase of goods and services involves the expenditure of federal or state funds, the procurement must be conducted in accordance with mandatory applicable federal or state regulations (see [Section 5.4](#), Grant-funded Purchases).

1.3 Expectations of Fair and Open Procurement

Procuring goods and services using public funds requires staff to:

- Secure goods and services at the lowest cost commensurate with the quality needed.
- Fulfill the requirements of the Municipal Code and other governmental laws in the procurement of goods and services.
- Endeavor to obtain the most open competition possible for all purchases.
- Encourage competitive pricing from responsive and responsible business providers that are qualified, capable and willing to meet the City's requirements.
- Safeguard the City's reputation for fairness, integrity, and ethical practices.

1.4 Contract Award Authority

It is essential for employees to understand that the ability to legally bind the City to a purchase (contract award authority) is **only** vested in the City Council, who may delegate that authority to the City Manager, who may in turn delegate award authority to Department Heads (see [Sections 3.5](#), Authority to Award Contracts, and [3.6](#), Dollar Thresholds for Awarding Contracts).

Chapter 2 – Ethics in Public Purchasing

2.1 Ethics in Public Purchasing Overview

This section of the purchasing policies and procedures manual establishes the ethical standards that City employees and City officials must abide by when making purchases with public funds. Specifically, all City employees and City officials are responsible for:

- Impartially assuring fair competitive access to City procurement opportunities by responsible suppliers and contractors,
- Conducting themselves in a manner that avoids any impropriety, or appearance of impropriety, and
- Fostering the highest level of public confidence in the integrity of the City's purchasing system.

City employees and City officials must abide by the standards of conduct established in this section. Violations can result in disciplinary actions in accordance with City personnel policies and/or penalties prescribed in state law.

2.2 Code of Conduct and Conflict of Interest

No City employee or City official can participate directly or indirectly in a City procurement when the employee/official knows that:

1. The employee or official or any member of their immediate family has a financial interest pertaining to the procurement, or
2. The employee or official or any member of their immediate family is negotiating or has an employment arrangement which is contingent upon or will be affected by the procurement.
3. The employee or official has a conflict of interest under State law, Fair Political Practices Commission Regulations or any local or otherwise applicable authority.

Withdrawal from participation. Upon the discovery of an actual or potential conflict of interest, a City employee or City shall, at the least, promptly withdraw from further participation in the procurement, and otherwise take any steps required by the City consistent with applicable authority.

In any instance where a City employee or City official believes they meet the criteria for a conflict of interest as established by this section or applicable law, they must promptly inform the City Manager and City Attorney.

Note: Consultants with whom the City contracts with are considered public officials under Government Code section 1090 and are subject to the requirements therein and as discussed in

this Section 2.2. The City Attorney's Office is a resource for employees to consult on potential conflict of interest issues with respect to the City's third-party consultants and contractors.

2.3 Gifts and Gratuities

Employees cannot solicit, demand, accept or agree to accept from any other person a gratuity or an offer of employment in connection with a procurement by the City.

Similarly, employees or agents of a vendor doing business with the City, or hoping to do business with the City, cannot offer, give or agree to give any City employee any gratuity or offer of employment in connection with a procurement by the City.

2.4 Conduct with Vendors

Conduct with vendors who provide goods or services to the City shall be fair, open and transparent. City employees shall:

- Refrain from showing favoritism to vendors or being unduly influenced.
- Select vendors on the basis of meeting appropriate and fair criteria and in accordance with the requirements of City purchasing policies and procedures.

Chapter 3 – Purchasing Approval Authorities and Responsibilities

3.1 Purchasing System Overview

The City has adopted a decentralized purchasing (or procurement) system whereby departments are responsible for procuring goods and services in accordance with established policies and procedures, subject to approval by the appropriate award authority.

In a decentralized purchasing system, it is very important that all employees understand and abide by the City's procurement rules and ensure their fair and consistent application. However, nothing precludes staff from seeking procurement assistance from the Administrative Services Director or designee, especially to clarify policies, processes and procedures.

In accordance with Section 3.08.060 Subsection A of the Municipal Code, the City Manager is the City's designated purchasing authority and may delegate certain authorities and functions to Department Heads and other employees. As prescribed in Section 3.08.060 Subsection B of the Municipal Code, the Administrative Services Director has been assigned responsibility for all purchasing functions.

3.2 Categories of Purchases

City purchase categories generally consist of categories shown below, for which different procurement methods may apply (see [Chapter 4](#) – Competitive Solicitation Procedures).

Table 1. Categories of City Purchases

Purchase Category	Description
Goods	Materials, equipment and supplies needed by any department, including items purchased by the City and furnished to contractors for use in public projects.
General Services	Services provided by independent contractors such as custodial, building/equipment/landscape maintenance, equipment rental, excluding contracts for public infrastructure projects. Infrastructure maintenance/repair work that does not require detailed engineered design specifications is typically considered a general service.
Professional Services	Services performed by a person or firm engaged in a profession based on highly specialized and/or technical knowledge or skill such as accountants, attorneys, architects, engineers, and physicians. Professional services are most closely associated with consultants who produce reports, studies, and plans/specifications.

Purchase Category	Description
<p>Public Projects</p>	<p>Public projects (aka public infrastructure, public works projects or capital projects) pertain to the construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind, including demolitions, the construction and installation of drainage systems, lighting and signaling systems, sewer and water systems, and park and recreational facilities.</p> <p>Maintenance required to preserve a public improvement is not considered a public project.</p> <p>Public projects must be competitively bid in accordance with the California Uniform Public Construction Cost Accounting Act (CUPCCAA) as specified in Section 22000 of the Public Contract Code, unless another authority applies.</p>
<p><u>Note:</u> Both categories of services may involve specialized/technical skills, licenses, certifications, etc. However, general services typically involve operational services and involve trade skills, while professional services are associated with consultants who produce reports, studies and plans/specifications.</p>	

3.3 Purchasing Compliance Oversight

The City Manager is ultimately responsible for overseeing and facilitating compliance with the purchasing ordinance and this policy. However, for operational efficiency and effectiveness, the City Manager has designated the Administrative Services Director with purchasing compliance oversight. This responsibility includes:

- Staying informed of current developments in the field of public purchasing.
- Prescribing and maintaining such forms as are reasonably necessary to the operation of the purchasing policy.
- Recommending updates to the purchasing ordinance and the purchasing policies and procedures manual.
- Maintaining purchasing records and tracking citywide expenditures.
- Coordinating the purchase of goods that will be used by multiple City departments where feasible and practical.
- Disposing of surplus personal property as prescribed herein.

3.4 Purchasing Responsibilities of Department Heads

Department Heads are responsible for ensuring that all purchases by or for their department are made in compliance with the purchasing ordinance and this policy, including the following:

- Preparing solicitation materials, as needed, for each purchase.
- Preparing good faith estimates of the cost of each purchase to determine the appropriate solicitation procedure.
- Ensuring that the proper solicitation procedure is followed based on the estimated cost of the purchase (informal, formal, etc.).

- Ensuring that bids or proposals are submitted by responsible offerors whose submittals are responsive to the requirements set forth in a competitive solicitation.
- Evaluating submitted bids or proposals in accordance with established selection criteria and processes.
- Ensuring that the purchase contract is approved and executed by the appropriate award and signatory authorities based on the dollar amount of the purchase.
- Ensuring that sufficient funds are appropriated to pay for the purchase.
- Ensuring that the vendor, contractor, or consultant has provided insurance certificates and bonds meeting the requirements of the purchase contract, as applicable, before work under the contact begins, and ensuring that such insurance and bonds are renewed, as applicable, during the term of the agreement.
- Ensuring that the vendor, contractor, or consultant has obtained a business license, as required by the Municipal Code, prior to beginning work and ensuring that such license is renewed, as applicable, during the term of the agreement.
- Inspecting supplies and equipment delivered to determine their conformance with the specifications set forth in the order.
- Monitoring the performance of vendors, contactors, and consultants under approved contracts to ensure compliance with contract requirements.
- Recommending and preparing contract amendments and change orders as needed and ensuring that such amendments and change orders are approved and executed by the appropriate award and signatory authorities based on the dollar amount of the amendment or change order, and that sufficient funds are appropriated to pay for the amendment or change order.
- Ensuring that due diligence is performed before determining that a purchase can only be made from a single vendor, contractor, or consultant, and ensuring that decisions to forego a competitive purchase process are properly documented and submitted for approval by the City Manager or designee, or the City Council, as required.
- Taking reasonable and necessary steps to avoid conflicts of interest in the purchasing process.
- Keeping sufficient records of all departmental contracts and expenditures and ensuring that such records are properly stored and filed in accordance with City recordkeeping procedures.
- Submitting reports to the City Manager or designee showing all departmental supplies and equipment that are no longer used or have become obsolete or worn out so the appropriate steps to sell, exchange, or trade in such supplies and equipment can be determined.
- Transferring surplus or unused goods between departments as needed, or selling, exchanging, trading in, or donating surplus goods to interested private or public agencies or vendors as prescribed in [Section 5.8](#), Surplus Personal Property Disposal.

3.5 Authority to Award Contracts

The authority to award contracts that legally bind the City to a purchase is **only** vested in the City Council, unless such authority is delegated to the City Manager as prescribed by [Chapter 3.08](#) of the Municipal Code and this policy manual.

Contract award authority delegated by the City Council to the City Manager may be further delegated by the City Manager to Department Heads as necessary for operational efficiency and effectiveness. Delegation of contract award authority by the City Manager to a Department Head must be in writing and kept on file with the City Clerk (See Example Memo in [Attachment A: Delegation of Contract Award Authority](#)).

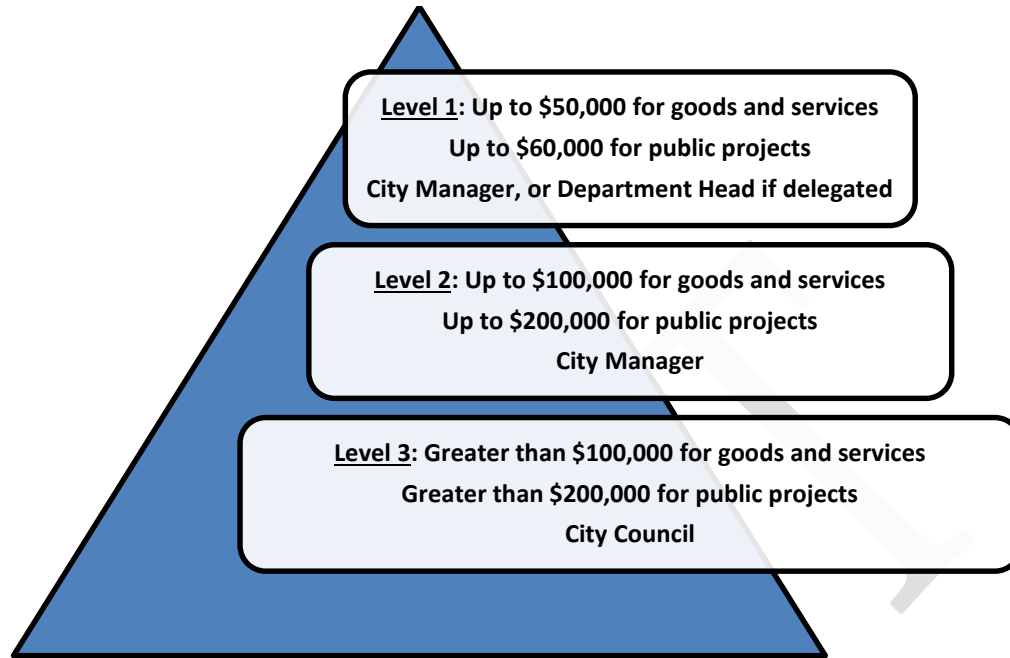
Note: All purchase contracts and any associated amendments thereto can only be approved by the appropriate award authority.

3.6 Dollar Thresholds for Awarding Contracts

Dollar thresholds for awarding contracts for **goods, services and public projects** (as defined in Table 1, [Section 3.2](#)) are established by resolution of the City Council and include the designation of three levels, with each level signifying the maximum threshold amount for requesting approval by the City Council, City Manager, and Department Heads as shown below.

1. **First level contracts.** First level contracts for goods and services and public projects may be awarded by the City Manager or Department Heads who have been delegated contract award authority.
 - a. The dollar threshold for first level contracts for **goods and services** purchases is **\$50,000**.
 - b. The dollar threshold for first level contracts for **public projects** is **\$60,000**.
2. **Second level contracts.** Second level contracts may be awarded by the City Manager. Nothing precludes the City Manager from requesting City Council approval for second level contracts if deemed to be in the best interest of the City.
 - a. The dollar threshold for second level contracts for **goods and services** purchases is **\$100,000**.
 - b. The dollar threshold for second level contracts for **public projects** purchases is **\$200,000**.
3. **Third level contracts.** Third level contracts are those exceeding **\$100,000** for **goods and services** and those exceeding **\$200,000** for **public projects**. Third level contracts must be awarded by the City Council, unless authority is delegated to the city manager for a specific purpose. For example, for efficiency purposes, the city manager may wish to request authorization to award a third level contract prior to bidding a particular project.

Figure 1. Dollar Thresholds for Awarding First, Second and Third Level Contracts



3.7 Amending Awarded Contracts

A contract amendment includes any modification, renewal not previously approved by the appropriate award authority, or change order to a purchase order that results in an increase to the total amount of money that may be spent under a single contract. Award authority limits must be based on the total contract amount, inclusive of amendments.

Modifications to the terms, conditions, or payment provisions, or material changes to specifications or scopes of services of an existing contract, also require a contract amendment. All contract amendments required by this policy must be in writing and no verbal contract modifications shall be held binding on the City. In most cases, modifications will require an amendment that is executed by each party to the agreement. Contract amendments must also be approved by the appropriate award authority. For instance, modification of a third level contract initially approved by the City Council must also be approved by Council.

Note: In limited instances, the City may issue a written amendment without the necessity of a counter signature. An example of this would be a time-only extension on a project-based contract with an estimated completion schedule and associated deliverables. Provided that the original contract does not specify a termination date, no cost is added, or scope changed, and there is sufficient budget available, the City Manager or designee may extend the time for performance by issuing written correspondence to the service provider that the contract has been extended beyond the estimated completion date to ensure agreed upon service delivery.

3.8 Award Authority Determined by Single Transaction

For determining the appropriate award authority, contract amounts shall be defined by what constitutes a single, or one transaction, as shown in Table 2.

Table 2. Determination of Contract Award Authority

Contract Type	Single Transaction	Example	Award Authority
One-time purchase order	Each discrete, one-time purchase that will not be duplicated in a fiscal year is a single transaction.	One-time vehicle purchase of \$30,000	Department Head
As-needed or on-call contract	The contract term, coupled with the total estimated value to be spent during the contract term, is a single transaction.	As-needed contract for equipment parts and repairs estimated at \$10,000 for one year On-call contract for hazardous materials spills for \$75,000 for one year	Department Head City Manager
Contract amendment	The sum of the initial contract amount plus the amount of the amendment is a single transaction.	Initial contract of \$80,000 for park landscaping, plus an amendment for \$25,000, for a total of \$105,000	City Council
Multi-year contract	The total value of the contract over the course of the contract term is a single transaction.	Three-year contract for janitorial services estimated at \$50,000 per year, for a total of \$150,000	City Council

3.9 Annual Appropriation Required

When making purchases with City funds, except in cases of emergency or in cases where specific authority has been obtained in advance from the City Manager, there must be an unencumbered appropriation in a department budget or in the fund against which a purchase is to be charged.

Contracts awarded in a fiscal year that are anticipated to extend into a subsequent fiscal year or years may be awarded by the appropriate awarding authority but are subject to this appropriation requirement.

3.9.1 Multi-year Contracts

The use of multi-year contracts can be an effective way of establishing longer-term agreements that result from competitive processes and/or contracts negotiated with terms favorable to the City. Multiyear contracts can be used for goods and/or services and can be established on an as-needed basis or for routine, scheduled maintenance.

- **Competitive/negotiated processes.** Solicitation documents and procurements that incorporate contract negotiations must specify the terms and conditions by which goods and services contracts can be renewed.

Examples include limiting annual price increases (or including de-escalators if appropriate), performance incentives, and renewals subject to budgeted funding and acceptable service.

- **Contract terms.** Multi-year contracts can be structured to renew annually (such as a base contract for one year with subsequent annual renewals), or awarded with longer initial or renewal periods, depending on the circumstances of the procurement.

Examples include a one-year contract with *up to four additional years*, or a three-year contract with *up to two additional years, etc.*

This allows for flexibility to award contract terms that best fit operational needs and foster processing efficiency.

- **Prior authorization needed to renew.** Multi-year contracts that include renewal options must be approved by the appropriate award authority *as part of the initial award*.

For example, the authorizing action by the City Council would include the base award plus the authorization for City Manager to exercise the renewal option(s). If specific authority is not given in the authorizing Council action, then the renewal would require additional Council approval.

3.10 Prohibition on Splitting

Goods and/or services purchases from a single vendor, contractor, or consultant, which could reasonably be included in a single contract, cannot be split into multiple contracts in order to avoid approval by the City Council or the City Manager, as applicable. This requirement also applies to conducting competitive solicitations (see [Section 4.2](#), Competitive Solicitation Principles).

3.11 Important Considerations for Establishing Contracts

Unless otherwise specified, all City purchases for goods and/or services must be transacted through valid written contracts approved by the appropriate award authority. This minimizes agency risk exposure and ensures that the City's standard terms and conditions (or negotiated terms and conditions) are accepted by vendors. The City's requirements for establishing contracts are explained below.

- 1. Use of Standard Terms and Conditions.** Use of the City's standard contract templates (including terms and conditions for purchase orders) provided or approved by the City Attorney's Office is always preferred. If presented with a vendor-provided agreement, staff should first attempt to replace it with the City's standard template.
- 2. Non-standard Terms and Conditions.** Any changes to the standard templates, or use of vendor-provided agreements, are considered non-standard and *require legal review prior to presenting a contract for approval*. Consult with the Department Head and/or City Attorney.
- 3. Written Agreement Required.** Written agreements (contracts) on standard City templates provided by the City Attorney's Office signed (executed) by the parties to the agreement are **always** required for **services** with a value greater than \$50,000. Services with a value of \$50,000 or less and most **goods** purchases **may** be procured using purchase orders with standard terms and conditions (which is a valid contract) unless *compelling factors such as liability or risk dictate the use of an executed written agreement*. Consult with the

Department Head and/or City Attorney to determine whether a contract for services under \$50,000 can be procured without a written agreement.

4. **Contract Negotiation.** Contracts and work scopes associated with request for proposals (RFP) and request for qualifications (RFQ) processes, procurements exempt from competitive bidding, or those utilizing non-standard terms/conditions typically require negotiation. Consult with the Department Head and/or City Attorney to determine the level of negotiation required.
5. **City-provided Scope of Work.** Contracts should include well-defined scopes of work drafted by City staff. Use of consultant or vendor-provided work scopes should be minimized to the greatest extent possible.
6. **Purchase Order Required.** A purchase order should accompany any awarded contract.

3.12 City Contract Types and Templates

The City uses the following types of contracts depending on the nature of the purchase, requirements established by the City Attorney's Office, and the type of purchase (see [Section 3.2, Categories of Purchases](#)). Current contract templates are located on the shared drive under [Forms](#).

1. **Purchase order.** A purchase order is utilized to make purchases of discrete, nonrecurring goods and/or services. Acceptance of a PO by a seller results in a contractual relationship between the seller and the City. Purchase orders *must* be issued before committing City funds or receiving any product/service unless an emergency situation exists. Depending on the cost and complexity of the purchase, a written agreement may be required.
2. **Blanket purchase order.** A blanket purchase order is a term contract, usually established for a one-year period for routine, recurring, or as-needed purchases of goods and/or services. In most cases, one-year blanket orders can be renewed annually with the dollar amount reset based on anticipated need for the upcoming year.

Blanket purchase orders can be established for multi-year periods and/or renewed annually according to the terms established through competitive bidding, negotiation, cooperative contract, or as approved by the appropriate award authority.

Blanket purchase orders are a convenient way to purchase routine or as-needed goods and/or services throughout the year. Their use should be maximized to the best extent possible.

3. **General services agreement.** Services such as custodial, building/equipment maintenance, other infrastructure maintenance not requiring detailed/engineered design specifications, and machinery/equipment rental are procured using a *general services agreement template*.
4. **Professional services agreement.** Services generally of an intangible nature that typically require a license, certification, and/or other professional criteria to perform the work as defined by the laws of the State of California are procured using a *professional services agreement template*.
5. **Construction agreement.** The construction, alteration or repair of any public work must be procured using a *construction agreement template*, as may be deemed appropriate by the City Attorney's Office.

- 6. Multi-year services agreement.** The use of a multi-year services agreement may be appropriate for general or professional services procured through pre-qualification processes or large projects that utilize a shortlist of qualified consultants for as-needed services or discrete project work negotiated through task orders.

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Chapter 4 – Competitive Solicitation Procedures

4.1 *Competitive Solicitation Procedures Overview*

This chapter outlines the City’s competitive solicitation principles, requirements by dollar threshold, exceptions to competitive bidding, use of cooperative purchasing programs, and associated procedures to be used by employees who are responsible for procuring goods, services, and public projects.

4.1.1 **Competitive Solicitation Terminology**

To distinguish between types of solicitations at different dollar thresholds, the following terminology is customarily used.

- **Price quotation or quote.** The term “quotation” or “quote” is most often used with smaller dollar purchases associated with informal solicitations.
- **Competitive Bid.** Use of the term “bid” typically denotes a solicitation where a contract is awarded based on the lowest bid price and is most often associated with formal, sealed bidding.
- **Competitive Proposal.** Use of the term “proposal” typically refers to a solicitation where a contract can be awarded on factors in addition to price (also referred to as a “best value procurement”) and is most often associated with formal, sealed request for proposals (RFPs).
- **Demonstrated competence and professional qualifications.** Use of these terms is most closely related to evaluating RFP responses for services *before* pricing is considered and is *always* required for professional services related to architects, engineers, environmental consultants, land surveyors, and construction management firms. In many instances, a request for qualifications (RFQ) process will be used for the solicitation.
- **Contractors, Consultants and Vendors.** The City contracts with individuals and entities to purchase goods and services. The terms “contractors,” “consultants,” and “vendors” are sometimes used interchangeably. However, *contractor* is generally associated with procuring general services and public projects; consultants are generally associated with procuring professional services; and vendors are generally associated with procuring goods.

Note: The terms “bidder,” “bid” and “bidding” are sometimes used interchangeably with “proposer,” “proposal” and “proposing.”

4.2 Competitive Solicitation Principles

Competitive bidding procedures shall be conducted in accordance with the following principles and requirements:

- Purchases must be based on competitive solicitation procedures whenever possible, unless otherwise exempt in accordance with [Section 4.6](#), Exceptions to Competitive Solicitations.
- Prospective, qualified bidders associated with any given procurement must be afforded a fair opportunity to submit bids/price quotes based on the same specifications to ensure a level playing field with no unfair advantages.
- The complexity of the solicitation procedures and the corresponding requirements increase with the dollar value of the procurement.
- Price quotes, bids or proposals required by this chapter, including procurements that may not require competitive bidding, must be in writing; verbal quotes cannot be accepted.
- Under no circumstances shall purchases be artificially split to use a more simplified process or to avoid approval by the City Council or City Manager, as applicable.
- Late bids, proposals or quotes cannot be accepted, unless it can be definitively determined by the Department Head that late submission was caused entirely by City action.
- Staff should select the solicitation method most appropriate to the required good and/or service.
- The use of cooperative purchasing programs that leverage volume purchases, secure value pricing, and reduce administrative overhead is encouraged.
- Staff must take into account the procurement-related policies and procedures such as prevailing wage requirements, requirements for buying computer hardware and software, product standardization, environmentally preferable purchases, and purchases using federal grant funds (see [Chapter 5](#), Special Procurement Programs and Considerations).

4.3 Determining the Appropriate Solicitation Procedure

To determine the appropriate solicitation procedure, staff should know the category of purchase (goods, general services, professional services, or public projects) and have an estimated cost in mind, as shown in Table 3 and more fully explained in below.

Table 3. Solicitation Procedures for Goods, Services and Public Projects

Solicitation Procedure	Purchase Category/ Dollar Threshold
No solicitation required	Goods and services up to \$5,000 Public projects up to \$60,000
Informal solicitation	Goods and services between \$5,001 and \$50,000 Public projects up to \$200,000
Formal solicitation	Goods and services greater than \$50,000 Public projects greater than \$200,000
Note: If the bids, quotes, or proposals received for <i>goods or services</i> purchases exceed the cost threshold for the solicitation procedure used, a new solicitation may be required if directed by the City Manager (see Section 4.6 , Solicitation Procedures and Dollar Thresholds for Public Projects for provisions specific to <i>public projects</i>).	

4.4 Solicitation Procedures for Goods and Services

1. **No solicitation required.** Purchases of goods and/or services **up to \$5,000** do not require a competitive solicitation and may be made following the receipt of one written price quote or proposal. However, as a matter of fiscal prudence, nothing shall preclude the person initiating the purchase from conducting price comparisons to ensure that the best overall value is obtained.
2. **Informal solicitation required.** Departmental purchases of goods and services with an estimated cost between \$5,001 and \$50,000 require an informal solicitation process that includes the following requirements:
 - a. **Good faith effort.** A good faith effort must be made to ensure that at least three firms/individuals are provided an opportunity to respond to the solicitation.
 - b. **Form and manner of solicitation.** The form and manner by which informal solicitations are conducted, i.e., use of informal bid/proposal templates, invitations to submit written quotations, development of product specifications and/or scopes of work, etc., shall be prescribed by the Department Head to ensure that any given procurement results in a combination of the lowest price and highest quality of goods and/or services available.
 - c. **Same specifications to be used.** Prospective bidders or proposers must be afforded the opportunity to submit a bid or proposal based on the same specifications, scope of work or requirements, as the case may be.
 - d. **Shared information.** Any material information provided in response to an inquiry or inquiries by a prospective bidder/bidders must be provided to all known prospects (called “plan holders”), especially if product specifications, requirements, or scope of work is changed that could give a bidder a competitive advantage if the change is only known to that bidder.
 - e. **Reasonable and sufficient solicitation period.** A bidding period reasonable and sufficient to the dollar value, size or complexity of the procurement should be used.
For example, price quotes for ten laptops could be prepared within a few days while proposals for cloud-based software solution could require several weeks.
 - f. **Electronic submittals encouraged.** Consistent with best practices for automating processes and paperwork reduction, the submittal of electronic bids is encouraged, and paper submittals are discouraged.
 - g. **Evaluation period.** Every solicitation requires a due date and time. To ensure fairness and process integrity, submitted bids can only be evaluated after the specified due date and time, not before (see also [Section 4.5](#) Bid or Proposal Evaluation).
 - h. **Contract award and/or purchase order approval.** Once a responsible vendor has been selected, a contract and/or purchase order is recommended for approval to the appropriate award authority.
 - i. **Records retention.** The staff member initiating the purchase *must* keep a record of the solicitation document; any correspondence sent to prospective vendors that changes the scope or product specifications in response to an inquiry or inquiries;

all submitted quotes/proposals; and any subsequently approved contract and/or purchase order.

The records must be kept in accordance with the City's records retention policy.

- j. **Less than three quotes/proposals received.** If the staff member conducting the solicitation is unable to obtain three price quotes or proposals, the purchase may move forward so long as the effort is documented in writing and submitted to the Department Head (or City Manager if required) as part of the request for contract approval.

Note: Nothing precludes the City Manager or a Department Head from requiring a more formal means of solicitation, such as that required by subsection 3 below (formal solicitation).

- 3. **Formal solicitation required.** Departmental purchases of goods and services with an estimated cost greater than \$50,000 require a formal solicitation process to invite sealed bids or proposals that includes the following requirements:

- a. **Notice of solicitation.** Prior to conducting a formal solicitation, a Notice Inviting Bids/Proposals must be prepared as prescribed by the Department Head that states the bidding method being used.
- b. **Public posting of notice of solicitation.** The Notice Inviting Bids or Proposals must be posted in at least one publicly accessible location likely to reach the intended service provider, supplier, or vendor.

The first publication or posting of the solicitation shall be at least ten days before the due date for responses to the solicitation. The posting location may include the city's website, an electronic bulletin board, a newspaper of general circulation in the city, or a trade journal, magazine, or other publication, whether in print or electronic.

- c. **Solicitation document preparation and content.** For formal solicitations, an Invitation for Bids (IFB) or Request for Proposals (RFP), or Request for Qualifications (RFQ) must be prepared using a template prescribed by the Department Head. The solicitation document must:

- i. Identify the bidding method being used.
- ii. Describe the purchase and establish product specifications, functional requirements, and/or scope of services by specifying actual or estimated quantities for goods and/or desired quality of product or service performance.
- iii. Establish minimum threshold and/or experiential requirements that must be met to be considered for contract award.
- iv. Enumerate other requirements such as any desired warranty, insurance, or bonds; the time, place and manner of delivery of the purchases; the desired terms of payment; and the form, method, and timing of the response to the solicitation.
- v. Include the City's standard contractual terms and conditions, and in the case of an RFP or RFQ, provide instructions to proposers to identify in writing any objections to the City's requirements, terms and conditions.
- vi. Include protest procedures, if required.

- d. Public noticing period.** The solicitation must be posted in at least one publicly accessible location likely to reach the intended service provider, supplier, or vendor.

The first publication or posting of the solicitation must be at least ten days before the due date for responses to the solicitation. The posting location may include the city's website, an electronic bulletin board, a newspaper of general circulation in the city, or a trade journal, magazine, or other publication, whether in print or electronic.

A bidding period reasonable and sufficient to the dollar value, size or complexity of the procurement should be used.

- e. Direct solicitation.** Bids or proposals may also be directly solicited from individuals and businesses if such individuals or businesses are known to be capable of providing the item or service that is being solicited. However, such direct solicitations are in addition to the solicitation requirements specified above.
- f. Shared information (bid addenda).** Any material information provided in response to an inquiry or inquiries by a prospective bidder/bidders must be provided to all known prospects (called "plan holders") through the issuance of an addendum on a form prescribed by the Department Head, especially if product specifications, requirements, or scope of work is changed that could give a bidder a competitive advantage if the change is only known to that bidder.

Note: Only properly issued written addenda are binding on the City; verbal responses shall not be used to change any specifications, requirements, scope, or contractual terms and conditions of the solicitation.

- g. Electronic submittals encouraged.** Consistent with best practices for automating processes and paperwork reduction, the submittal of electronic bids is encouraged, and paper submittals are discouraged.
- h. Evaluation period.** Every solicitation requires a due date and time. To ensure fairness and process integrity, submitted bids can only be evaluated after the specified due date and time, not before (see also [Section 4.5](#) Bid or Proposal Evaluation).
- i. Contract award.** Once a responsible vendor has been selected, a contract and/or purchase order is recommended for approval to the appropriate award authority.
- j. Records retention.** The staff member initiating the purchase *must* keep a record of the solicitation document; any correspondence sent to prospective vendors that changes the scope or product specifications in response to an inquiry or inquiries; all submitted quotes/proposals; and any subsequently approved contract and/or purchase order.

The records must be kept in accordance with the City's records retention policy.

4.5 Bid or Proposal Evaluation

- 1. Responsiveness and responsibility.** Before any bidder or proposer can be considered for contract award, submitted bids or proposals must first be reviewed to determine bid/proposal responsiveness and bidder/proposer responsibility.

- a. **Bid/proposal responsiveness.** Responsiveness refers to bids or proposals submitted by contractors, vendors or consultants that meet the material requirements of the solicitation and comply with its instruction.

Bids or proposals found to be non-responsive should be removed from consideration by the Department Head or designee before evaluating responsive bids/proposals received.

- b. **Bidder/proposer responsibility.** Bidder/proposer responsibility refers to contractors, vendors or consultants who have consistently demonstrated attributes of trustworthiness, quality, fitness, capacity, and experience to satisfactorily provide the goods and/or services contained in a solicitation.

2. **Lowest bid method.** The lowest bid method is typically used for the purchase of materials, supplies and equipment (goods), *where the goods offered are identical or nearly identical*. This method may also be used for procuring general or technical services such as maintenance work, as deemed appropriate by the City Manager or a Department Head.

In situations where goods offered are not identical or nearly identical, the fitness and quality of the goods offered may be considered, in addition to price, with a contract awarded to the vendor that offers the best combination of price and fitness and quality of goods (similar to the best value evaluation method for services described below). The lowest bid method may be used for contracts for general services if determined by the City Manager or designee to be in the best interest of the City.

3. **Best value method.** Contracts for services (including professional services) are awarded on the basis of demonstrated competence and the professional qualifications necessary for the satisfactory performance of the services, offered at a fair and reasonable price, as determined by considering the following criteria:

- a. Whether the price is fair, reasonable, and competitive;
- b. The quality of the services offered;
- c. The demonstrated competence, ability, capacity, and skill of the person or business to provide the services promptly, within the time specified, within budget, and without delay or interference;
- d. The credentials and licenses of the person or business, if required;
- e. The character, integrity, reputation, judgment, training, experience, and efficiency of the bidder or proposer;
- f. The person's or business's knowledge of local conditions;
- g. The person's or business's previous history of working on related projects or issues for the city, where such previous experience will allow the services to be performed more efficiently and will require less time spent on preparation and background research;
- h. The sufficiency of the bidder's or proposer's financial capacity and other resources; and
- i. The ability of the bidder or proposer to provide such future service as may be needed.

Helpful hint: When soliciting proposals for most services, a best practice is to evaluate submittals based on qualifications and competence first, before pricing is considered. To help ensure that pricing is not initially considered, solicitations should require that pricing is submitted with the proposal in a “separately sealed envelope” (or otherwise segregated from the main proposal if an electronic solicitation process is used).

- 4. Qualifications based selection.** When professional service providers such as architects, engineers, land surveyors, or construction management firms are required, the solicitation **must** follow the Qualifications Based Selection (QBS) process required by state law (see [Section 4525 et. seq. of the California Government Code](#) or its federal counterpart for federal aid projects, the [Brooks Act](#)).

For these types of professional services procurements, consultants are selected based on demonstrated competence before pricing is considered, i.e., an evaluation process that typically includes interviews will be completed and a rank order determined.

At minimum, submitted pricing **must** be separately sealed and separately evaluated. For many projects that are funded by federal or state grants (such as transportation funding administered by the California Department of Transportation, or Caltrans), pricing **cannot** be submitted in response to an initial solicitation.

When a QBS process is required, staff must negotiate in good faith with the top-rated proposer. If a contract cannot be agreed upon in consideration of scope, reasonable cost and acceptable terms and conditions, then discussions can commence with the next highest rated proposer, and so on, until an acceptable agreement is reached.

- 5. Request for Qualifications.** In situations where a department wishes to establish on-call contract(s) (typically for as-needed general or professional services), a Request for Qualifications (RFQ) process can be conducted. An RFQ is used to solicit statements of qualifications from qualified firms to provide a particular/specialty service on an as-needed basis. Examples include, but are not limited to, special inspections, environmental testing services, land surveying, or information technology services.

The statements of qualifications (SOQs) are evaluated based on demonstrated competence similar to the QBS process described above. Proposing firms should submit hourly rate sheets as well for comparison purposes. Once the evaluation process is complete, qualified firms can be placed on a “shortlist” for as-needed use.

The type of service needed, i.e., discrete project work or on-call services when the need arises, and the degree of consultant specialization, will dictate how contracts are awarded, as illustrated with the following examples.

Example 1:

A shortlist is established for land surveying and the shortlisted firms are fairly equal in experience and hourly rates, and the City only has the need for one surveying project with a defined scope of work, then brief proposals can be solicited from each firm and a selection made based on best overall value.

Example 2:

A shortlist is established for different types of as-needed surveying work associated with a large capital project such as construction staking, topographical surveys, and boundary surveys, and each shortlisted firm presents an area of specialty. Rather than conducting a solicitation process, on-call contracts with not-to-exceed amounts can be awarded to each firm based on their area of specialty.

Example 3:

The City is interested in acquiring property for a park and will need to conduct (as yet undefined) environmental testing work as the site is prepared for development, with the process expected to take five to seven years. A multi-year services agreement can be established with one or more of the shortlisted firms. As the environmental testing needs are better defined, task orders based on discrete scopes of work can be negotiated with a firm or firms under the services agreement based on area of specialty, availability, etc.

- 6. Local preference.** If two or more bidders or proposers are reasonably comparable based on a consideration of the criteria in subsection 3 in this section, a preference may be given to a bidder or proposer that has a primary place of business located within the City as a means to serve the public purposes of supporting local economic stability and of encouraging businesses to locate and remain in Arroyo Grande.

4.5.1 No Bids or Proposals Received

If no bids or proposals are received in response to a solicitation, staff may proceed with the procurement through direct negotiation with a vendor, or other reasonable means as determined by the City Manager or a Department Head, subject to applicable laws and City requirements.

4.5.2 Bid or Proposal Rejection

The City may reject any or all bids or proposals in response to a solicitation in its sole discretion. Bids or proposals are typically rejected if submitted pricing is above the available budget or if proposed goods and/or services do not meet the City's requirements.

The authority to reject bids or proposals is consistent with the first, second, and third level dollar thresholds established for awarding contracts.

4.6 Exceptions to Competitive Solicitations

Certain purchases may be exempt from competitive solicitation if in the City's best interests, subject to appropriate approvals and other requirements specified in this section. In recommending a bid exception, the purchase must satisfy one or more of the following criteria:

- 1. No competitive advantage.** No price advantage would be gained from a competitive solicitation process, including but not limited to circumstances when goods or services are unique and are only available from one source (known as a "sole source" purchase).

Note: There may be instances where goods or services are unique but are available from more than one source. If it is determined that no price advantage would be gained from a competitive solicitation process and the value can be justified, then a procurement can proceed with one source (known as a "single source" purchase).

- 2. State and Federal Multiple Award Schedules.** When the purchase is based on a cooperative agreement, multiple award schedule, or other types of agreements entered into by the state of California or the federal government.

Information on these types of programs can be found at [California Multiple Award Schedules \(CMAS\)](#) and [Federal General Services Administration \(GSA\) Multiple Award Schedule](#).

- 3. Cooperative purchasing programs.** When a vendor or service-provider has been awarded a contract by another public agency and:
- a. The agency used competitive solicitation procedures consistent with those required by Arroyo Grande;
 - b. The vendor or service-provider offers the same price(s) to the City that it offered to the other agency, unless better pricing can be obtained;
 - c. The contract was awarded within a reasonable timeframe relative to the City's purchase; and
 - d. The initial awarding public agency agrees to the purchase.

Note: This subsection may include the use of for profit regional or national purchasing cooperatives, provided that the city is a registered member of the cooperative and a membership fee is not required. Some leading cooperatives include:

- [OMNIA Partners, Public Sector](#) (formerly U.S. Communities)
- [Sourcewell](#) (formerly National Joint Partners Alliance)
- [NASPO ValuePoint](#) (formerly WSCA-NASPO, or the Western States Contracting Alliance-National Association of State Procurement Officials)

- 4. Emergency situations.** An emergency is a situation such that the life, health or safety of employees or the general public is at risk, or when significant harm may occur to City property or operating systems and goods and/or services must be procured immediately to prevent loss or substantial disruption of city services or functions. Emergency situations are those that present imminent risk and require immediate action, as opposed to urgent situations that require swift action, i.e., there is no immediate danger, but the situation requires prompt attention to preclude an emergency event from occurring.

Purchasing decisions for goods and/or services necessary to respond to emergencies that require full or partial activation of the emergency operations organization must be considered in conjunction with provisions 4.a and 4.b in this subsection.

- a. The determination that an emergency situation exists is made by the City Council, City Manager or designee pursuant to Municipal Code [Chapter 8.12](#), Emergency Services Organization, and/or
 - b. Where a disaster has been declared by the City Council, state or federal government, provided that competitive bidding is not required by a state or federal reimbursing agency and is otherwise consistent with state law (see also [5.4 Grant-funded Purchases](#)).
- 5. Bid impracticality.** A purchase may be exempt from a competitive solicitation when the contract award authority determines that bidding would be impractical, inefficient, or

otherwise not in the best interest of the City, provided that the contract file contains sufficient documentation to justify bid impracticality.

Situations where it may be impractical to issue a solicitation typically include products or processes where the City has decided for best value purposes to standardize on certain equipment or systems **and** replacement parts and/or maintenance and repair services are only available from the manufacturer or one authorized source.

6. Other enumerated exceptions. When the purchase is for, or made in conjunction with, the following:

- a. Insurance and bonds;
- b. Procurements funded by grants, donations or gifts when the special conditions attached to the grants, donations or gifts require the procurement of particular goods and/or services;
- c. Goods and/or services obtained from or through agreement with any governmental, public or quasi-public entity;
- d. Works of art, entertainment or performance;
- e. Surplus personal property owned by another governmental, public or quasi-public entity;
- f. Membership dues, conventions, training, and travel arrangements;
- g. Advertisements in magazines, newspapers, or other media; and
- h. Goods procured for resale to the public.

7. No preclusion from competitive bidding. Notwithstanding the exception provisions listed above, nothing in this section shall preclude the solicitation of competitive bids or proposals, when in the best interest of the City or when required by law.

8. Documentation and approval required. A written justification form is required for purchases exempt from competitive bidding (see [Attachment B: Competitive Bid/Proposal Exemption Request Form](#)), as follows:

- a. The requestor must identify the applicable bid exception.
- b. The justification must include an explanation as to why a competitive process cannot be used, including verification that a good faith search for competition was made.
- c. If different brands or models have been tested or previously used and determined to be unsuitable, the justification should provide descriptive information on brands/models used, dates of use and why they are not acceptable.
- d. The written justification must be approved by the City Manager or Department Head, as applicable, and attached as backup at the time contract approval is recommended to the appropriate award authority.

Note: The person responsible for conducting a procurement pursuant to this section must conduct negotiations, as appropriate, as to price, delivery and terms and may require the submission of cost or pricing data in connection with the award of a contract which does not require a competitive solicitation.

4.7 Solicitation Procedures and Dollar Thresholds for Public Projects

The City has adopted the California Uniform Public Construction Cost Accounting Act (Public Contract Code Section 22000 et seq., as may be amended) (the Act or CUPCCAA). All expenditures for public projects by the City must be made in accordance with the Act.

The competitive bidding requirements/thresholds are contained in [§§22030 to 22045](#). The Act applies to routine, reoccurring and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purpose.

CUPCCAA establishes three competitive bidding threshold ranges and requirements, summarized below, that are periodically adjusted ([Public Contract Code §22032](#)). A common requirement associated with each threshold is the establishment and maintenance of a qualified list of contractors according to categories/class of work. Detailed instructions are included in the California Uniform Construction Cost Accounting Commission's policies and procedures manual that can be accessed from the Commission's [homepage](#).

Note: Contracts resulting from the informal and formal bidding requirements established below must be awarded to the lowest responsive and responsible bidder. If two or more bids are the same and the lowest, the contract may be awarded to either bidder.

The person or department initiating the purchase shall make a reasonable and good faith estimate of the anticipated cost of the purchase and then proceed with the appropriate solicitation procedure below. Purchases shall not be split or separated into smaller orders for the purpose of circumventing the required procedures.

1. **No competitive bidding required.** Public projects with an estimated cost of up to **\$60,000**, including any amendment thereto, may be made in two ways:
 - a. **City employees.** Projects within this threshold may be completed by City employees (referred to as "force account").
 - b. **Direct negotiation.** If the project will not be completed by City employees, then staff may directly negotiate a construction agreement with a contractor, in accordance with the best value method explained in this chapter.
 - c. **Contract award.** Contracts for public projects up to \$60,000 can be awarded by the Department Head.
2. **Informal bidding required.** Public projects with an estimated cost that is **greater than \$60,000 and up to \$200,000** may be procured using the informal bidding procedures required by this subsection, or by the formal bidding procedures required by subsection 3 in this section if required by the City Manager or Department Head.

The informal bidding process includes the following requirements and steps:

- a. **Notice inviting bids.** Prepare a notice inviting informal bids that describes 1) what is needed in general terms, 2) how to obtain additional information, 3) the submission deadline, and 4) how to submit a bid.
- b. **Prepare an Informal Invitation for Bids (IIFB).** The IIFB shall be prepared in accordance with requirements established by the Department Head.
- c. **Public posting of notice.** Post the notice inviting informal bids to applicable construction trade journals in accordance with Public Contract Code §§22034 and

22036 no less than 10 calendar days before bids are due. The invitation may also be sent to additional contractors at the discretion of the department/section soliciting bids.

If a list of qualified contractors has been developed for the category of work to be performed, the notice must be sent to the list (see also subsection 4 below).

If a required product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

- d. **Bid responsiveness and evaluation.** Evaluate submitted bids as soon as the bidding period is closed by first determining if the submitted bids are responsive to the solicitation.
 - e. **Contract award.** Contracts resulting from informal bids up to **\$200,000** are awarded by the City Manager to the lowest responsive and responsible bidder.
 - f. **Submitted bids exceed threshold.** In accordance with [Public Contract Code §22034\(d\)](#), if all informal bids received exceed \$200,000, the City Council may, by adoption of a resolution, award a contract up to \$212,500 to the lowest responsible bidder who has submitted a responsive bid, if it determines that the City's cost estimate was reasonable.
3. **Formal bidding required.** Public projects with an estimated cost greater than **\$200,000** must be awarded using a formal competitive bidding process that includes a) a public advertisement for the submission of sealed bid, b) the public opening of timely submitted bids, and c) the award of a contract to the lowest responsible bidder who has submitted a responsive bid.

The formal sealed bidding process includes the following requirements and steps:

- a. **Notice inviting bids.** Prepare a notice inviting bids that states the due date and time by which bids must be received and the place where the sealed bid opening will be conducted.
- b. **Prepare an Invitation for Bids (IFB).** Prepare an Invitation for Bids (IFB) that includes the construction contract, instructions to bidders, and policy and procedural requirements; City provisions governing how the work is to be performed; and approved technical specifications.
- c. **Public noticing.** Publish the notice inviting bids in a local newspaper of general circulation at least 14 calendar days before the bid opening date; or, if there is no newspaper which is circulated within the city, publication shall be by posting the notice in at least three places within the city as have been designated by ordinance or regulation of the city as places for the posting of its notices.
- d. **Electronic distribution of IFB.** Electronically send the IFB to applicable construction trade journals at least 15 calendar days before the bid opening date.
- e. **Public bid opening.** Conduct a public bid open as soon as the bidding period closes in accordance with procedures required by the Department Head.

- f. **Bid responsiveness and evaluation.** Evaluate submitted bids as soon as the bidding period is closed by first determining if the submitted bids are responsive to the solicitation.
 - g. **Contract award.** Construction contracts resulting from formal bidding must be awarded by the City Council to the lowest responsive and responsible bidder.
- 4. **Contractors list.** The Public Works Director or designee shall develop and maintain a list of qualified contractors, identified according to categories of work, in accordance with the provisions of Public Contract Code Section 22034 and criteria promulgated from time to time by the Commission.
- 5. **Preparation and adoption of plans.** In accordance with Public Contract Code Section 22039, the City Council has delegated the authority to the Public Works Director or designee to prepare and adopt plans, specifications, and working details for all public projects with an estimated cost greater than \$200,000 (the maximum dollar amount stated in Public Contract Code Section 22032(c), including any amendment thereto).
- 6. **Bid rejection.** In its discretion, the City may reject any or all bids, and may do any of the following:
 - a. Abandon the project.
 - b. Re-advertise the bid in the manner described in this chapter.
 - c. By a four-fifths vote, the City Council may declare by resolution that the project can be performed more economically by City employees and may have the project done by force account without further complying with this chapter. Prior to rejecting all bids and declaring that the project can be more economically performed by City employees, the City shall furnish a written notice to an apparent low bidder, informing the bidder of the City's intention to reject the bid. Such written notice shall be mailed at least two business days prior to the hearing at which the city intends to reject the bid.
- 7. **No bids received.** If no bids are received through the formal or informal procedure, the project may be performed by City employees by force account or by a negotiated contract without further complying with this chapter.
- 8. **Emergencies.**
 - a. In cases of emergency when repair or replacements are necessary, the City Council may, by a four-fifths vote, proceed at once to replace or repair any public facility, take any action required by that emergency, including procure equipment, services, and supplies without giving notice for bids to award contracts pursuant to Public Contract Code section [22050\(a\)\(1\)](#).
 - b. Before taking any action, the City Council shall make a finding that the emergency will not permit delay resulting from a competitive bid process, and the action is necessary to respond to the emergency. Such findings shall be based upon substantial evidence set forth in the minutes of its meeting pursuant to Public Contract Code section [22050\(a\)\(2\)](#).
 - c. If the City Council has ordered any emergency action, it shall review the emergency action at its next regularly scheduled meeting. Until the action is terminated, the City

Council shall determine the need to continue such action by a four-fifths vote at each meeting pursuant to Public Contract Code section [22050\(c\)\(1\)](#).

- d. In case of an emergency, if notice for bids to award contracts will not be given, the City shall comply with all requirements of Public Contract Code section 22050.

9. Exemptions. The bidding procedures for public projects required by this chapter shall not apply when an exemption is provided by state or federal law.

10. Bid protests.

- a. **Effect of Failure to Protest.** The procedures set forth in this section are mandatory and are the sole and exclusive remedy of a bidder, proposer or other vendor to dispute the award of a contract that the city solicits through a competitive process. A protest that does not comply with these procedures may be summarily rejected and the person submitting the protest shall be deemed to have waived all rights to relief.
- b. **Protests of Solicitation Method.** By submitting a bid, proposal or other application for a contract award, the bidder, proposer or other vendor shall be deemed to have waived all rights to challenge the city's method for procuring the contract or any discrepancy in the solicitation process or documents. Bidders, proposers, or vendors may submit bids, proposals or other applications under protest. Protests under this section shall be submitted in writing to the official designated to receive the bid, proposal or other application and shall contain a full summary of the factual and legal basis for the protest.
- c. **Protests of Award.** A bidder, proposer or other vendor applying for a city contract through a competitive process may submit a written protest of the award of the contract. The protest shall identify and explain the factual and legal grounds for the protest. Any grounds not raised in the written protest are deemed waived by the protesting bidder.
- d. **Waiver.** Any person that: (1) did not directly submit a bid or proposal; (2) is not responsible or qualified to receive the contract; (3) failed to submit a responsive bid or proposal; (4) is not in line to receive the contract or is otherwise ineligible to receive the contract; (5) is otherwise not beneficially interested in the award; or (6) fails to submit a timely protest shall be deemed to have waived the right to protest the award of the contract. Any protest deemed waived will be subject to summary rejection without further consideration and the person will have no right to any relief.
- e. **Timing of Protest of Award.** Protests shall be submitted in writing to the official designated to receive the bid, proposal or other application within the following times:
 - i. If of another bidder, within five calendar days after the bid opening date.
 - ii. If the city makes a recommendation to the city council to award a proposal or other application, then within five calendar days following the issuance of the recommendation and prior to the date of the award.

- iii. If in response to a notice of intent to reject a bid, proposal or other application, then within five calendar days following the issuance of the notice of intent.
- f. City Response. If the protest is timely and complies with the above requirements, the city shall review the protest, any response from the challenged bidder, proposer or other vendor, and all other relevant information. The City will provide a written decision to the protestor in a reasonable amount of time. If the protest is in response to a recommendation of award to the City Council, then the protest will be considered concurrently with the award of the contract, and the approval authority's action is final.
- g. Conflicts. The protest procedures contained in this section shall not apply if a particular solicitation contains a different protest procedure. This section does not limit or eliminate a claimant's obligations under the Government Claims Act, Government Code Section 900 et seq.

4.7.1 Important Considerations for Bidding Construction and Maintenance Work

The following bullets include helpful factors to consider when conducting solicitations for public projects and maintenance work.

- A project that requires engineered plans and technical specifications is *always* considered a public work.
- Operational maintenance required to preserve a public improvement is *generally* not considered a public work.
- Staff must consider and apply the definition of "public project" established in [subsections 22002\(c\) and 22002\(d\)](#) of the Public Contract Code to determine which bidding requirements may apply to a particular *maintenance* project.
- A common requirement for construction and maintenance work is that the contractor comply with prevailing wage and other labor compliance requirements (see Section 5.5, Prevailing Wage and Contractor Registration Requirements).
- CUPCCAA competitive bidding thresholds are considerably higher than the City's bidding thresholds for maintenance work. However, the informal and formal solicitation *procedures* required by CUPCCAA for public projects can be applied to informal and formal solicitations for maintenance work, as required by the City Manager or Department Head.

Chapter 5 – Special Procurement Programs and Considerations

5.1 Overview

This chapter provides information on key City and other governmental programs and requirements that must be considered before making purchases with public funds.

5.2 City-issued Credit Cards

Based on operational need, employees may be assigned a City-issued credit card for the purchase of commonly used *goods and offsite/online services such as subscriptions, training, professional memberships*. *Offsite services such as minor equipment repair that is performed at a business and not on City property* can also be procured with City-issued credit cards in some cases.

Onsite services of any kind that require contractors to perform work on City property cannot be purchased with a City-issued credit card due to the City's insurance and indemnification requirements that cannot be met by credit card issuers.

Issued cards are based on per transaction and monthly limits, and subject to the terms of the [Requirements and Procedures for Use of City Credit Cards Policy](#).

5.3 Environmentally Preferable Purchases

Consistent with relevant state law and [Chapter 8.33](#) of the Municipal Code (Mandatory Organic Waste Disposal Reduction), the City has adopted a [Recovered Organic Waste Product Procurement Policy](#).

The policy requires all City departments and divisions to incorporate environmental considerations including recycled-content and recovered organic waste product use into purchasing practices and procedures.

All vendors providing paper products, printing and writing paper, and organic waste products must comply with relevant state law and City requirements.

5.4 Grant-funded Purchases

When contemplating a purchase of goods and/or services that involves the expenditure of federal or state funds, the procurement must be conducted in accordance with mandatory applicable federal or state regulations. For federal grants, the procurement standards in the Code of Federal Regulations must be followed. The federal procurement standards, along with contract provisions that must be included in City contracts under federal awards, are located on the Shared Drive under Employee Resources – Administrative Policies. The procurement standards and required contract provisions can also be found here: [2 CFR 200.318 to 327](#) and [Contract Provisions for Non-Federal Entity Contracts Under Federal Awards](#).

In addition to the procurement standards, it is important to note that local entities that receive more than \$750,000 in federal funding during a fiscal year must comply with Single Audit requirements. It is imperative that the Administrative Services Director be notified regarding federal funding of any amount.

Helpful hint: Prior to making a purchase using federal funding, the department must compare the City's procurement policies to the federal procurement standards and use the most restrictive of the two. For example, the City's formal bid threshold is \$50,000, but the federal formal bid threshold is \$250,000. In this instance, the City's threshold of \$50,000 must be used.

5.5 Prevailing Wage and Contractor Registration Requirements

The payment of prevailing wage applies to all public works projects over \$1,000 ([Labor Code sections 1720 and 1771](#)), with limited exceptions covered below. Public works contractors, and their subcontractors, are required to register each year with the Department of Industrial Relations (DIR) to help ensure compliance with prevailing wage requirements.

As detailed in this section, specific actions must be taken by City staff to verify that contractors and their subcontractors are registered with the DIR, and that contractors are fulfilling their prevailing wage obligations. The DIR's [Public Works page](#) contains detailed information regarding the payment of prevailing wages and Contractor Registration Program.

The City's responsibilities regarding contractor registration and prevailing wage compliance can be found on the DIR's [Awarding Bodies webpage](#) and are summarized as follows:

- A PWC-100 Form must be submitted to the DIR for maintenance contracts exceeding \$15,000 and construction contracts exceeding \$25,000.
- Submit the PWC-100 Form within **30 days** of contract award, but in no event later than the first day in which a contractor has started work ([Labor Code §1773.3](#)).
- Obtain prevailing wage rates from DIR.
- Notify potential contractors that they must register with DIR and that the project is subject to enforcement by DIR.
- Require proof of public works contractor registration before accepting a bid or awarding a contract. To find actively registered contractor, use the *Public Works Contractor Registration Search* tool on the Awarding Bodies webpage.
- Post or require contractors to post jobsite notices on public works requirements.
- Ensure that public works contractors pay prevailing wages and are in compliance with public works laws.

- Report any suspected public works violations to the Labor Commissioner.

5.6 Other Contractor Requirements

Contractors conducting business on City property must be properly licensed, insured and otherwise comply with all lawful requirements. **Applicable requirements must be met before any work can commence.** Consult with a Department Head to determine what requirements may apply to the procurement.

1. **Certificates and licenses.** Depending on the nature of services provided, special certifications or licenses may be required, as determined by a Department Head or designee.
2. **Insurance compliance.** Contractors working on City property must comply with the insurance requirements established in [Chapter 6](#), Procurement Risk Management.
3. **Tax compliance.** Contractors conducting business in the City are required to obtain a business license before they begin work.
4. **Guarantees and warranties.** When working on City property or in rights-of-way, contractors must provide assurances that work will be completed according with specifications and contractual obligations. These requirements may be included in standard bidding documents and contract templates. The most common examples are **bid, payment and/or performance bonds**, as required.

5.7 Specification Development and Product Standardization

5.7.1 Specification Development

Specifications are used define good or services in a competitive solicitation document. Specifications should include a precise description of the physical characteristics, quality, or desired outcomes of a product to be procured, which a supplier must be able to produce or deliver to be considered for contract award. To promote competition, specifications should use plain language, relevant to and understood by the bidding community. Preparing clear, biddable specifications is an essential part of the competitive bidding process.

There are essentially two types of specifications: design and performance. Good specifications typically contain elements of both.

1. **Design specifications.** Design specifications establish the characteristics that a product or service must possess, and may include manufacturing details such as engineered plan, drawings or blueprints.
2. **Performance specifications.** Performance specifications identify the desired outcome or output that a good or service must meet. Performance specifications may utilize functional descriptions of defined tasks or desired results.
 - a. **Functional descriptions or requirements.** Performance specifications may utilize functional descriptions of defined tasks or desired results. Functional requirements are typically associated with RFPs and are used for solutions such as software systems.

- b. Brand name specifications.** In areas where the City has standardized a particular product such as fleet vehicles, staff may use one brand name manufacturer (see 5.7.2, Product Standardization).

Note: Use of brand name specifications can be restrictive, limit competition, and can result in increased cost and risk of protest. Their use must be carefully considered and approved by a Department Head or designee.

Helpful hint: As a best practice, when developing specifications where a brand name is being referenced but the desired product has not been standardized for City use, the brand name reference should be followed by “or City-approved equal.” The product offered can then be evaluated for conformance to the City’s requirements.

In many cases, specifications can be highly complex/technical, requiring subject matter expertise beyond that of City staff. The following steps should be considered when developing specifications.

- 1. Collaboration.** Meeting with stakeholders of a procurement or others at the City with knowledge/experience writing specifications helps to clarify specific needs. Stakeholder review of the draft specifications can also be helpful from a peer review perspective.
- 2. Market research.** Conducting market research will help inform product design/performance criteria and create understanding of market and supply chain trends. Be sure to inform vendors who are contacted during this process that a competitive solicitation will be performed.
- 3. Contact/research other public agencies.** Other public agencies may have conducted a similar procurement and can share valuable information/insight.
- 4. Retain professional assistance.** In some instances, contractors or consultants must be engaged to create complex specifications. However, if an outside consultant or contractor prepares specifications, they are prohibited from submitting a competitive bid or proposal.

Additional information on preparing specifications can be found on NIGP: The Institute for Public Procurement’s [global procurement best practices webpage](#).

5.7.2 Product Standardization

Product standardization is a process whereby a determination is made that a particular brand name product (supplies, materials or equipment) or service must be used throughout the City. Common examples of products local agencies may standardize are fleet vehicles and computer equipment; both can have service components.

Factors and techniques that may be use in determining to standardize on a single brand or trade name can include the following considerations:

- Field testing to determine the product's suitability,
- To achieve interoperability with products currently in use such a computer hardware, software, systems or programs, and
- Demonstration of ongoing cost savings.

Approval required. Product standardization decisions must be approved by the City Manager or designee.

5.8 Surplus Personal Property Disposal

Surplus personal property is defined as equipment, furniture, materials, supplies, vehicles, etc., that no longer have a business purpose but are still usable and have salvage value, as determined by the appropriate approval authority noted below. Surplus personal property does not include real property.

- 1. Approval authority and disposition.** The approval authority to dispose of surplus personal property having salvage value is consistent with the first, second and third level designations used to determine the appropriate contract award authority (See [Section 3.6](#), Dollar Thresholds for Award Contracts).

Surplus property with salvage value must be disposed by public auction, by competitive sealed bids, or by exchange or trade-in for new goods. The sale or lease of surplus personal property to a governmental, public, or quasi-public agency may be without advertisement for or receipt of bids.

- 2. Property with no salvage value.** Surplus personal property with no salvage value, as determined by the City Manager or designee, must be disposed of in a manner that salvages recyclable components, if practical.
- 3. Unclaimed, seized, or abandoned property.** The City Manager or designee is authorized to sell or dispose of all goods in the possession of the Police Department which are unclaimed, seized and/or abandoned and may be legally disposed of by the City.
- 4. Records.** Each department shall keep records which indicate surplus personal property disposed of, the method of disposal, and the amounts recovered from its disposal. Such records must be available for public inspection and kept for a period of time in compliance with state law and the City's records retention schedule kept on file in the City Clerk's Office.
- 5. Donations.** Provided that advance written approval of the City Manager is obtained and appropriate indemnification from liability has determined by the City Attorney, surplus personal property may be donated in "as-is" condition to governmental, public or quasi-public agencies, charitable or non-profit organizations. Any such donation must be in further of a legitimate public purpose with appropriate findings pursuant to any applicable authority or limitation on the City.
- 6. Proceed of sale.** Proceeds from the sale of surplus personal property must be deposited into the appropriate city fund.

Chapter 6 – Procurement Risk Management

6.1 Overview

Every purchase made by staff carries an element of risk that must be mitigated through the use of contract terms and conditions that limit liability exposure, and through insurance requirements that contractors and consultants must meet in order to conduct business with the City.

6.2 Insurance Requirements

Many of the City's purchases require contractors and consultants to carry specific insurance coverage levels and terms. This is especially true for services that require work on City property and in the rights-of-way. Most importantly, contractors and consultants must insure the City through their insurance providers.

Standard insurance coverage includes commercial general liability, auto, worker's compensation, and professional liability. When procuring technology products and services, cyber liability coverage is required.

Prior to conducting a procurement, consult with Risk Management to determine if coverage is required, what types and levels of coverage are required, and whether standard coverage limits can be modified.

6.2.1 Evidence of Insurance Coverage

All contractors and consultants who must meet the City's insurance requirements must provide a Certificate of Insurance that includes all of the following elements:

- **Additional insured.** Insurance certificates must indicate that "The City, its elected and appointed officials, officers, attorneys, agents, employees, and volunteers" are covered as additional insureds for any liability arising from activities performed on behalf of contractors.
- **Additional insured endorsement.** It is essential that insurance certificates include a policy endorsement that extends the contractor's coverage to the City. The endorsement proves that the contractor's insurance company has acknowledged that a contractual relationship exists with the City and has amended the policy to extend coverage to the agency.
- **Coverage limits.** Risk Management, in conjunction with the City Attorney, has established minimum coverage limits that all contractors must meet. The limits may be adjusted upward or downward depending on project scope and potential liability. Standard coverage limits are \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

- **Minimum insurer requirements.** The insurers providing coverage to contractors must be authorized to conduct business in California and have minimum ratings comparable to A.M. Best A-/VII.

6.4 Insurance Not Required

Due to the low risk of liability, insurance is typically not required in the following instances:

- **Goods purchases.** Most goods purchases do not require vendors to insure the City, unless there is a service component that requires onsite services such as installation or ongoing maintenance work.
- **Off-site services.** Services that are provided off-site generally do not require insurance coverage. Examples include off-site or online training, repair or other routine services performed at a place of business.
- **Delivery services.** Delivery service companies such as Federal Express and United Parcel Service whose function is to deliver goods purchased from manufacturers or distributors of manufacturer's products do not typically require insurance.
- **Memberships.** Organizations for which the City pays membership fees are not required to meet insurance requirements.

6.5 Limiting City Liability

The City's contractual terms and conditions legally protect and limit the liability of the City in the event of a contractor default, product defects arising within or outside of warranty periods, design defects by consultants that can lead to accidents or injuries, etc. Key examples include:

- Termination provisions for convenience or due to lack of funding.
- Provisions ensuring contractors comply with local, state and federal laws and are appropriately licensed, insured and bonded.
- Indemnification provisions that require contractors to defend the City from claims arising from acts or omissions by the contractor/consultant or those to whom they are legally liable such as subcontractors.

Glossary of Purchasing Terms and Terminology

Additional insured. An essential component of an insurance certificate to establish that the “City, its elected and appointed officials, officers, attorneys, agents, employees and volunteers” are insured for any liability arising from activities performed on behalf of contractors working on City property or providing professional services to the City.

Additional insured endorsement. An essential component of an insurance certificate that signifies the insurer has amended a contractor’s or consultant’s insurance policy to extend coverage to the City.

Agreement. A mutual, written understanding between two or more competent parties, whereby one party agrees to perform as defined in the agreement and the other party agrees to compensation for the performance rendered in accordance with the agreement conditions. Agreement and contract may be used synonymously.

Amendment. An agreed upon written modification to an existing contract.

Appropriation. Authorization by the City Council to spend funds for City operations and infrastructure, or other designated purposes.

Award. The acceptance of a bid or proposal; or the presentation of a purchase order by the award authority or designee to a successful bidder or proposer.

Award authority. The governing body or staff person authorized to approve the purchase of goods and services on behalf of the City; the staff person(s) authorized to approve or execute procurement contracts and otherwise legally bind the City.

Best value procurement. A procurement that is awarded based on factors in addition to price. Best value procurements are mainly conducted through the competitive request for proposals (RFP) and request for qualifications (RFQ) processes.

Bid addendum. A document issued to all known participants (“plan holders”) in a competitive bid or proposal process that makes a change to the solicitation documents/project (i.e., changes to specifications), or process (like a bid due date extension).

Bid bond. A guarantee (cash, cashier’s check or bid bond) required to be submitted with bids or proposals that entitles the City to compensation if the low bidder fails to execute a contract.

Bid opening. The process by which sealed bids are publicly opened at an in-person or virtual location at the time and place specified in the invitation for bids (IFB) in the presence of at least one witness.

Blanket purchase order. A limited-term contract for goods and/or services based on unit pricing, typically for one-year renewable periods. Blanket purchase orders be established with estimated quantities, allowing end users flexibility to order products when needed, or for on-call services.

Competitive solicitation. The process of soliciting and obtaining formal and informal bids or proposals, including price quotations, from competing sources.

Conflict of interest. A conflict of interest in conjunction with a City purchase is a situation where an employee or a member of the employee's family stands to benefit financially from the procurement.

Contract. See Agreement.

Cooperative purchasing. A variety of arrangements where two or more public entities purchase goods and/or services from the same supplier or multiple suppliers using a single competitive bid or proposal; the combining of the requirements of two or more public entities to leverage the benefits of volume purchases, including administrative savings and other demonstrable advantages.

Encumbrance. An accounting entry related to the issuance of Purchase Order that commits an appropriated dollar amount to be spent.

Formal sealed bid. A procurement method for goods and/or services anticipated to be greater than \$50,000 where sealed invitation for bids (IFB) are submitted and publicly opened, with a contract awarded to the lowest responsive and responsible bidder.

Formal sealed proposal. A procurement method for goods and/or services anticipated to be greater than \$50,000 where sealed requests for proposals (RFP) or similar response documents are submitted and reviewed by an evaluation committee based on established criteria outlined in the solicitation document, with a contract awarded to the responsive and responsible proposer whose solution provides the best overall value to the City.

General services. Work performed or services rendered by independent contractors (excluding public works construction contracts) that does not typically require a license, certification or other professional criteria to perform the work. This includes services such as equipment maintenance, janitorial, printing, landscaping, machinery and equipment rental, refuse disposal; and utility.

Goods. Supplies, materials and equipment to be furnished or used by any department of the City, including items purchased by the City and furnished to contractors for use in public works projects.

Informal bid or proposal. Competitive bids or proposals anticipated to be no more than \$50,000 conducted under informal procurement procedures.

Insurance certificate. The document provided by a contractor/consultant's insurer that incorporates key elements and City requirements to show proof of agency insurance coverage by the insurer.

Invitation for bids (IFB). The type of solicitation document typically used in a competitive (formal) sealed bidding process. Components include but may not be limited to a bid invitation, instructions to bidders, bid schedule(s), terms and conditions, and technical specifications.

Lowest responsive and responsible bidder. The bidder to be awarded a contract whose bid fully complies with all material bid requirements, and whose past performance and financial capacity is determined to be acceptable and has offered the lowest price.

Offeror. An offeror is an individual or entity that responds to a bid or proposal or other solicitation with an offer to provide the requested goods and/or services.

Payment bond. A type of surety instrument which guarantees that contractors (or subcontractors) will pay their subcontractors, material suppliers or laborers for work and materials provided.

Qualifications-based selection. A process established by state or federal law that requires the selection of a professional services provider such as an architect, engineer, land surveyor, or construction management firm to be made on the basis of demonstrated competence *before* pricing can be considered.

Performance bond. A type of surety instrument which guarantees that the principal contractor will fulfill their contractual obligations under a project.

Pre-bid/proposal conference. A designated meeting during a solicitation period for contractors to hear about the business opportunity and ask process/technical questions. The pre-bid/proposal conference may be mandatory depending on the nature of a project.

Prevailing wages. The wage rates, including fringe benefits, paid to a majority of workers in a geographic area for the same type of work on similar projects as established by the California Department of Industrial Relations.

Professional services. Services, generally of an intangible nature that typically require a license, certification, and/or other professional criteria to perform the work as defined by the laws of the State of California including, but not limited to, Architect, Engineer, Land Surveyor, Attorney, Public Accountant as well as information technology services such as installation and implementation of information technology projects, software licensing and maintenance, and Software as a Service (SaaS).

Public project. Infrastructure improvement work as defined in [Public Contract Code section 22002](#), as it may be amended from time to time.

Purchase order. A legally binding contract issued by Finance to a vendor which includes the terms and conditions of a transaction and/or to encumber funds related to an agreement.

Purchase requisition. The document required to be submitted through the financial system to complete the procurement process. Purchase requisitions must be properly documented by the requesting department and approved by the appropriate authority.

Request for proposals (RFP). The solicitation document used to solicit proposals for goods and/or services from potential providers.

Request for qualifications (RFQ). The solicitation document used to solicit proposals when qualifications and experience are overriding considerations to price and are commonly used for architectural and engineering services or other highly specialized consultants.

Responsible bidder or proposer. A bidder or proposer who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the work.

Responsive bidder or proposer. A bidder or proposer whose submitted bid/proposal is in compliance with the instructions and requirements established by the City and set forth in the City's solicitation documents.

Services. Either general services or professional services.

Single source purchase. A situation where a good or services is available from more than one source, but a compelling justification can be made to source the purchase to one particular vendor based on cost, best value, bid impracticality, etc.

Sole source purchase. A situation where a good or service can only be obtained from one source due to its proprietary or specialized nature, or a situation where product/service compatibility is an overriding consideration to price.

Specifications. Any description of the physical or functional characteristics or of the nature of a supply or service. It may include a description of any requirement for inspecting, testing, or preparing a supply or service for delivery. There are two types of specifications: design and performance. Specifications developed for solution-based procurements may be referred to as “requirements,” and specifications associated with services may be referred to as a “scope of work” (however, a scope of work is often included in solicitation documents in addition to specifications or requirements).

Surplus personal property. Equipment, furniture, materials, supplies, vehicles, etc., that no longer have a business purpose but are usable or otherwise have salvage value. Surplus personal property does not include real property.

DRAFT

Attachments

Attachment A: Delegation of Contract Award Authority

Date

TO: Administrative Services Director

FROM: City Manager

CC: City Attorney
Public Works Director
City Clerk

SUBJECT: Delegation of Contract Award Authority

Effective immediately and continuing until further notice, I hereby delegate the following authorities to **insert staff member(s)** as defined in [Chapter 3.08](#) of the Municipal Code:

Ordinance Citation	Description of Delegated Authority
3.08.060	The authority to award and sign first level contracts for the purchase of goods and services up to \$50,000 in any one transaction.
3.08.060	The authority to award and sign first level contracts for public works construction contracts up to \$60,000 in any one transaction.
3.08.070	The authority to exempt goods and services purchases up to \$50,000 from competitive solicitation procedures.
3.08.120	The authority to dispose of surplus personal property with an estimated value of up to \$50,000.

This delegation is made with the following provisions:

1. All actions taken under the authority delegated above must be in full compliance with the requirements of the Municipal Code.
2. All actions taken under the authority delegated above must be fully documented; and such written documentation must be retained in the procurement records and available for public inspection.

City Manager

Attachment B: Competitive Bid/Proposal Exemption Request Form

COMPETITIVE BID/PROPOSAL EXEMPTION REQUEST (Purchases Greater than \$5,000)

Purchase Requisition No. _____

Please indicate your requested exemption(s) to the City's competitive bidding requirements, and provide brief written explanation in the space below:

- Professional or specialized services
- Emergency procurement, as defined in municipal code section 3.08.070
- Situations where solicitations of bids or proposals would for any reason be impractical, unavailing or impossible
- Procurements funded by grants, donations or gifts when the special conditions attached to the grants, donations or gifts require the procurement of particular goods and/or services
- Goods and/or services obtained from or through agreement with any governmental, public or quasi-public entity
- Works of art, entertainment or performance
- Goods procured for resale to the public
- Sole source for goods or services where the City's requirements can only be met by a single patented, copyrighted, or proprietary article or process available from a single source. (Examples of acceptable sole source purchases are equipment for which there is no comparable competitive product, a component or replacement part for which there is no commercially available substitute and which can only be obtained from the manufacturer, or an item where compatibility with items in use by the City is *the* overriding consideration.)
- Other

Justification for requesting an exemption (must accompany your request):

Requestor:

Department Director Approval:

Date Requested:

Date Approved:
