

# City of Atascadero



## Purchasing Policy

September 8, 2009

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# **SECTION I** **GENERAL**

## **PURPOSE AND SCOPE**

This document defines the procurement policies and procedures for the City of Atascadero.

## **1.0 GENERAL PROVISIONS**

The basic purchasing policy of the City of Atascadero is to obtain quality supplies, services, vehicles and equipment needed for the proper operation of its various divisions at the lowest possible overall cost. This includes maintaining a purchasing system that ensures maximum use of fair and open competition and receipt of the best value for funds available, consistent with applicable laws and regulations.

The purchasing functions are decentralized, with each Department/Division responsible for compliance with City policies and procedures. Purchasing responsibility and authority shall be delegated to the lowest possible level consistent with good business practice and sound financial management policy to the extent practical.

The following apply to all purchases made by the City of Atascadero:

1. No purchase will be approved or undertaken unless an appropriation has been established, through either the adopted annual budget or City Council approval of additional appropriations. It is the responsibility of the Department/Division to maintain budget control of their individual budgets. Ultimate responsibility for the individual budget rests with the Department Director.
2. All purchases shall be of the quality deemed necessary to suit the intended purpose, suitable, and beneficial to the City, and in the City's best interest.
3. Competitive quotations will be sought based on established dollar limits. Established dollar limits and procedures for specific purchase types are set out in this policy as follows:

General Supplies and Equipment- Section II

Proprietary Equipment and Goods- Section III

General Trade Services- Section IV

Professional Services- Section V

Public Works Contracts- Section VI

## **Section I – GENERAL**

### **1.0 GENERAL PROVISIONS (continued)**

Travel- Section VII

Petty Cash- Section VIII

Disposal of Assets- Section IX

4. Certain purchases are unique in nature and do not lend themselves to the process of competitive bidding. Therefore, these items are excluded from the competitive bidding and purchase order requirements in Sections II through VI. These items include, but are not limited to, County Services, debt service payments, and ongoing expenses for utilities or services (such as telephones, services agreements, etc.). The bill or invoice should be forwarded to the Administrative Services Director for authorization.
5. The dollar limits for purchases and bids are established by ordinance or resolution. Purchases shall not be split to avoid the required procedures or certain dollar limits.
6. Receipt of goods or services will be verified and approved by the appropriate official prior to payment of invoices.
7. The emergency purchase of goods is authorized under certain conditions.
8. The City Council may waive by majority vote any provision within this policy.
9. No purchase of supplies, services, or equipment over \$10,000.00 shall be made without an authorized purchase order unless exempted in these guidelines. Otherwise:
  - 8.1 Such purchases are void and not considered an obligation of the city.
  - 8.2 Invoices without an authorized purchase order may be returned to the vendor unpaid.
10. No City employee shall have a direct or indirect financial interest in any contract or purchase of goods or services entered into by the City, or shall derive any personal benefit from the City's purchase of goods or services.
11. No City employee shall use the City's purchasing procedures to obtain property for personal use, by misrepresenting to vendors for the purpose of obtaining price discounts that the personal purchases are for the City.
12. No City employee shall draft or cause to be drafted any specifications for bids in such a way as to intentionally limit the bidding directly or indirectly to any one bidder, except for the sole source procurement.

## **Section I – GENERAL**

### **1.0 GENERAL PROVISIONS (continued)**

#### 13. Local Vendor Preferences

- 13.1 Although no preferences are available to Public Works projects, a five percent (5%) variance will be allowed for the purchase of operating equipment, supplies, and trade services from vendors located within City limits.
- 13.2 When soliciting informal quotes, local vendors should be used whenever practical. Use of non-local vendors should be limited to those vendors with a clearly demonstrated advantage in terms of expertise, product, service and/or price.
- 13.3 Local Vendor is defined in a relative sense: a vendor located in Atascadero is more “local” than one from the North County. A North County vendor is more “local” than one from San Luis Obispo City. But a vendor from San Luis Obispo County is still more “local” than other counties or states.
- 13.4 For purposes of the five percent variance, only businesses with an Atascadero address and a business license (if required) are eligible.

### **2.0 FEDERAL, STATE AND OTHER GRANT PROGRAMS**

Federal, State, or grant programs may require special conditions that are more stringent than City procedures. It is the responsibility of the department accepting the grant to ensure that all grant provisions are complied with.

### **3.0 SIGNATURE AUTHORIZATION**

1. Each Department Head shall complete and forward to Administrative Services a Signature Authorization form, identifying those employees approved by the Department Head to sign off on various financial and other administrative documents. The form shall be developed by the Administrative Services Director and revised from time to time as needed.
2. The form shall identify specific Departments, Divisions or Programs, the employee’s name and signature and list specific documents each employee is authorized to sign. It is the Department Head’s responsibility to keep the information current.
3. Any documents missing the appropriate signature(s) will be returned to the originating department.

## **Section I – GENERAL**

### **3.0 SIGNATURE AUTHORIZATION (continued)**

4. Only Regular or Probationary City employees are authorized to sign off on documents obligating the City to expend public monies. Temporary or Volunteer employees, or individuals under contract with the City, may be able to acquire items but any receipts must be countersigned by an authorized employee.
5. The number of authorized signatures should be kept to a minimum, to assure better control over departmental appropriations.

### **4.0 DEPARTMENT RESPONSIBILITIES**

It is the responsibility of the acquiring Department/Division to:

1. Make purchases in accordance with established policies and procedures.
2. Verify that an appropriation is available for the purchase.
3. Anticipate the Department/Divisions' needs well in advance in order to minimize the need for emergency purchases.
4. Review goods and services received to ensure conformity with purchase order or contract.
5. When a cost discrepancy for goods or services dissatisfaction arises, notify the Administrative Services Department. No bill should be processed for payment when the goods or serves are unsatisfactory, or there is a price discrepancy between the originally quoted price and the bill received.

### **5.0 PAYMENT AUTHORIZATION**

1. An authorized signature on the invoice, receipt or other backup shall be considered authorization for payment. The signature shall indicate that the signer has:
  - Verified that the City has received the goods or services in good working condition.
  - Verified that the purchase complies with this purchasing policy and that funds are available for the purchase.
2. In certain instances it may be in the City's best interest to issue payment prior to receipt of the authorizing signature on the invoice. The City Manager or the Director of Administrative Services may authorize payment in those instances.
3. Checks shall be processed and issued by an employee other than check signer.
4. All payments in excess of \$25,000 shall require two live signatures on the checks.

**Section II**  
**GENERAL SUPPLIES, MATERIALS**  
**AND EQUIPMENT**

**PURPOSE**

Provide guidelines for the purchase of general supplies, materials and equipment. Supplies, materials and equipment shall consist of any and all articles or things which shall be furnished to or used by any department, excluding proprietary equipment and goods (Section III) and any goods purchased as part of a Public Works Project (Section VI).

In instances where goods and services are purchased together from one vendor, this section shall only apply if the predominant portion of the purchase is goods. (i.e. A purchase of equipment for \$1,000 with a \$300 installation fee would be covered under this section of the policy. A repair of equipment with \$1,000 in labor and \$300 in parts would be covered under Section IV- General Trade Services)

**POLICIES**

There are three levels of authority for normal purchases: Department/Division Award, City Manager Award, and City Council Award. Generally, authority is established by the dollar amount of the purchase.

**1.0 DEPARTMENT/DIVISION AWARD < \$10,000.01**

The Department/Division manager may authorize the purchase of supplies, equipment, or services as needed up to \$10,000.

These purchases do not require competitive bidding and departments are given considerable discretion in these purchases.

**2.0 CITY MANAGER AWARD \$10,000.01 to \$40,000.00**

Material/supply purchases over \$10,000 and under \$40,000.01 must be awarded by the City Manager or the Director of Administrative Services. Informal bidding should be used to assure the most competitive price is received for an item, while avoiding the additional time and expense involved in formal bidding.

2.1 Informal Quotes:

The Department/Division shall make every attempt to receive at least three bids in writing or over the phone.

## **Section II – GENERAL SUPPLIES, MATERIALS AND EQUIPMENT**

### **2.0 CITY MANAGER AWARD \$10,000.01 to \$40,000.00 (continued)**

- a) Phone Bids: Phone bids must be documented to the satisfaction of the Director of Administrative Services. Ideally, documentation should include the name of the company bidding, the person giving the quote, the date and time of the phone call, the amount quoted and any other relevant information.
- b) Three Quotes: The Department/Division should make every reasonable attempt to obtain at least three bids, however it is understood that at times it is neither practical nor cost effective to continue soliciting quotes until three bids are received. In the event that three viable quotes are not received, the division shall document what steps were taken to obtain quotes, any vendors contacted that declined to bid, and if applicable why it is not practical to receive three quotes.
- c) Exceptions: The informal bid process may be bypassed with Department Head and City Manager or the Director of Administrative Services approval in the following four instances:
  - 1. In emergency situations where time is of the essence, the appropriate Department Head may dispense with obtaining three informal quotes to obtain materials necessary in dealing with the emergency. Immediately following the emergency, the Department Head shall forward a copy of the purchase order along with an explanation to the City Manager or the Director of Administrative Services.
  - 2. When one known supplier is available, the Department Head/Division Head shall document that it is a “sole source” purchase. Most sole source purchases shall be the result of the City deciding that it is in its best interest to use a specific proprietary brand item. (i.e. For ease of maintenance, the City may choose to only purchase one brand of computers).
  - 3. When there exists other governmental contracts that were competitively bid (such as State Contracts, DGS, etc.) that the City is eligible to use.
  - 4. When an item has been bid within the last 36 months and the price has not changed.
- d) Evaluating Bids: The Department/Division shall evaluate the three informal quotes received and determine the lowest most responsible bid. The City reserves the right to accept that bid which is in the best interest of the City. When selecting the recommended bidder the Department/Division Head will take into consideration:
  - 1. Price.
  - 2. Ability, capacity, and skill.
  - 3. Ability to meet time requirements.
  - 4. Character, integrity, and reputation.
  - 5. Previous vendor experience.

## **Section II – GENERAL SUPPLIES, MATERIALS AND EQUIPMENT**

### **2.0 CITY MANAGER AWARD \$10,000.01 to \$40,000.00 (continued)**

d) Evaluating Bids (continued):

6. Financial resources available for contract performance.
7. Ability to provide future maintenance and service, if necessary.

#### **2.2 Purchase Order**

A purchase order shall be prepared detailing the vendor name, address, item being purchased, total price including tax and shipping, and budget account to be charged. The purchase order shall be signed and dated by the authorized Department/Division employee. (If an exception was used to bypass informal bidding procedures, the P.O. must be signed by the Department Head)

The purchase order packet shall be submitted to the City Manager or the Director of Administrative Services for approval and should include a copy of the informal bid summary. He/she will review the purchase order packet for conformity to the purchasing policy, for compliance with other established procedures and for availability of funds. The City Manager or the Director of Administrative Services shall then approve and sign the purchase order.

#### **2.3 Purchasing Item**

Once the Department/Division has received the approved Purchase Order from the City Manager or the Director of Administrative Services, they may contact the vendor and purchase the item. Items must generally be shipped to a City address or worksite. If the product will be shipped to an alternate location, this should be cleared through the Administrative Services Department in advance.

#### **2.4 Change Orders**

The City Manager is authorized to issue change orders for changes or additions to the original material/supply purchase that result in less than a \$40,000 overall contract amount. Change orders in excess of the \$40,000 total contract amount shall be brought to the City Council for approval.

## **Section II – GENERAL SUPPLIES, MATERIALS AND EQUIPMENT**

### **3.0 CITY COUNCIL AWARD > \$40,000.00**

Material/supply purchases over \$40,000 must be awarded by the City Council. Formal bidding should be used to assure all possible vendors are given the opportunity to bid on major City purchases, thereby assuring the City that it has received the most competitive price. The formal process generally takes more time and expense than informal bidding and in some instances may actually not be the most cost-effective approach.

#### **3.1 Formal Bidding**

The initiating Department/Division shall be responsible for completion of the formal bid process, however the process shall be coordinated with the City Clerk's Office and the Administrative Services Department.

- a) **Bid Forms:** The initiating department shall prepare a bid form including detailed specifications for the item to be purchased. The following format is suggested for competitive bids
1. Submission of bids (or proposals) – Include date, time, location and bid number as assigned by the City Clerk. Include a detailed list of the information the bid or proposal should contain.
  2. Questions – List the name, address, and telephone number of the person to be contacted concerning questions about the project.
  3. Background – Provide as much background as necessary to give the bidder an understanding of the environment in which the job will be performed and to which the job relates.
  4. Scope of work – Describe in detail the requirement for the job and detail specification.
  5. Desired project schedule – Be as specific as possible.
  6. Minimum and desirable qualifications – Be as specific as possible.
  7. Performance Bond – Whether a performance bond is required and if so, the amount and form of bidders security.
- b) **Notice Inviting Bids:** The initiating department shall also prepare a notice inviting bids that includes the following:
1. A general description of the item to be purchased.
  2. A statement indicating where bid forms, specifications and bonding requirements can be obtained.
  3. A statement specifying the time and place for the opening of the bid.

## **Section II – GENERAL SUPPLIES, MATERIALS AND EQUIPMENT**

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (continued)**

- b) Notice Inviting Bids (continued)
  - 4. Per California Public Contract Code Section 20164, the first publication of the notice shall be at least ten days before the date of opening the bids. The notice shall be published at least twice, not less than five days apart, in a newspaper of general circulation, printed and published in the City. The notice may also be sent to all applicable vendors.
- c) Bid Opening
  - 1. Sealed bids shall be submitted to the City Clerk's office and shall be clearly identified with the Bid number on the envelope. Faxed or other electronic bids are not acceptable.
  - 2. Bids shall be opened in public at the time and place stated in the public notice.
  - 3. The City Clerk or his/her designee shall open the bids and shall record all bids received.
  - 4. Any bid received after the time specified in the notice shall be rejected.
  - 5. When a bidder's security is required, it will be announced in the public notice inviting bids. The amount shall be determined at the time of preparation of the bid. It shall be in the form of cash, certified or cashier's check, certificate of deposit in City of Atascadero's name, or bid bond made payable to the City of Atascadero. When a bidder's security is required, a bid shall not be considered unless one of the aforementioned forms of security accompanies the bid. Bidders shall be entitled to return of the bid security with the following exception:
    - The successful bidder must execute the contract and file acceptable documents within thirty (30) calendar days from the date of award unless extended by the City Manager. Failure to execute the contract shall be just cause for annulment of the award and forfeiture of the bidder's security, not as a penalty, but as liquidated damages. The City Council may, upon refusal or failure of the successful bidder to execute the contract, award the contract to the next lowest responsible bidder.
  - 6. All bids received shall be available for inspection during regular business hours in the City Clerk's office for a period of not less than thirty (30) calendar days after the bid opening.
- d) Rejection of Bids: The City reserves the right to reject any and all bids, to accept or reject any one or more items of a bid, or to waive any irregularities or informalities in the bids or the bidding process if to do so is deemed to best serve the interests of the City.

## **Section II – GENERAL SUPPLIES, MATERIALS AND EQUIPMENT**

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (continued)**

- e) Determining Lowest Responsible Bidder: Award of bid shall be to the lowest responsible bidder. All valid responsible bids shall be considered in determining the lowest bid. The City reserves the right to accept that bid which is in the best interest of the City. When selecting the recommended bidder the Department/Division Head will take into consideration:
  - 1. Price.
  - 2. Ability, capacity, and skill.
  - 3. Ability to meet time requirements.
  - 4. Character, integrity, and reputation.
  - 5. Previous vendor experience.
  - 6. Financial resources available for contract performance.
  - 7. Ability to provide future maintenance and service, if necessary.
- f) Local Vendor Preference: The City has established a policy that provides for a five percent (5%) preference to local bidders and vendors. (See Section I – General Policies). This is accomplished by reducing the local vendor’s bids by 5% when comparing such bids to those of other bidders.
- g) Tie Bids: If tie bids are received, quality and service being equal, the contract shall be awarded to a local bidder.
  - 1. If the above condition is not applicable, the City may, at its discretion:
    - Reject any and all bids presented and re-advertise; or
    - If the public interest will not permit the delay of re-advertising for bids, the City may accept either one or accept the lowest bid made by negotiation with the tie bidders; or
    - Award the bid to any one of the low tie bidders by public drawing.
- h) Exceptions to Formal Bidding: The formal bid process may be bypassed in the following four instances:
  - 1. In emergency situations where time is of the essence, the appropriate Department Head may dispense with obtaining formal quotes to obtain materials necessary in dealing with the emergency. Immediately following the emergency, the appropriate Department Head shall prepare a report to Council explaining the emergency and the items purchased.
  - 2. When one known supplier is available, the Department Head shall prepare a report for Council approval requesting an exemption from the formal bidding procedures and if applicable awarding the bid to the “sole source.”
  - 3. When there exists other governmental contracts that were competitively bid (such as State Contracts, DGS, etc.) that the City is eligible to use in lieu of a formal bid.

## **Section II – GENERAL SUPPLIES, MATERIALS AND EQUIPMENT**

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (continued)**

#### h) Exceptions to Formal Bidding (continued)

4. When there are extenuating circumstances that would make formal bidding not the most cost effective approach. This often relates to qualitative, artistic or proprietary software/technological issues. The appropriate Department Head shall prepare a report to Council requesting an exemption from the formal bidding procedures.

#### 3.2 Awarding the Bid

Once the bids have been evaluated, the Department Head/Division Head shall prepare a report to Council recommending the most responsive bidder. The Council shall then award the bid in a public meeting.

Except for urgencies all contracts exceeding \$40,000.00 must be awarded by the City Council. Otherwise:

- Such purchases are void and not considered an obligation of the City.
- Invoices may be returned to the contractor/service provider unpaid.

The person ordering the unauthorized purchase may be held personally liable for the costs of the contract. 3.3 Purchase Order

- a) A purchase order shall also be prepared detailing the vendor's name, the item being purchased, and the estimated total price of the item being purchased and budget account to be charged. The purchase order shall be signed and dated by the authorized Department/Division employee. (If an exception was used to bypass informal bidding procedures, the P.O. must be signed by the Department Head)
- b) The entire purchase order shall be submitted to the City Manager or the Director of Administrative Services for approval and should include a copy of the Staff Report. He/she will review the purchase order package for conformity to the purchasing policy, for compliance with other established procedures and for availability of funds. The City Manager or the Director of Administrative Services shall then approve and sign the purchase order. The original P.O. shall then be forwarded to the originating Department/Division.

#### 3.4 Change Orders

The City Manager is authorized to issue change orders for changes or additions to the original material/supply purchase that result in less than a 20% aggregate change in contract price. Change orders in excess of 20% shall be brought to the City Council for approval.

## **Section III**

### **PROPRIETARY EQUIPMENT AND GOODS**

#### **PURPOSE**

Provide guidelines for the purchase of equipment/software and other artistic goods that may only be purchased through a proprietary vendor. There is no bidding requirement for this type of purchase, since the item is being purchased based on qualification, rather than price.

Proprietary vendors are those vendors that directly sell their products and do not use distributors or other outlets. (i.e. Inforum software may only be purchased through Eden Systems, therefore it would be a “proprietary purchase” and covered under this section. Microsoft Word may be purchased at many different stores and therefore not a “proprietary purchase”)

#### **POLICIES**

There are three levels of authority for normal purchases: Department/Division Award, City Manager Award, and City Council Award. Generally, authority is established by the dollar amount of the purchase.

#### **1.0 DEPARTMENT/DIVISION AWARD < \$10,000.01**

The Department/Division manager may authorize the purchase of proprietary goods as needed up to \$10,000.

These purchases do not require competitive bidding and departments are given considerable discretion in these purchases.

#### **2.0 CITY MANAGER AWARD \$10,000.01 to \$40,000.00**

Proprietary purchases over \$10,000 and under \$40,000.01 must be awarded by the City Manager or the Director of Administrative Services. These purchases shall have sufficient documentation of background analysis to support the purchase. Informal solicitation of qualifications should be used to assure quality goods are received for a reasonable price.

## **SECTION III – PROPRIETARY EQUIPMENT AND GOODS**

### **2.0 CITY MANAGER AWARD \$10,000.01 to \$40,000.00 (continued)**

#### 2.1 Informal Product Review

The Department/Division shall make every attempt to review at least three products/qualifications in writing, over the phone, or in person.

- a) Documentation- Informal product review must be documented to the satisfaction of the City Manager or the Director of Administrative Services. Ideally, documentation should include:
  1. The name of the company
  2. Pros/Cons of the product
  3. Estimated Price
  4. The person giving the quote
  5. The date and time of the phone call
  6. Brief justification for the selection of the goods
- b) Review of Three Products: The Department/Division should make every reasonable attempt to review at least three products; however it is understood that at times it is not practical or possible to review the products. In the event that three products are not reviewed, the Department/Division shall document why it is not practical to review alternate products.
- c) Exceptions: The informal product review process may be bypassed with Department Head and City Manager or the Director of Administrative Services approval in the following instances:
  1. In emergency situations where time is of the essence, the appropriate Department Head may dispense with informal product review process to obtain items necessary in dealing with the emergency. Immediately following the emergency, the Department Head shall forward a copy of the purchase order and contract along with an explanation to the City Manager or the Director of Administrative Services.
- d) Evaluating Products: The Department Head or designee(s) shall select the product which, in their evaluation process, is the best solution for the City.
- e) Negotiation: The Department Head or designee(s) shall discuss with the highest ranked vendor the requirements of the City and negotiate a reasonable fee for the product/items being purchased.

## **SECTION III – PROPRIETARY EQUIPMENT AND GOODS**

### **2.0 CITY MANAGER AWARD \$10,000.01 to \$40,000.00 (continued)**

#### 2.2 Contract and Purchase Order

- a) A contract shall be prepared and two original copies shall be signed by the consultant and the Department Head.
- b) A purchase order shall also be prepared detailing the vendor's name, the item being purchased, and the estimated total price of the item being purchased and budget account to be charged. The purchase order shall be signed and dated by the authorized Department/Division employee. (If an exception was used to bypass informal bidding procedures, the P.O. must be signed by the Department Head)
- c) The entire purchase order and both original copies of the contract (if applicable) shall be submitted to the City Manager or the Director of Administrative Services for approval and should include a copy of the informal bid summary. He/she will review the contract and purchase order package for conformity to the purchasing policy, for compliance with other established procedures and for availability of funds. The City Manager or the Director of Administrative Services shall then approve and sign the purchase order. The original P.O. and one original copy of the executed contract shall then be forwarded to the originating Department/Division.

#### 2.3 Executing the Contract

Once the Department/Division has received the approved Purchase Order and an original copy of the contract from the City Manager or the Director of Administrative Services, they may make arrangements with the vendor for purchase of the product.

#### 2.4 Change Orders

The City Manager is authorized to issue change orders for changes or additions to the original purchase of proprietary equipment and goods that result in less than a \$40,000 overall contract amount. Change orders in excess of the \$40,000 total contract amount shall be brought to the City Council for approval.

### **3.0 CITY COUNCIL AWARD > \$40,000.00**

Proprietary purchases exceeding \$40,000 must be awarded by the City Council. A more formal evaluation should be used, thereby assuring the City that it has purchased the best product fit for the City. The formal process generally takes more time and expense than informal solicitations and in some instances may actually not be the most cost-effective approach.

## **SECTION III – PROPRIETARY EQUIPMENT AND GOODS**

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (continued)**

#### 3.1 Formal Evaluation of Products/Goods:

- a) To ensure maximum exposure and competition, the responsible department shall prepare a list of potential firms from which to solicit quotes. City staff shall make reasonable efforts to ensure that small business firms, located in San Luis Obispo County, are aware of the purchase.
- b) A Selection Committee shall be formed to evaluate the submitted data and determine the products that should receive further consideration. The Committee shall be appointed by the Department Head, subject to the approval of the City Manager or the Director of Administrative Services, and may consist of more than one department.
  1. The Selection Committee may choose to interview all of the responding vendors, only the top few ranking vendors or to not perform interviews.
  2. The Selection Committee may also choose to view demonstrations of all of the products (either at a working site or at the City), only the top few ranking products or to not view demonstrations
  3. After the interviews, demonstrations and site visits (as applicable), the Selection Committee shall rank the products.

Negotiation: The Department Head or designee(s) shall discuss with the highest ranked vendor the requirements of the City and negotiate a reasonable fee/contract.

Exceptions to Formal Bidding: The formal bid process may be bypassed in the following four instances:

1. In emergency situations where time is of the essence, the appropriate Department Head may dispense with obtaining formal quotes to obtain materials necessary in dealing with the emergency. Immediately following the emergency, the appropriate Department Head shall prepare a report to Council explaining the emergency and the items purchased.
2. When there are extenuating circumstances that would make formal bidding not the most cost effective approach. This often relates to qualitative, artistic or proprietary software/technological issues. The appropriate Department Head shall prepare a report to Council requesting an exemption from the formal bidding procedures.

## **SECTION III – PROPRIETARY EQUIPMENT AND GOODS**

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (continued)**

#### 3.2 Awarding the Contract:

The Department Head/Division Head shall prepare a report to Council recommending the top ranked product. The Council shall then award the purchase in a public meeting.

Except for urgencies all contracts exceeding \$40,000.00 must be awarded by the City Council. Otherwise:

- Such purchases are void and not considered an obligation of the City.
- Invoices may be returned to the contractor/service provider unpaid.
- The person ordering the unauthorized purchase may be held personally liable for the costs of the contract.

#### 3.3 Contract and Purchase Order

- a) A contract may be prepared as applicable and two original copies shall be signed by the vendor.
- b) A purchase order shall also be prepared detailing the vendor's name, item being purchased, estimated total price of the item being purchased and budget account to be charged. The purchase order shall be signed and dated by the Department Head.
- c) The City Attorney shall sign the two original copies of the contract, approving it as to form.
- d) The City Manager or his/her Council designee shall sign the two original copies of the contract, approving it as to form.
- e) The entire purchase order, and both copies of the contract shall be submitted to the City Manager or the Director of Administrative Services for approval and should include a copy of the Staff Report. He/she will review the contract and purchase order package for conformity to the purchasing policy, for compliance with other established procedures and for availability of funds. The City Manager or the Director of Administrative Services shall then approve and sign the purchase order.
- f) One copy of the executed contract shall be returned to the contractor/service provider and the other original shall remain in the City Clerk's Office. A copy of the executed contract shall be sent to the initiating department and a copy to the Administrative Services Department.

## **SECTION III – PROPRIETARY EQUIPMENT AND GOODS**

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (continued)**

#### 3.4 Change Orders

The City Manager is authorized to issue change orders for changes or additions to the original purchase of proprietary equipment and goods that result in less than a 20% aggregate change in contract price. Change orders in excess of 20% shall be brought to the City Council for approval.

## **Section IV**

### **GENERAL TRADE SERVICES**

#### **PURPOSE**

Provide guidelines for the purchase of trade contractual services. Trade services shall mean the repair, rental or maintenance of equipment, machinery and other City-owned or operated property. Included within this term are services necessary for the routine operation, repair or maintenance of existing buildings or improvements. **The term does not include services rendered by professionals and other services which are unique in nature and not subject to competition.**

In instances where goods and trade services are purchased together from one contractor/service provider, this section shall only apply if the predominant portion of the purchase is services (i.e. repair of equipment with \$1,000 in labor and \$300 in parts would be covered under this section of the policy. A purchase of equipment for \$1,000 with a \$300 installation fee would be covered under Section II- General Supplies, Materials and Equipment).

#### **POLICIES**

There are three levels of authority for normal purchases: Department/Division Award, City Manager Award, and City Council Award. Generally, authority is established by the dollar amount of the purchase.

#### **1.0 DEPARTMENT/DIVISION AWARD < \$10,000.01**

The Department/Division manager may authorize the purchase of services as needed up to \$10,000 per project or annually (for ongoing maintenance contracts) as applicable. Projects that would typically be performed by one contractor/service provider may not be split into components in order to avoid purchasing limits.

These purchases do not require competitive bidding and departments are given considerable discretion in these purchases.

The Department/Division will obtain a completed IRS form W-9 from the contractor/service provider prior to awarding the contract. The W-9, shall immediately be forwarded to the Administrative Services department in order to comply with State Reporting Requirements.

## SECTION IV – GENERAL TRADE SERVICES

### **2.0 CITY MANAGER AWARD \$10,000.01 to \$40,000.00**

Trade service awards over \$10,000 and under \$40,000.01 must be awarded by the City Manager or the Director of Administrative Services. Informal bidding should be used to assure the most competitive price is received for an item, while avoiding the additional time and expense involved in formal bidding.

#### 2.1 Informal Quotes:

The Department/Division shall strive to receive three bids in writing or over the phone, whenever possible.

- a) Documentation: Bids received over the phone or in writing must be documented to the satisfaction of the City Manager or the Director of Administrative Services. Ideally, documentation should include the name of the company bidding, the person giving the quote, the date and time of the contact, the amount quoted and any other relevant information.
- b) Exceptions: The informal bid process may be bypassed with Department Head and City Manager or the Director of Administrative Services approval in the following five instances:
  1. In emergency situations where time is of the essence, the appropriate Department Head may dispense with obtaining three informal quotes to obtain services necessary in dealing with the emergency. Immediately following the emergency, the Department Head shall forward a copy of the purchase order along with an explanation to the City Manager or the Director of Administrative Services.
  2. When one known service provider is available, the Department Head/Division shall document that it is a “sole source” purchase.
  3. When there exists other governmental contracts that were competitively bid (such as State Contracts, DGS, etc.) that the City is eligible to use.
  4. When an item has been bid within the last 36 months and the price has not changed.
  5. When it is not practical nor cost effective to continue soliciting quotes until three bids are received, the Department Head at his/her discretion may choose the vendor best suited for the needs of the particular project.
- c) Evaluating Bids: The Department/Division shall evaluate the three informal quotes received and determine the lowest most responsible bid. The City reserves the right to accept that bid which is in the best interest of the City.

## SECTION IV – GENERAL TRADE SERVICES

### **2.0 CITY MANAGER AWARD \$10,000.01 to \$40,000.00 (Continued)**

c) Evaluating Bids (continued):

When selecting the recommended bidder the Department/Division Head will take into consideration:

1. Price.
2. Ability, capacity, and skill.
3. Ability to meet time requirements.
4. Character, integrity, and reputation.
5. Previous contractor/service provider experience.
6. Financial resources available for contract performance.
7. Ability to provide future maintenance and service, if necessary.

#### 2.2 Contract and Purchase Order

- a) A contract shall be prepared and two original copies shall be signed by the contractor/service provider and Department Head.
- b) A purchase order shall also be prepared detailing the contractor/service provider name, service being purchased, estimated total price of the service being purchased and budget account to be charged. The purchase order shall be signed and dated by the authorized Department/Division employee. (If an exception was used to bypass informal bidding procedures, the P.O. must be signed by the Department Head)
- c) The Department/Division will obtain a completed IRS form W-9 from the contractor/ service provider.
- d) The entire purchase order, the W-9 and both original copies of the contract shall be submitted to the City Manager or the Director of Administrative Services for approval and should include a copy of the informal bid summary. He/she will review the contract and purchase order package for conformity to the purchasing policy, for compliance with other established procedures and for availability of funds. The City Manager or the Director of Administrative Services shall then approve and sign the purchase order. The original P.O. and one original copy of the executed contract shall then be forwarded to the originating Department/Division.

#### 2.3 Executing the Contract

Once the Department/Division has received the approved Purchase Order and an original copy of the contract from the City Manager or the Director of Administrative Services, they may make arrangements with the contractor/service provider for services.

## SECTION IV – GENERAL TRADE SERVICES

### **2.0 CITY MANAGER AWARD \$10,000.01 to \$40,000.00 (Continued)**

#### 2.4 Renewals

Contracts for ongoing services may include annual renewal provisions for up to five years, however in no instance may the contract exceed \$40,000.00 in any one year. Cost increases related to such renewals shall not exceed the Consumer Price Index (CPI) adjustments unless approved in advance by the City Manager.

#### 2.5 Change Orders

The City Manager is authorized to issue change orders for changes or additions to the original scope of work that result in less than a \$40,000 overall contract amount. Change orders in excess of the \$40,000 total contract amount shall be brought to the City Council for approval.

### **3.0 CITY COUNCIL AWARD > \$40,000.00**

Trade service contracts exceeding \$40,000 must be awarded by the City Council. Formal bidding should be used to assure all possible contractor/service providers are given the opportunity to bid on major City contracts, thereby assuring the City that it has received the most competitive price. The formal process generally takes more time and expense than informal bidding and in some instances may actually not be the most cost-effective approach.

#### 3.1 Formal Bidding

The initiating Department/Division shall be responsible for completion of the formal bid process, however the process shall be coordinated with the City Clerk's Office and the Administrative Services Department.

- a) Bid Forms: The initiating department shall prepare a bid form including detail specifications for the services to be purchased. The following format is suggested for competitive bids:
  1. Submission of bids (or proposals) – Include date, time, location and bid number as assigned by the City Clerk. Include a detail list of the information the bid or proposal should contain.
  2. Questions – List the name, address, and telephone number of the person to be contacted concerning questions about the project.
  3. Background - Provide as much background as necessary to give the bidder an understanding of the environment in which the job will be performed and to which the job relates.
  4. Scope of work – Describe in detail the requirement for the job and detail specification

## SECTION IV – GENERAL TRADE SERVICES

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (Continued)**

- a) Bid Forms (continued)
  - 5. Desired project schedule – Be as specific as possible.
  - 6. Minimum and desirable qualifications – Be as specific as possible.
  - 7. Performance Bond- Whether a performance bond is required and if so, the amount and form of bidders security.
  - 8. Sample Contract- A sample of the contract that is expected to be used should be included in the bid package.
- b) Notice Inviting Bids: The initiating department shall also prepare a notice inviting bids that includes the following:
  - 1. A general description of the services to be purchased.
  - 2. A statement indicating where bid forms, specifications and bonding requirements can be obtained.
  - 3. A statement specifying the time and place for the opening of the bids.
  - 4. Per California Public Contract Code Section 20164, the first publication of the notice shall be at least ten days before the date of opening the bids. The notice shall be published at least twice, not less than five days apart, in a newspaper of general circulation, printed and published in the City. The notice may also be sent to all applicable contractor/service providers.
- c) Bid Opening
  - 1. Sealed bids shall be submitted to the City Clerk’s office and shall be clearly identified with the Bid number on the envelope. Faxed or other electronic bids are not acceptable.
  - 2. Bids shall be opened in public at the time and place stated in the public notice.
  - 3. The City Clerk or his/her designee shall open the bids and shall record all bids received.
  - 4. Any bid received after the time specified in the notice shall be rejected.
  - 5. When a bidder’s security is required, it will be announced in the public notice inviting bids. The amount shall be determined at the time of preparation of the bid. It shall be in the form of cash, certified or cashier’s check, certificate of deposit in the City of Atascadero’s name or bid bond made payable to the City of Atascadero. When a bidder’s security is required, a bid shall not be considered unless one of the aforementioned forms of security accompanies the bid. Bidders shall be entitled to return of the bid security with the following exception:
    - The successful bidder must execute the contract and file acceptable documents within thirty (30) calendar days from the date of award unless

## SECTION IV – GENERAL TRADE SERVICES

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (Continued)**

extended by the City Manager. Failure to execute the contract shall be just cause for annulment of the award and forfeiture of the bidder's security, not as a penalty, but as liquidated damages. The City Council may, upon refusal or failure of the successful bidder to execute the contract, award the contract to the next lowest responsible bidder.

6. All bids received shall be available for inspection during regular business hours in the City Clerk's office for a period of not less than thirty (30) calendar days after the bid opening.
- d) Rejection of Bids: The City reserves the right to reject any and all bids, to accept or reject any one or more items of a bid, or to waive any irregularities or informalities in the bids or the bidding process if to do so is deemed to best serve the interests of the City.
- e) Determining Lowest Responsible Bidder: Award of bid shall be to the lowest responsible bidder. All valid responsible bids shall be considered in determining the lowest bid. The City reserves the right to accept that bid which is in the best interest of the City. When selecting the recommended bidder the City staff will take into consideration:
  1. Price.
  2. Ability, capacity, and skill.
  3. Ability to meet time requirements.
  4. Character, integrity, and reputation.
  5. Previous contractor/service provider experience.
  6. Financial resources available for contract performance.
  7. Ability to provide future maintenance and service, if necessary
- f) Local Contractor/Service Provider Preference: The City has established a policy that provides for a five percent (5%) preference to local bidders and contractor/service providers. (See Section I – General). This is accomplished by reducing the local contractor/service provider's bids by 5% when comparing such bids to those of other bidders.
- g) Tie Bids: If tie bids are received, quality and service being equal, the contract shall be awarded to a local bidder.

If the above condition is not applicable, the City may, at its discretion:

1. Reject any and all bids presented and re-advertise; or
2. City may accept either one or accept the lowest bid made by negotiation with the tie bidders; or
3. Award the bid to any one of the low tie bidders by public drawing

## SECTION IV – GENERAL TRADE SERVICES

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (Continued)**

- h) Exceptions to Formal Bidding: The formal bid process may be bypassed in the following four instances:
1. In emergency situations where time is of the essence, the appropriate Department Head may dispense with obtaining formal quotes to obtain services necessary in dealing with the emergency. Immediately following the emergency, the appropriate Department Head shall prepare a report to Council explaining the emergency and the items purchased.
  2. When one known service provider is available, the Department Head shall prepare a report for Council approval requesting an exemption from the formal bidding procedures and if applicable awarding the bid to the “sole source.”
  3. When there exists other governmental contracts that were competitively bid that the City is eligible to use in lieu of a formal bid.
  4. When there are extenuating circumstances that would make formal bidding not the most cost effective approach. This often relates to qualitative, artistic or proprietary software/technological issues. The appropriate Department Head shall prepare a report to Council requesting an exemption from the formal bidding procedures.
- i) Ongoing Professional Services
1. In some instances it is in the best interest of the City to have current ongoing contracts with multiple consultants for the same or very similar services. (i.e. services that can be defined as to scope of work but not as to required events such as contract planning services, public safety investigations, soils testing, contract building inspections services, etc.) These services would best be handled by establishing an eligibility list and by entering into annual ongoing professional service contracts.
  2. The process for selecting firms for annual ongoing professional service contracts shall be generally the same as for other professional services contracts, however multiple firms may be awarded an ongoing contract based on the RFP/RFQ process and may be placed on the eligibility list. Additional firms/individuals may also be awarded contracts and placed on the eligibility list at a later date, using the RFP/RFQ process without impacting contracts currently in place.
  3. Council shall award each ongoing contract that is expected to exceed \$40,000.00 at a public meeting.
  4. As events occur and need arises, work will be assigned to the consultants on the eligibility list at the sole discretion of the Department Head. The Department Head, however, shall make a reasonable attempt to rotate work between consultants subject to availability and special needs.

## SECTION IV – GENERAL TRADE SERVICES

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (Continued)**

- j) Negotiation: The Department Head or designee(s) shall discuss with the highest ranked firm(s) the requirements of the project, the scope of services needed to meet the requirements, and negotiate a reasonable fee/contract for the established work assignment.

#### 3.2 Awarding the Bid

Once the bids have been evaluated, the Department Head/Division Head shall prepare a report to Council recommending the most responsive bidder. The Council may then award the bid in a public meeting.

Except for urgencies all contracts exceeding \$40,000.00 must be awarded by the City Council. Otherwise:

1. Such purchases are void and not considered an obligation of the city.
2. Invoices may be returned to the contractor/service provider unpaid.
3. The person ordering the unauthorized purchase may be held personally liable for the costs of the contract.

#### 3.3 Contract and Purchase Order

- a) A contract shall be prepared and the contractor/service provider shall sign the two original copies.
- b) A purchase order shall also be prepared detailing the contractor/service provider name, service being purchased, estimated total price of the service being purchased and budget account to be charged. The purchase order shall be signed and dated by the Department Head.
- c) The Department/Division will obtain a completed IRS form W-9 from the contractor/ service provider.
- d) Proof of insurance in accordance with the contract shall be obtained
- e) The City Attorney shall sign the two original copies of the contract approving it as to form.
- f) The City Manager or his/her Council designee shall sign the two original copies of the contract approving it as to form.
- g) The entire purchase order, the W-9, proof of insurance and both original copies of the contract shall be submitted to the City Manager or the Director of Administrative Services for approval and signature and should include a copy of the Staff Report.
- h) One original copy of the executed contract shall be returned to the contractor/service provider and the other original shall remain in the City Clerk's Office. A copy of the executed contract shall be sent to the initiating department and a copy to the Administrative Services Department.

## **SECTION IV – GENERAL TRADE SERVICES**

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (Continued)**

#### 3.4 Renewals

Contracts for ongoing services may include annual renewal provisions for up to five years.

#### 3.5 Change Orders

The City Manager is authorized to issue change orders for changes or additions to the original scope of work that result in less than a 20% aggregate change in contract price. Change orders in excess of 20% shall be brought to the City Council for approval.

### **4.0 UTILITIES AND OTHER SERVICE AGREEMENTS**

Items that cannot be purchased under the procedures above or ongoing expenses for utilities or services (such as telephones, services agreements, etc.) do not require a Purchase Order. The bill or invoice should be forwarded to Administrative Services with an authorized signature and account number to be charged.

## **SECTION V** **PROFESSIONAL SERVICES**

### **PURPOSE**

Provide guidelines for the purchase of professional services. Professional services are those activities performed by a consultant who possesses a high degree or expertise in a particular profession. This would generally include (but not be limited to) architectural services, accounting/auditing services, environmental services, design services, engineering services, technical services, financial services, legal services, economic services and other administrative services. There is no bidding requirement for this type of service, since the agent is being hired based on his/her qualifications, not the lowest bid. Since local vendors are important to the City's overall economic health, special consideration should be given to local vendors whenever possible. Local vendors should be included when sending out bid packages. When vendor selection is between two qualified firms, the local vendor should have preference.

### **POLICIES**

There are three levels of authority for normal purchases: Department/Division Award, City Manager Award, and City Council Award. Generally, authority is established by the dollar amount of the purchase.

#### **1.0 DEPARTMENT/DIVISION AWARD < \$10,000.01**

The Department/Division Head may authorize the purchase of professional services as needed up to \$10,000 per project or annually (for ongoing/recurring contracts) as applicable. Projects which would typically be performed by one consultant may not be split into components in order to avoid purchasing limits.

These purchases do not require competitive bidding and departments are given considerable discretion in these purchases.

The Department/Division will obtain a completed IRS form W-9 from the contractor/service provider prior to awarding the contract. The W-9, shall immediately be forwarded to the Administrative Services Department in order to comply with State Reporting Requirements.

#### **2.0 CITY MANAGER AWARD \$10,000.01 to \$40,000.00**

Professional service contracts over \$10,000 and under \$40,000.01 must be awarded by the City Manager or the Director of Administrative Services. These professional service agreements shall have sufficient documentation of background analysis to support the

## SECTION V – PROFESSIONAL SERVICES

### **2.0 CITY MANAGER AWARD \$10,000.01 to \$40,000.00 (continued)**

contract. Informal solicitation of qualifications should be used to assure quality services are received for a reasonable price.

#### 2.1 Informal Solicitation of Qualifications:

The Department/Division shall strive to, whenever possible, solicit at least three qualifications/proposals in writing or over the phone. When it is not practical, nor cost effective to receive three qualifications/proposals in writing or over the phone, the Department Head at his/her discretion, may choose the vendor best suited for the needs of the particular project. It is important that the specifications are accurate and comprehensive, thus it may be beneficial to transmit the specifications and responses by fax or mail even when the proposal is received verbally.

- a) Documentation- Informal quotations must be documented to the satisfaction of the City Manager or the Director of Administrative Services. Ideally, documentation should include
  1. The name of the company
  2. The person giving the quote
  3. The date and time of the phone call
  4. Understanding of the required scope of services.
  5. Specialized experience of the firm and its personnel relative to the required services.
  6. References who can be contacted to verify past record of performance, i.e., completion of a quality product, in a timely manner, and within budget constraints.
  7. The capacity of the firm to perform the subject project within a required timeframe.
  8. Estimated Price
- b) Exceptions: The informal bid process may be bypassed with Department Head and City Manager or the Director of Administrative Services approval in the following instances:
  1. In emergency situations where time is of the essence, the appropriate Department Head may dispense with obtaining three informal quotes to obtain services necessary in dealing with the emergency. Immediately following the emergency, the Department Head shall forward a copy of the purchase order and contract along with an explanation to the City Manager or the Director of Administrative Services.

## SECTION V – PROFESSIONAL SERVICES

### **2.0 CITY MANAGER AWARD \$10,000.01 to \$40,000.00 (continued)**

#### 2.1 Informal Solicitation of Qualifications: (continued)

2. When one known service provider is available, the Department Head/Division shall document that it is a “sole source” purchase.
  3. When an item has been bid within the last 36 months and the price has not changed.
  4. When there exists other governmental contracts that were competitively bid (such as State Contracts, DGS, etc.) that the City is eligible to use.
  5. When it is not practical nor cost effective to continue soliciting quotes until three bids are received, the Department Head at his/her discretion may choose the vendor best suited for the needs of the particular project.
- c) Evaluating Bids: The Department/Division Head or designee(s) shall select the consultant which, in their evaluation process, is the most qualified to perform the work. The evaluation and selection process shall be based upon the following considerations:
1. General quality and responsiveness to the request, including but not limited to:
    - Responsiveness to the terms, conditions, and items of performance;
    - Grasp of the problem, work to be performed, and approach to be used.
  2. Organization and personnel making the proposal;
    - Evidence of good organizational and management practices.
    - Qualification of the personnel.
    - Specialized experience of the firm and its personnel relative to the required services.
    - References who can be contacted to verify past record of performance (i.e., completion of a quality product in a timely manner and within budget constraints).
    - Previous consultant experience
    - The financial condition of the firm.
    - Capacity of the firm to perform the subject project within a required timeframe
  3. If appropriate, the price, in any of the following formats, may be considered.
    - Total price and price breakdown.
    - Price range.
    - Cost schedule.

## SECTION V – PROFESSIONAL SERVICES

### **2.0 CITY MANAGER AWARD \$10,000.01 to \$40,000.00 (continued)**

#### 2.1 Informal Solicitation of Qualifications: (continued)

- d) Ongoing Professional Services: In some instances it is in the best interest of the City to have current ongoing contracts with multiple consultants for the same or very similar services. (i.e. services that can be defined as to scope of work but not as to required events such as contract planning services, public safety investigations, soils testing, contract building inspections services, etc.) These services would best be handled by establishing an eligibility list and by entering into annual ongoing professional service contracts.

The process for selecting firms for annual ongoing professional service contracts shall be generally the same as for other professional services contracts, however multiple consultants may be awarded an ongoing contract based on the informal process and may be placed on the eligibility list. Additional consultants may also be awarded contracts and placed on the eligibility list at a later date, using the informal process without impacting contracts currently in place.

As events occur and need arises, work will be assigned to the firms/individuals on the eligibility list at the sole discretion of the Department Head.

- e) Negotiation: The Department Head or designee(s) shall discuss with the highest ranked firm(s) the requirements of the project, the scope of services needed to meet the requirements, and negotiate a reasonable fee for the established work assignment.

#### 2.2 Contract and Purchase Order

- a) A contract shall be prepared and two original copies shall be signed by the consultant and the Department Head.
- b) A purchase order shall also be prepared detailing the consultant's name, service being purchased, estimated total price of the service being purchased and budget account to be charged. The purchase order shall be signed and dated by the authorized Department/Division employee. (If an exception was used to bypass informal bidding procedures, the P.O. must be signed by the Department Head).
- c) The Department/Division will obtain a completed IRS form W-9 from the consultant.
- d) The entire purchase order, the W-9 and both original copies of the contract shall be submitted to the City Manager or the Director of Administrative Services for approval and should include a copy of the informal bid summary. He/she will review the contract and purchase order package for conformity to the purchasing policy, for compliance with other established procedures and for availability of funds. The City Manager or the Director of Administrative Services shall then approve and sign the purchase order. The original P.O. and one original copy of the executed contract shall then be forwarded to the originating Department/Division.

## **SECTION V – PROFESSIONAL SERVICES**

### **2.0 CITY MANAGER AWARD \$10,000.01 TO \$40,000.00 (continued)**

#### 2.3 Executing the Contract

Once the Department/Division has received the approved Purchase Order and an original copy of the contract from the City Manager or the Director of Administrative Services, they may make arrangements with the consultant for services.

#### 2.4 Renewals

Contracts for ongoing professional services may include annual renewal provisions for up to five years; however, in no instance may the contract exceed \$40,000.00 in any one year. Cost increases related to such renewals shall not exceed the Consumer Price Index (CPI) adjustments unless approved in advance by the City Manager.

#### 2.5 Change Orders

The City Manager is authorized to issue change orders for changes or additions to the original scope of work that result in less than a less than \$40,000 annual contract amount. Change orders in excess of the \$40,000 contract amount shall be brought to the City Council for approval.

### **3.0 CITY COUNCIL AWARD > \$40,000.00**

Professional service contracts exceeding \$40,000 must be awarded by the City Council. A Formal Request for Proposal (RFP) or a Request for Qualifications (RFQ) process should be used, thereby assuring the City that it has engaged the most qualified consultant available for the engagement. The formal process generally takes more time and expense than informal solicitations of qualifications and in some instances may actually not be the most cost-effective approach.

#### 3.1 Formal Request for Proposal or Request for Qualifications:

- a) Developing the RFP or RFQ: Because RFP's and RFQ's ask for a subjective product, they should contain the greatest detail possible, and may include the following:
  1. A precise description of the problem or objective
  2. The services to be performed
  3. The product to be provided

## SECTION V – PROFESSIONAL SERVICES

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (continued)**

#### 3.1 Formal Request for Proposal or Request for Qualifications: (continued)

##### a) Developing the RFP or RFQ (continued)

4. The anticipated time schedule for:
  - Submittal of RFP/RFQ (date and time)
  - Any pre-proposal conference (date, time and location)
  - Review and evaluation of the proposals
  - Award of the contract
  - Commencement of work on the project
  - Completion date
5. Evaluation factors and the relative importance of each.
6. Expectations or limitations on the part of the City, i.e.
  - The format, form and quantity of any expected reports
  - The extent/nature of assistance/cooperation available from the City
7. Expected content of the RFP/RFQ, including:
  - The overall description of techniques to be used
  - Listing of similar services provided to other clients
  - Listing of available references to contact
  - Description and qualifications of assigned lead and supporting personnel
  - Time and staff expected to be expended
  - Facilities and equipment to be used
  - Portion of contract to be performed by sub-contractors
  - Subcontractors/Subconsultants qualifications
  - Cost, in summary and total, and desired method of payment. The RFP/RFQ for services may, but is not required to, state the amount budgeted for the service.
8. Contractual requirements including, but not limited to:
  - Prohibition against assignment
  - Indemnification
  - Insurance requirements

## SECTION V – PROFESSIONAL SERVICES

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (continued)**

#### 3.1 Formal Request for Proposal or Request for Qualifications: (continued)

##### a) Developing the RFP or RFQ (continued)

##### 8. Contract Requirements (continued)

- Bonding requirements
- Warranties
- Compliance with federal, state and City laws, rules and regulations
- Compliance with any grant related regulations
- Sample contract

9. Construction project management service RFP's may require evidence be provided of experience in construction project design review and evaluation, construction mobilization and supervision, bid evaluation, project scheduling, cost-benefit analysis, claims review and negotiation, and general management and administration of a construction project.

##### b) Issuing the RFP/RFQ

1. To ensure maximum exposure and competition, the responsible department shall prepare a list of potential firms to receive the RFP/RFQ. City staff shall make reasonable efforts to ensure that small business firms, located in San Luis Obispo County, are aware of the RFP/RFQ's issued.
2. If required or desired, the responsible department will submit the RFP/RFQ notice to be advertised in a local newspaper of general circulation. The notice will be published one or more times beginning at least fourteen calendar days prior to the designated closing. Additional advertisements may be placed in a regional newspaper of general circulation; appropriate professional or trade journals; and state or governmental publications designed for public notice.
3. A reasonable length of time between solicitation and closing dates must be allowed to provide potential respondents time for preparation in accordance with the complexity, the size of the project, and the scope of advertising.
4. City staff may conduct conferences to explain the requirements of the project. A sufficient amount of time should be allowed after the RFP/RFQ has been issued to allow potential respondents to become familiar with the project. Any clarification or changes required to the RFP/RFQ, as a result of the conference, shall be added as a written amendment. A summary of the conference shall be provided to all prospective respondents receiving the request.

## SECTION V – PROFESSIONAL SERVICES

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (continued)**

#### 3.1 Formal Request for Proposal or Request for Qualifications: (continued)

##### b) Issuing the RFP/RFQ (continued)

5. The requesting department shall prepare sufficient copies of the RFP/RFQ to allow distribution to potential respondents of record and responses to the published advertisements. In addition, the department shall maintain a list of RFP/RFQ's issued and responses.
6. Amendments should be used to make any changes in quantities, descriptions, schedules, or to correct defects or ambiguities in the original RFP/RFQ. Amendments are provided to ensure that all potential respondents are furnished with the same information with which to prepare proposals.

Amendments to the RFP/RFQ shall be identified as such and shall require acknowledgment as such by firms receiving the RFP/RFQ. Amendments shall be sent to all known recipients of the RFP/RFQ within a reasonable time period before the closing date. If the time and date established for the receipt of proposals does not allow sufficient time for consideration and changes, the time and date will be modified by amendment.

##### c) Proposal Opening:

1. Proposals shall be submitted to the City Clerk's office and shall be clearly identified with the Proposal number on the envelope. Faxed or other electronic proposals are not acceptable.
2. Proposals received by 5:00 p.m. of the designated closing day will be opened on the following workday for preliminary review.
3. Any proposal received after the time specified in the RFP/RFQ shall be returned unopened.
4. To avoid disclosure of the contents of competing RFPs/RFQs, proposals will be opened in the presence of City Clerk or his/her designee and the Department Head or the Director of Administrative Services, requesting the proposals.
5. Respondents may modify or withdraw their proposals prior to the established closing date and time, without penalty. However, any modifications submitted after the established closing date and time will not be accepted. Such modifications will be returned to the respondent, unopened.

## SECTION V – PROFESSIONAL SERVICES

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (continued)**

#### 3.1 Formal Request for Proposal or Request for Qualifications: (continued)

##### c) Issuing the RFP/RFQ (continued)

6. The City Clerk's office shall maintain a list of proposals received, including name and address of respondent, the number of modifications received, if any, and any additional information requested. The register will be open to inspection after the award of the contract or the rejection of all proposals.
7. Proposals and modifications shall be shown only to the evaluation committee personnel, the City Clerk or his/her designee, and the Department Head (or the Director of Administrative Services) until a recommendation is made to Council or all proposals have been rejected.

d) Rejection of Proposals: The City reserves the right to reject any and all proposals, to accept or reject any one or more items of a proposal, or to waive any irregularities or informalities in the proposal or the RFP/RFQ process if to do so is deemed to best serve the interests of the City.

e) Evaluation Factors and Method: Because unique services are requested, cost is not considered the primary selection criteria.

##### 1. Evaluation factors may include:

- General quality and responsiveness of the proposal, including but not limited to:
  - Responsiveness to the terms, conditions, and items of performance;
  - Completeness and thoroughness of the proposal;
  - Grasp of the problem, work to be performed, and approach to be used.
- Organization and personnel making the proposal:
  - Evidence of good organizational and management practices.
  - Qualification of the personnel.
  - Specialized experience of the firm and its personnel relative to the required services.
  - References who can be contacted to verify past record of performance, i.e., completion of a quality product, in a timely manner, and within budget constraints.
  - The financial condition of the firm.
  - Capacity of the firm to perform the subject project within a required time frame

## SECTION V – PROFESSIONAL SERVICES

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (continued)**

#### 3.1 Formal Request for Proposal or Request for Qualifications: (continued)

##### e) Evaluation Factors and Method (continued)

1. Evaluation factors may include: (continued)
  - If appropriate, the price, in any of the following formats, may be considered.
    - Total price and price breakdown.
    - Price range.
    - Cost schedule.
2. A Selection Committee shall be formed to evaluate the submitted data and determine the products that should receive further consideration. The Committee shall be appointed by the Department Head, subject to the approval of the City Manager or the Director of Administrative Services, and may consist of more than one department.
3. The Selection Committee may choose to interview all of the responding consultants, only the top few ranking consultants or to not perform interviews.
4. After the interviews (if applicable), the Selection Committee shall rank the consultants based on their proposals, interviews, and references.

##### f) Exceptions to Formal RFP/RFQ: The formal RFP/RFQ process may be bypassed in the following three instances:

1. In emergency situations where time is of the essence, the appropriate Department Head may dispense with the formal RFP/RFQ process to obtain services necessary in dealing with the emergency. Immediately following the emergency, the appropriate Department Head shall prepare a report to Council explaining the emergency and the items purchased.
2. When one known service provider is available, the Department Head shall prepare a report for Council approval requesting an exemption from the formal RFP/RFQ procedures and if applicable awarding the bid to the “sole source”.
3. When there are extenuating circumstances that would make the formal RFP/RFQ process not the most cost effective approach. This often relates to qualitative, artistic or proprietary software/technological issues. The appropriate Department Head shall prepare a report to Council requesting an exemption from the formal bidding procedures.

## SECTION V – PROFESSIONAL SERVICES

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (continued)**

#### 3.1 Formal Request for Proposal or Request for Qualifications: (continued)

##### g) Ongoing Professional Services

1. In some instances it is in the best interest of the City to have current ongoing contracts with multiple consultants for the same or very similar services. (i.e. services that can be defined as to scope of work but not as to required events such as contract planning services, public safety investigations, soils testing, contract building inspections services, etc.) These services would best be handled by establishing an eligibility list and by entering into annual ongoing professional service contracts.
  2. The process for selecting firms for annual ongoing professional service contracts shall be generally the same as for other professional services contracts, however multiple firms may be awarded an ongoing contract based on the RFP/RFQ process and may be placed on the eligibility list. Additional firms/individuals may also be awarded contracts and placed on the eligibility list at a later date, using the RFP/RFQ process without impacting contracts currently in place.
  3. Council shall award each ongoing contract that is expected to exceed \$40,000.00 at a public meeting.
  4. As events occur and need arises, work will be assigned to the consultants on the eligibility list at the sole discretion of the Department Head. The Department Head, however, shall make a reasonable attempt to rotate work between consultants subject to availability and special needs.
- h) Negotiation: The Department Head or designee(s) shall discuss with the highest ranked firm(s) the requirements of the project, the scope of services needed to meet the requirements, and negotiate a reasonable fee/contract for the established work assignment.
- i) Change Orders: Change orders in excess of 20% aggregate change in original purchase order amount, require extended documentation of the reasons for the change order, Director of Administrative Services approval AND City Manager approval.

#### 3.2 Awarding the Contract:

The Department Head/Division Head shall prepare a report to Council recommending the most responsive consultant. The Council shall then award the contract in a public meeting.

## SECTION V – PROFESSIONAL SERVICES

### **3.0 CITY COUNCIL AWARD > \$40,000.00 (continued)**

#### 3.2 Awarding the contract (continued)

Except for urgencies all contracts exceeding \$40,000.00 must be awarded by the City Council. Otherwise:

- Such purchases are void and not considered an obligation of the city.
- Invoices may be returned to the contractor/service provider unpaid.
- The person ordering the unauthorized purchase may be held personally liable for the costs of the contract.

#### 3.3 Contract and Purchase Order

- a) A contract shall be prepared and the consultant shall sign the two original copies.
- b) A purchase order shall also be prepared detailing the consultant's name, service being purchased, estimated total price of the service being purchased and budget account to be charged. The purchase order shall be signed and dated by the Department Head.
- c) The Department/Division will obtain a completed IRS form W-9 from the consultant.
- d) Proof of insurance in accordance with the contract shall be obtained
- e) The City Attorney shall sign the two original copies of the contract approving it as to form.
- f) The City Manager or his/her Council designee shall sign the two original copies of the contract approving it as to form.
- g) The entire purchase order, the W-9, proof of insurance and both original copies of the contract shall be submitted to the City Manager or the Director of Administrative Services for approval and signature and should include a copy of the Staff Report.
- h) One original copy of the executed contract shall be returned to the contractor/service provider and the other original shall remain in the City Clerk's Office. A copy of the executed contract shall be sent to the initiating department and a copy to the Administrative Services Department.

#### 3.4 Renewals

Contracts for ongoing services may include annual renewal provisions for up to five years.

#### 3.5 Change Orders

The City Manager is authorized to issue change orders for changes or additions to the original scope of work that result in less than a 20% aggregate change in contract price. Change orders in excess of 20% shall be brought to the City Council for approval.

## **SECTION VI** **PUBLIC PROJECTS**

### **PURPOSE**

Provide guidelines for “Public Project” procurement. **Public Project** means construction, reconstruction, erection, alteration, restoration, improvement, demolition, and repair work involving any facility owned, leased, or operated by the City. The definition also includes painting or repainting any facility owned, leased or operated by the City. Construction, erection, improvement, or repair of dams, reservoirs, and electrical transmission lines of 230,000 volts and higher that are owned by the City, are considered a public project.

A public project does not include maintenance work, consisting of routine, recurring, and usual work for the preservation or protection of facilities owned or operated by the City, including minor repainting. Street and highways resurfacing at less than one inch (1”) deep, landscape maintenance (mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems) are not a public project.

### **POLICIES**

It is the City of Atascadero’s policy to follow the uniform Construction Cost Accounting Procedures for all Public Projects, as set forth in the Public Contract Code (Article 2, commencing with Section 22010).

It is also the City of Atascadero’s policy to adopt the purchasing limits and policies as set forth in Public Contract Code Sections 22030 to 22045. (Appendix A)

#### **1.0 DEPARTMENT/DIVISION AWARD < \$10,000.01**

The Department/Division manager may contract public projects as needed up to \$10,000 per project or may be performed by the employees of the City by force account. Projects which would typically be performed by one contractor may not be split into components in order to avoid purchasing limits.

These purchases do not require competitive bidding and departments are given considerable discretion in these purchases.

The Department/Division will obtain a completed IRS form W-9 from the contractor prior to awarding the contract. The W-9, shall immediately be forwarded to the Administrative Services Department in order to comply with State Reporting Requirements.

## SECTION VI- PUBLIC PROJECTS

### **2.0 CITY MANAGER AWARD LEVEL I \$10,000.01 TO \$30,000.00<sup>1</sup>**

Public Projects contracts over \$10,000 and under \$30,000.01<sup>1</sup> must be awarded by the City Manager or the Director of Administrative Services. The Department Head may recommend a contractor without using the informal bid process, however a purchase order and approval by the City Manager or the Director of Administrative Services is required for these purchases.

The Department Head may also elect to perform the project using employee's of the City by force account.

#### 2.1 Contract and Purchase Order

- a) If applicable, a contract shall be prepared and two original copies shall be signed by the contractor and the Department Head.
- b) A purchase order shall also be prepared detailing the contractor/service provider name, service being purchased, estimated total price of the service being purchased and budget account to be charged. The purchase order shall be signed and dated by the authorized Department/Division employee.
- c) The Department/Division will obtain a completed IRS form W-9 from the contractor/ service provider.
- d) The entire purchase order, the W-9 and both original copies of the contract shall be submitted to the City Manager or the Director of Administrative Services for approval and should include a copy of the informal bid summary. He/she will review the contract and purchase order package for conformity to the purchasing policy, for compliance with other established procedures and for availability of funds. The City Manager or the Director of Administrative Services shall then approve and sign the purchase order. The original P.O. and one original copy of the executed contract shall then be forwarded to the originating Department/Division.

#### 2.2 Executing the Contract

Once the Department/Division has received the approved Purchase Order and an original copy of the contract from the City Manager or the Director of Administrative Services, they may make arrangements with the contractor for services.

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<sup>1</sup> This limit is tied to Public Contract Code Section 22032. Any changes to limits set in Public Contract Code Section hereby are adopted as part of this policy.

## SECTION VI- PUBLIC PROJECTS

### **2.0 CITY MANAGER AWARD LEVEL I \$10,000.01 to \$30,000.00<sup>1</sup> (continued)**

#### 2.3 Change Orders

The City Manager is authorized to issue change orders for changes or additions to the original scope of work that result in less than a less than \$30,000 annual contract amount. Change orders may not exceed the \$30,000 contract amount.

### **3.0 CITY MANAGER AWARD LEVEL II \$30,000.01<sup>1</sup> to \$125,000.00<sup>1</sup>**

Public Projects contracts over \$30,000.00<sup>1</sup> and under \$125,000.01<sup>1</sup> may be let to contract by the informal bid process set forth in this policy.

#### 3.1 Informal Bids:

The City shall solicit informal bids in accordance with Public Contract Code Sections 22034-22036. (See Appendix A)

#### 3.2 Contract and Purchase Order

- a) A contract shall be prepared and two original copies shall be signed by the contractor and Department Head.
- b) A purchase order shall also be prepared detailing the contractor/service provider name, service being purchased, estimated total price of the service being purchased and budget account to be charged. The purchase order shall be signed and dated by the authorized Department/Division employee.
- c) The Department/Division will obtain a completed IRS form W-9 from the contractor/ service provider.
- d) The entire purchase order, the W-9 and both original copies of the contract shall be submitted to the City Manager or the Director of Administrative Services for approval. He/she will review the contract and purchase order package for conformity to the purchasing policy, for compliance with other established procedures and for availability of funds. The City Manager or the Director of Administrative Services shall then approve and sign the purchase order. The original P.O. and one original copy of the executed contract shall then be forwarded to the originating Department/Division.

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<sup>1</sup> This limit is tied to Public Contract Code Section 22032. Any changes to limits set in Public Contract Code Section hereby are adopted as part of this policy.

## SECTION VI- PUBLIC PROJECTS

### **3.0 CITY MANAGER AWARD LEVEL II \$30,000.01<sup>1</sup> to \$125,000.00<sup>1</sup>** **(continued)**

#### 3.3 Executing the Contract

Once the Department/Division has received the approved Purchase Order and an original copy of the contract from the City Manager or the Director of Administrative Services, they may make arrangements with the contractor for services.

#### 3.4 Change Orders

The City Manager is authorized to issue change orders for changes or additions to the original scope of work that result in less than a less than a 20% aggregate change in the contract price, not to exceed the \$125,000 contract limit. Change orders in excess of the 20% aggregate or the \$125,000 contract limit shall be brought to the City Council for approval.

### **4.0 CITY COUNCIL AWARD > \$125,000.00<sup>1</sup>**

Public Projects exceeding \$125,000<sup>1</sup> must be formally bid and awarded by the City Council in accordance with Public Contract Code Sections 22037 to 22044.

#### 4.1 Formal Bidding

The City shall solicit formal bids in accordance with Public Contract Code Sections 22037-22044. (See Appendix A)

The initiating Department/Division shall be responsible for completion of the formal bid process, however the process shall be coordinated with the City Clerk's Office and the Administrative Services Department.

- a) Bid Forms: The initiating department shall prepare a bid form including detail specifications for the services to be purchased. The following format is suggested for competitive bids:
  1. Submission of bids (or proposals) – Include date, time, location and bid number as assigned by the City Clerk. Include a detail list of the information the bid or proposal should contain
  2. Questions – List the name, address, and telephone number of the person to be contacted concerning questions about the project.

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<sup>1</sup> This limit is tied to Public Contract Code Section 22032. Any changes to limits set in Public Contract Code Section hereby are adopted as part of this policy.

## SECTION VI- PUBLIC PROJECTS

### **4.0 CITY COUNCIL AWARD > \$125,000.00<sup>1</sup> (continued)**

#### 4.1 Formal Bidding (continued)

##### a) Bid Forms: (continued)

3. Background - Provide as much background as necessary to give the bidder an understanding of the environment in which the job will be performed and to which the job relates.
4. Scope of work – Describe in detail the requirement for the job and detail specification.
5. Desired project schedule – Be as specific as possible.
6. Minimum and desirable qualifications – Be as specific as possible.
7. Performance Bond- Whether a performance bond is required and if so, the amount and form of bidders security.
8. Sample Contract- A sample of the contract that is expected to be used should be included in the bid package.

##### b) Notice Inviting Bids: The initiating department shall also prepare a notice inviting bids that includes the following:

1. A general description of the services to be purchased.
2. A statement indicating where bid forms, specifications and bonding requirements can be obtained.
3. A statement specifying the time and place for the opening of the bids.
4. The notice shall be published at least fourteen calendar days before the date of the opening of bids in a newspaper of general circulation, printed and published in the City. (It is recommended that it be published twice, not less than five days apart.)
5. The notice shall also be mailed to all construction trade journals specified in Section 22036 of the Public Contract Code. The notices shall be mailed at least thirty (30) calendar days before the date of opening the bids.

##### c) Bid Opening

1. Sealed bids shall be submitted to the City Clerk's office and shall be clearly identified with the Bid number on the envelope. Faxed or other electronic bids are not acceptable.
2. Bids shall be opened in public at the time and place stated in the public notice.
3. The City Clerk or his/her designee shall open the bids and shall record all bids received.

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<sup>1</sup> This limit is tied to Public Contract Code Section 22032. Any changes to limits set in Public Contract Code Section hereby are adopted as part of this policy.

## SECTION VI- PUBLIC PROJECTS

### **4.0 CITY COUNCIL AWARD > \$125,000.00<sup>1</sup> (continued)**

#### 4.1 Formal Bidding (continued)

##### c) Bid Opening (continued)

4. Any bid received after the time specified in the notice shall be rejected.
5. When a bidder's security is required, it will be announced in the public notice inviting bids. The amount shall be determined at the time of preparation of the bid. It shall be in the form of cash, certified or cashier's check, certificate of deposit in the City of Atascadero's name or bid bond made payable to the City of Atascadero. When a bidder's security is required, a bid shall not be considered unless one of the aforementioned forms of security accompanies the bid. Bidders shall be entitled to return of the bid security with the following exception:
  - The successful bidder must execute the contract and file acceptable documents within thirty (30) calendar days from the date of award unless extended by the City Manager. Failure to execute the contract shall be just cause for annulment of the award and forfeiture of the bidder's security, not as a penalty, but as liquidated damages. The City Council may, upon refusal or failure of the successful bidder to execute the contract, award the contract to the next lowest bidder.
6. All bids received shall be available for inspection during regular business hours in the City Clerk's office for a period of not less than thirty (30) calendar days after the bid opening.

- d) Rejection of Bids: The City reserves the right to reject any and all bids, to accept or reject any one or more items of a bid, or to waive any irregularities or informalities in the bids or the bidding process if to do so is deemed to best serve the interests of the City. If after the first invitation of bids all bids are rejected, the City may elect to re-advertise for bids or have the project done by force account. (See Section 22038 of the Public Contract Code for Procedures and limitations)
- e) Determining Lowest Responsible Bidder: Award of bid shall be to the lowest responsible bidder. All valid responsible bids shall be considered in determining the lowest bid. Before the award, the bidder may be required to furnish evidence of capability, equipment and financial resources to adequately perform the work. Bidders not found to be qualified may have their bid rejected.

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<sup>1</sup> This limit is tied to Public Contract Code Section 22032. Any changes to limits set in Public Contract Code Section hereby are adopted as part of this policy.

## SECTION VI- PUBLIC PROJECTS

### **4.0 CITY COUNCIL AWARD > \$125,000.00<sup>1</sup> (continued)**

#### 4.1 Formal Bidding (continued)

- f) Tie Bids: If tie bids are received, quality and service being equal, the contract shall be awarded to a local bidder.

If the above condition is not applicable, the City may, at its discretion:

1. Reject any and all bids presented and re-advertise; or
2. City may accept either one or accept the lowest bid made by negotiation with the tie bidders; or
3. Award the bid to any one of the low tie bidders by public drawing.

#### 4.2 Awarding the Bid

Once the bids have been evaluated, the Department Head/Division Head shall prepare a report to Council recommending the most responsive bidder. The Council shall then award the bid in a public meeting.

All public project contracts exceeding \$125,000.00<sup>1</sup> must be awarded by the City Council. Otherwise:

1. Such purchases are void and not considered an obligation of the City.
2. Invoices may be returned to the contractor/service provider unpaid.
3. The person ordering the unauthorized purchase may be held personally liable for the costs of the contract.

#### 4.3 Contract and Purchase Order

- a) A contract shall be prepared and two original copies shall be signed by the contractor.
- b) A purchase order shall also be prepared detailing the contractor name, service being purchased, estimated total price of the service being purchased and budget account to be charged. The purchase order shall be signed and dated by the Department Head.
- c) The Department/Division will obtain a completed IRS form W-9 from the contractor/ service provider.
- d) Proof of insurance in accordance with the contract shall be obtained
- e) Performance and payment bonds shall be obtained. (Bonds must be in a form accepted by the City and must meet all City requirements.)

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<sup>1</sup> This limit is tied to Public Contract Code Section 22032. Any changes to limits set in Public Contract Code Section hereby are adopted as part of this policy.

## SECTION VI- PUBLIC PROJECTS

### **4.0 CITY COUNCIL AWARD > \$125,000.00<sup>1</sup> (continued)**

#### 4.3 Contract and Purchase Order (continued)

- f) The City Attorney shall sign the two original copies of the contract approving it as to form.
- g) The City Manager or his/her Council designee shall sign the tow original copies.
- h) The entire purchase order, the W-9, proof of insurance, copies of the bonds, and both original copies of the contract shall be submitted to the City Manager or the Director of Administrative Services for approval and signature and should include a copy of the Staff Report.
- i) One original copy of the executed contract shall be returned to the contractor and the other original shall remain in the City Clerk's Office. A copy of the executed contract shall be sent to the initiating department and a copy to the Administrative Services Department.

#### 4.4 Change Orders

The City Manager is authorized to issue change orders for changes or additions to the original scope of work that result in less than a 20% aggregate change in contract price. Change orders in excess of 20% shall be brought to the City Council for approval.

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<sup>1</sup> This limit is tied to Public Contract Code Section 22032. Any changes to limits set in Public Contract Code Section hereby are adopted as part of this policy.

## **SECTION VII**

### **TRAVEL AND EXPENSE REIMBURSEMENTS**

#### **PURPOSE AND SCOPE**

The City of Atascadero's ("City") travel policy prescribes procedures for Officials and Employees to report and be reimbursed for official travel and business expenses. The following guidelines and procedures are set forth to minimize costs, improve accountability and ease management review of reimbursement claims.

This policy applies to elected and appointed Officials of the City and all Employees of the City. Department Heads may adopt more restrictive policies due to budget limitations or requirements of other government agencies. Compensation to Employees for travel time shall be consistent with the requirements of the Fair Labor Standards Act.

This policy assumes a mutual trust between the City and its Officials and Employees. The City shall reimburse Officials and Employees for all reasonable costs incurred on behalf of the City. Officials and Employees are expected to use good judgment in spending public funds which have been entrusted to them. Misuse or misappropriation of City funds and equipment not in conformance with this policy may result in disciplinary action, which for Employees may include termination of employment.

#### **DEFINITIONS**

**OFFICIAL:** When used in Section VII, an Official shall refer to any individual elected to a City office (e.g., a City Council member, City Clerk, or City Treasurer) or any individual appointed to an office by the City Council (e.g., a member of the Planning Commission). For purposes of Section VII, an Official is never considered to be an Employee.

**EMPLOYEE:** When used in Section VII, an Employee shall refer to anyone who volunteers on behalf of the City or anyone who holds a paid position with the City. For purposes of Section VII, an independent contractor shall not be considered an Employee.

#### **POLICIES**

##### **1.0 GENERAL PROVISIONS**

- 1.1 Travel shall be authorized only when necessary and in the best interest of the City. The City shall reimburse actual, reasonable and necessary expenses incurred while on City business, not to exceed established guidelines. Expenses incurred in connection with the following types of activities are hereby deemed authorized expenses, as long as the other requirements of this policy are met:
  - a. Communicating with representatives of regional, state and national

**SECTION VII  
TRAVEL AND EXPENSE REIMBURSEMENT**

**1.0 GENERAL PROVISIONS (continued)**

government on the City's adopted policy positions;

- b. Attending educational seminars designed to improve an Official's or Employee's skill and/or knowledge;
- c. Participating in regional, state and national organizations whose activities affect the City's interests; and
- d. Implementing a City-approved strategy for attracting or retaining businesses to the City, which shall typically involve at least one staff member; and
- e. For any Employee, any other general City business authorized by that Employee's Department Head.

Expenditures for any other type of activity require prior approval by the City Council for Officials and City Manager for Employees.

1.2 The City shall NOT reimburse personal expenses, including but not limited to:

- a. The personal portion of any trip;
- b. Political or charitable contributions or events;
- c. Family expenses, including a partner's expenses when accompanying an Official or Employee on agency-related business, as well as children- or pet-related expenses;
- d. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf-related expenses), or other cultural events;
- e. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
- f. Personal losses incurred while on City business.

1.3 City Officials and Employees should neither enrich themselves nor be required to use their own funds while traveling on City business.

1.4 The City Manager or his/her designee must approve all proposed travel out of the San Luis Obispo/ Santa Barbara County area for City Employees. References in this policy to out-of-area travel shall mean travel outside the San Luis Obispo/Santa Barbara County area.

**SECTION VII  
TRAVEL AND EXPENSE REIMBURSEMENT**

**1.0 GENERAL PROVISIONS (continued)**

- 1.5 Travel and expense funded by the Commission of Peace Office Standards and Training (POST) Commission shall be subject to restrictions currently in effect from POST. POST shall govern expenditure limitations for meals and lodging, superceding this policy. When preparing reimbursements for POST, a copy of the reimbursement request shall be forwarded to the Administrative Services Department to track the receivable.

**2.0 AUTHORIZATION FOR TRAVEL AT CITY EXPENSE**

2.1 Authorization Levels

- a. Within the San Luis Obispo/Santa Barbara County Area: Employees must obtain department head approval prior to official travel within San Luis Obispo County/Santa Barbara area or same day travel outside the area.
- b. Outside the San Luis Obispo County/Santa Barbara County Area (Within California): Employees must obtain Department Head and City Manager or the Director of Administrative Services approval prior to travel and overnight stay outside the San Luis Obispo/Santa Barbara County area on City business.
- c. Out of State: Employees must obtain the City Manager's prior written approval for any Official out-of-state travel.

2.2 Exceptions

Mutual/Auto Aid travel shall be reported to the City Manager as time permits. Prior approval may not be possible.

2.3 Format for Request

The information to be submitted with all requests for out-of-area travel is as follows:

- a. Requests must be submitted in advance of the actual travel.
- b. Department Head or his/her designee shall confirm by means of their authorization that the appropriate budget is available for the travel.
- c. Total cost of the proposed travel shall be itemized, including all costs for registration fees, lodging, meals, transportation, etc.

## SECTION VII TRAVEL AND EXPENSE REIMBURSEMENT

### **3.0 LODGING**

Lodging expenses consist of charges for out-of-area overnight accommodations as required for conduct of official City business. Lodging expenses shall be reimbursed or paid for when travel on official City business reasonably requires an overnight stay.

#### 3.1 Stay Reasonably Required

An overnight stay is reasonably required when the traveler would otherwise have to leave his or her residence before 6:00 a.m. on the day of the event to arrive at the destination at the designated time. Lodging expense is allowable for the evening after an out-of-town meeting or business event when the traveler would otherwise arrive at his/her residence after 9:00 p.m.

#### 3.2 Lodging Rates

If possible, Employees and Officials should make hotel/motel reservations well in advance and take other actions to incur the lowest possible lodging expenses (e.g. compare rates, request occupancy tax exemptions, etc.)

- a. **Government Rates** Employees and Official must request government rates when making reservations or registering at hotels/motels. If possible, Employees and Official should make hotel/motel reservations well in advance and take other actions to incur the lowest possible lodging expenses (e.g. compare rates, request occupancy tax exemptions). Lodging rates that are equal to or less than government rates are presumed to be reasonable and hence reimbursable for purposes of this policy.
- b. **Group Rates** If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. If the group rate is not available, see next section.
- c. **Alternatives** In the event that government rates or group rates are not available at a given time or in a given area, there are three options available to Employees and Officials.
  - i. *Option #1 (Median Hotel Cost):* Lodging rates that do not exceed the median retail price for moderate lodging for that area listed on websites like [www.priceline.com](http://www.priceline.com) or an equivalent service shall be considered reasonable and hence reimbursable.
  - ii. *Option #2 (Flat Cap).* Lodging rates that do not exceed one hundred eighty dollars (\$180) per night are presumed reasonable and hence reimbursable.

**SECTION VII  
TRAVEL AND EXPENSE REIMBURSEMENT**

**3.0 LODGING (continued)**

- iii. *Option #3 (IRS Rates).* Lodging rates that do not exceed the Internal Revenue Service per diem rates for a given area are presumed reasonable and hence reimbursable.

**3.3 Special Lodging**

With prior City Manager approval, the City may reimburse Employees for special lodging accommodations, i.e., other than hotels or motels. Special accommodations include, but are not limited to, apartments, RV parks, and other semi-permanent dwellings.

**3.4 Use of Lodging as a Guest of Friends or Relatives**

Employees and Officials may stay with friends or relatives while on out-of-town business; however, the City shall not reimburse Employees and Officials for payment to friends or relatives for lodging, meals, or transportation.

**3.5 Credit Card Use**

Employees and Officials may charge all lodging costs on City credit cards but must reimburse the City for unauthorized expenses upon return.

**4.0 MEALS**

Allowable meal expenses include food and beverages purchased and consumed while on official City business, provided these items are not covered by other expenses, i.e., conference fees, airline fares, lodging, etc. AB1234 prohibits per diem reimbursements for Officials, therefore the per diem method of reimbursements is for City Employees only.

**4.1 Rate of Reimbursement**

Officials may be reimbursed for eligible meal expenses, while Employees may either receive a per diem or be reimbursed for eligible meal expenses.

- a. Per Diem Method: A per diem of \$51.00 shall be paid to Employees for meals associated with each day of travel as follows:

- 1. Breakfast      \$10.00
- 2. Lunch            \$15.00
- 3. Dinner            \$26.00

- b. Reimbursement Method: Each meal, including gratuity, shall be reimbursed to Official or Employee up to the Domestic Per Diem Rates per US General Services Administration per-meal guideline and must be accounted for separately on a reimbursement claim. Under special

**SECTION VII  
TRAVEL AND EXPENSE REIMBURSEMENT**

**4.0 MEALS (continued)**

circumstances, the City Manager may approve individual meal expenses (for Employees only) above the guideline with written justification, copies of restaurant bills, and evidence of department head approval. If an individual claims meal expenses for more than one Employee, s/he must list all Employees on the expense reimbursement form.

- c. Normally, meals are reimbursable under the following time criteria:

<u>MEAL</u>	<u>TRAVEL BEGINS BEFORE</u>	<u>&amp;</u>	<u>TRAVEL ENDS AFTER</u>
Breakfast	7:00 a.m.		8:00 a.m.
Lunch	11:00 a.m.		1:00 p.m.
Dinner	5:00 p.m.		6:00 p.m.

**4.2 Meals Purchased on Travels That Do Not Include an Overnight Stay**

Normally, the City will NOT reimburse employees for meals purchased within the City of Atascadero or surrounding areas, while they are engaged in day-to-day job duties, or engaged in any one-day travel that does not include an overnight stay. However, Department Heads may authorize reimbursement under the following circumstances:

- Attendance at job-related conferences or meetings held in the City or surrounding regions extending over meal times, and the business of the conferences or meetings is pursued during the meals, or
- In special cases, the City Manager may authorize the purchase of meals for employees while within the City in conjunction with City business as appropriate.
- During emergencies declared by authorized government authorities in which City employees must work for more that two hours beyond the normal duty day.

**4.3 Reimbursement of City Officials or Employees for Costs of Meals Purchased for Non-City Personnel**

The City may reimburse Officials and Employees for purchasing meals for non-City personnel in any of the following circumstances:

- If authorized by the City Manager.
- For oral board members

**SECTION VII  
TRAVEL AND EXPENSE REIMBURSEMENT**

**4.0 MEALS (continued)**

- For emergency workers responding to City requests for mutual aid under mutual aid agreements or for emergency workers acting on behalf of the City under emergencies declared by authorized government entities.
- For special cases, the Department Head may authorize as appropriate the purchase of meals for non-city personnel in conjunction with City business or in cases where there is benefit to the City by purchasing such meal.

**5.0 TRANSPORTATION**

Transportation expenses are the direct costs of transporting Employees from authorized points of departure, to travel destinations and authorized points of return. These expenses normally include, but are not limited to, common carrier tickets, private vehicle mileage and car rental charges.

Other transportation expenses include taxi, bus, and streetcar fares; road, bridge, and ferry tolls; parking fees; and other costs directly related to transporting Employees to and from temporary work locations.

Transportation expenses not covered include: personal travel, traffic and parking violations and emergency repairs on private vehicles.

NOTE: City gas cards and Cal-Cards should not be used for fuel purchases on personal vehicles.

**5.1 Mode of Transportation**

When traveling on City business, Officials and Employees should use the least expensive modes of transportation consistent with time requirements and work schedules. The City shall reimburse travelers for the most cost-effective transportation means, considering both direct costs and Employee time management.

**5.2 Rate of Reimbursement:**

Officials and Employees who do not receive monthly auto allowances shall be reimbursed for travel mileage incident to the authorized use of privately-owned vehicles on City business. Reimbursement shall be at the rate currently prescribed and necessary expenses incident to the use of privately owned vehicles, including insurance, repairs, and other transportation-related costs. The City shall not reimburse individuals for gasoline purchases when they claim the per-mile

**SECTION VII  
TRAVEL AND EXPENSE REIMBURSEMENT**

**5.0 TRANSPORTATION (continued)**

reimbursement rate for private vehicles. This amount does not include bridge and road tolls which are also reimbursable.

**5.3 Commercial Auto Rental**

The City shall reimburse Officials and Employees for actual and necessary costs of rental when substantiated by invoice. Rental of an automobile should be limited to those situations where it is determined that it the most economical method of transportation or with Department Head approval, in those situations where it would create a hardship for the Employee to use a personal vehicle. The size of an auto rented shall be the least expensive size appropriate to the use required by the Employee. Rental rates that are equal or less than those available through the State of California's website ([www.catravelmart.com/default.htm](http://www.catravelmart.com/default.htm)) shall be considered the most economical and reasonable for the purpose of reimbursement under this policy. If possible, travelers should refuel rental vehicles before returning them to rental agencies. Employees may use City credit cards to pay for rental vehicles.

**5.4 Air Travel.**

When an Employee claims commercial airline expenses, the cost shall be limited to the least expensive class available, unless prior approval of City Manager for upgrade. Travelers shall attempt to use the lowest airline rates available. Airfares that are equal or less than those available through the Enhanced Local Government Airfare Program offered through the League of California Cities ([www.cacities.org/travel](http://www.cacities.org/travel)), the California State Association of Counties ([www.csac.counties.org/default.asp?id=635](http://www.csac.counties.org/default.asp?id=635)) and the State of California are presumed to be the most economical and reasonable for purposes of reimbursement under this policy. Reservations should be made as far in advance as possible to take advantage of available discounts. Frequent flier mileage and bonus points or premiums, such as discounts on future fares, received, as a result of travel on Official City business shall accrue to the City.

**5.5 Taxis and Other Local Transportation.**

The City shall reimburse the cost of taxi fare including a fifteen percent (15%) gratuity per fare to and from places of business, hotels, airports, or railroad stations in connection with official activities and meals. Taxis are permitted only when suitable and more economical services are not reasonably available. Whenever available, Employees must attempt to use complimentary hotel/motel shuttle services.

**SECTION VII  
TRAVEL AND EXPENSE REIMBURSEMENT**

**6.0 BUSINESS EXPENSES**

Business expenses are those incidental to official travel other than transportation, lodging, and meals. Receipts shall be required for all business expenses, except as provided in paragraph 7.3.

6.1 General

The City shall reimburse Employees for business expenses, provided they do not include the costs of discretionary items intended for personal benefit or pleasure, such as entertainment, or barber and beauty shop charges. Business expenses normally include, but are not limited to, the following:

- Conference registration fees (if not paid by separate claims)
- Officials and Employees shall be reimbursed for actual telephone and fax expenses incurred doing City business. Telephone bills should identify which calls were made doing City business. For cellular telephone calls when the Official or Employee has a particular number of minutes included in his or her plan, the Official or Employee can identify the percentage of calls made doing public business. Employees shall be reimbursed for one personal telephone call per day. All other personal telephone calls are the Employee's responsibility. More calls per day may be authorized by the Department Head in special circumstances.
- Reasonable amounts paid to baggage handlers, porters, and other service personnel.

**7.0 REIMBURSEMENT CLAIMS**

7.1 General

- a. Officials and Employees must submit expense claims upon return. Officials and Employees should submit approved travel claims (along with supporting vouchers and receipts) within six weeks after completion of travel. All claims must have travelers' signatures and, for Employees, Department or Division Head approval.
- b. Receipts documenting each expense must be submitted with the appropriate paperwork to accounts payable. Inability to provide documentation in a timely fashion may result in the expense being borne by the Official or the Employee.
- c. There shall be no settlement of claims totaling less than \$1.00.
- d. All expenses are subject to verification that they comply with this policy.

**SECTION VII  
TRAVEL AND EXPENSE REIMBURSEMENT**

**7.0 REIMBURSEMENT CLAIMS (continued)**

7.2 Claim Forms

Claim forms shall include:

- Consistent with this Policy, the City business involved.
- Dates of travel.
- Travelers' names.
- Travel destinations.
- Expense identification, i.e., seminars, meals, plane fare, etc.
- Dollar amounts of all expenses.
- Personal expenses only if part of City credit card charges. These must be subsequently subtracted from claim totals.
- Additional explanations as needed to substantiate claims.

**8.0 REGISTRATION / EXPENSE ADVANCES**

8.1 Minimum

City Employees may request advances for reimbursable travel expenses. The minimum advance shall be \$50. City Officials may not receive cash advances from the City. If advances exceed actual expenses, Employees must remit the difference when they file their claims. If a trip is canceled, the advance must be remitted within one week of the cancellation.

8.2 Reservation and Registration

Official and Employees may use City credit cards for reservations and registration. If a reservation shall result in an actual charge to the City, the traveler must request a receipt and submit a claim.

**9.0 REPORTS TO GOVERNING BOARDS**

At the City Council meeting following the conference or other business for which any reimbursable expenses were incurred by an Official, each Official shall briefly report on meetings or other business attended at the City's expense. If multiple Officials attend, a joint report may be made.

**SECTION VII  
TRAVEL AND EXPENSE REIMBURSEMENT**

**10.0 RESPONSIBILITY AND ACCOUNTABILITY**

10.1 Administration

Each Department Head shall be held responsible and accountable for the administration of this policy within his/her department. Department heads should consult with the Administrative Services Director and/or City Manager on questions related to this policy. The City Manager shall annually review the practices and reports of the various departments in regard to the administration of this policy.

Each City Official shall be held responsible and accountable for the administration of this policy for his/her own travel. City Officials should consult with the Administrative Services Director and/or City Manager on questions related to this policy.

10.2 Compliance with Laws

Officials and Employees should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act and other laws.

10.3 Violation of This Policy

- a. Loss of reimbursement privileges;
- b. A demand for restitution to the City;
- c. The agency's reporting the expenses as income to the elected Official to state and federal tax authorities;
- d. Civil penalties of up to one thousand dollars (\$1,000) per day and three times the value of the resources used; and
- e. Prosecution for misuse of public resources.

**11.0 AUDITS OF EXPENSE REPORTS**

All expenses are subject to verification that they comply with this Policy.

## **Section VIII** **PETTY CASH**

### **PURPOSE**

To provide guidelines for the purchase of minor items using petty cash. Petty cash purchases are not designed to circumvent normal purchasing procedures, but are designed to expedite the acquisition of emergency needs and less significant items.

### **POLICIES**

#### **1.0 PURCHASES**

- 1.1 Petty cash may be used for purchases up to \$50.00. Any petty cash purchases over \$50.00 shall be approved by the Director of Administrative Services in advance.
- 1.2 A Petty Cash Slip shall be completed and a receipt attached for all petty cash purchases. The Petty Cash Slip must be approved by the appropriate Department/Division manager. It should include the account to be charged and a brief description of the item to be purchased.
- 1.3 An employee may request a petty cash advance for purchases up to \$50.00 or the estimated amount, whichever is less. Prior to receiving the cash, the employee must submit an approved Petty Cash Slip. After the purchase, the receipt and remaining funds shall be returned to the petty cash box, and the Petty Cash Slip shall be adjusted to reflect actual expenditures.

#### **2.0 PETTY CASH BOXES**

- 2.1 The Director of Administrative Services is responsible for assigning petty cash boxes.
- 2.2 Proceeds from the petty cash box are for City purposes only. Petty cash is not to be used for cashing personal checks or to be loaned out for personal uses.
- 2.3 Any department with a petty cash box is responsible for reconciling cash to receipts on at least a bi-weekly basis. Any irregularities shall be reported promptly to the Administrative Services Department.

## **Section IX**

### **DISPOSAL OF ASSETS**

#### **PURPOSE**

Provide for the proper transfer, disposition, and accountability of surplus and obsolete City property (other than land and buildings).

#### **POLICY**

It is necessary to provide for the disposal of surplus and obsolete material or equipment.

#### **1.0 MINOR PROPERTY- ORIGINAL COST < \$500.01**

The Department/Division manager may authorize the disposal of surplus supplies, equipment, or tools with an original value of less than \$500.01 and an estimated current value of less than \$25.00. The Department/Division manager is given considerable discretion in disposing of this property.

#### **2.0 OTHER PROPERTY- ORIGINAL COST > \$500.00**

When an item with an original cost > \$500.00 is no longer needed, becomes worn out, or becomes obsolete, the Department/Division head will submit an Idle Equipment form to the Administrative Services Director for authorization.

Once the Administrative Services Director has given the authority to dispose of the assets, the items may be sold through surplus or other auctions, exchanged or transferred to another City function, traded in for new supplies and/or equipment, or disposed of in another reasonable manner. Administrative Services Director is also authorized to dispose of said property for the highest scrap value or cause its destruction or other disposition.

This policy will not apply to real property or unclaimed property held by the Police Department.

# Appendix A

## Appendix A Public Contract Code

### **PCC §22030**

This article applies only to a public agency whose governing board has by resolution elected to become subject to the uniform construction cost accounting procedures set forth in Article 2 (commencing with Section 22010) and which has notified the Controller of that election. In the event of a conflict with any other provision of law relative to bidding procedures, this article shall apply to any public agency which has adopted a resolution and so notified the Controller.

### **PCC §22031**

Nothing in this article shall prohibit a board of supervisors or a county road commissioner from utilizing, as an alternative to the procedures set forth in this article, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1.

### **PCC §22032**

- (a) Public projects of thirty thousand dollars (\$30,000) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order.
- (b) Public projects of one hundred twenty-five thousand dollars (\$125,000) or less may be let to contract by informal procedures as set forth in this article.
- (c) Public projects of more than one hundred twenty-five thousand dollars (\$125,000) shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.

### **PCC §22033**

It shall be unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of this article requiring work to be done by contract after competitive bidding.

### **PCC §22034**

Each public agency that elects to become subject to the uniform construction accounting procedures set forth in Article 2 (commencing with Section 22010) shall enact an informal bidding ordinance to govern the selection of contractors to perform public projects pursuant to subdivision (b) of Section 22032. The ordinance shall include all of the following:

- (a) The public agency shall maintain a list of qualified contractors, identified according to categories of work. Minimum criteria for development and maintenance of the contractors list shall be determined by the commission.
- (b) All contractors on the list for the category of work being bid or all construction trade journals specified in Section 22036, or both all contractors on the list for the category of work being bid and all construction trade journals

## Appendix A Public Contract Code

### **PCC §22034 (continued)**

specified in Section 22036, shall be mailed a notice inviting informal bids unless the product or service is proprietary.

(c) All mailing of notices to contractors and construction trade journals pursuant to subdivision (b) shall be completed not less than 10 calendar days before bids are due.

(d) The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and state the time and place for the submission of bids.

(e) The governing body of the public agency may delegate the authority to award informal contracts to the public works director, general manager, purchasing agent, or other appropriate person.

(f) If all bids received are in excess of one hundred twenty-five thousand dollars (\$125,000), the governing body of the public agency may, by adoption of a resolution by a four-fifths vote, award the contract, at one hundred thirty-seven thousand five hundred dollars (\$137,500) or less, to the lowest responsible bidder, if it determines the cost estimate of the public agency was reasonable.

### **PCC §22035**

(a) In cases of emergency when repair or replacements are necessary, the governing body may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the governing body, by contractor, or by a combination of the two.

(b) In case of an emergency, if notice for bids to let contracts will not be given, the public agency shall comply with Chapter 2.5 (commencing with Section 22050).

### **PCC §22035.5**

In counties that are under court order to relieve justice facility overcrowding, the procedures and restrictions specified in Section 20134 shall apply to all contracts issued under this chapter.

### **PCC §22036**

The commission shall determine, on a county-by-county basis, the appropriate construction trade journals which shall receive mailed notice of all informal and formal construction contracts being bid for work within the specified county.

### **PCC §22037**

Notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The notice shall be published at least 14

## Appendix A Public Contract Code

### **PCC §22037 (continued)**

calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in the jurisdiction of the public agency; or, if there is no newspaper printed and published within the jurisdiction of the public agency, in a newspaper of general circulation which is circulated within the jurisdiction of the public agency, or, if there is no newspaper which is circulated within the jurisdiction of the public agency, publication shall be by posting the notice in at least three places within the jurisdiction of the public agency as have been designated by ordinance or regulation of the public agency as places for the posting of its notices. The notice inviting formal bids shall also be mailed to all construction trade journals specified in Section 22036. The notice shall be mailed at least 30 calendar days before the date of opening the bids. In addition to notice required by this section, the public agency may give such other notice as it deems proper.

### **PCC §22038**

(a) In its discretion, the public agency may reject any bids presented, if the agency, prior to rejecting all bids and declaring that the project can be more economically performed by employees of the agency, furnishes a written notice to an apparent low bidder. The notice shall inform the bidder of the agency's intention to reject the bid and shall be mailed at least two business days prior to the hearing at which the agency intends to reject the bid. If after the first invitation of bids all bids are rejected, after reevaluating its cost estimates of the project, the public agency shall have the option of either of the following:

(1) Abandoning the project or readvertising for bids in the manner described by this article.

(2) By passage of a resolution by a four-fifths vote of its governing body declaring that the project can be performed more economically by the employees of the public agency, may have the project done by force account without further complying with this article.

(b) If a contract is awarded, it shall be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the public agency may accept the one it chooses.

(c) If no bids are received through the formal or informal procedure, the project may be performed by the employees of the public agency by force account, or negotiated contract without further complying with this article.

### **PCC §22039**

The governing body of the public agency shall adopt plans, specifications, and working details for all public projects exceeding the amount specified in subdivision (c) of Section 22032.

### **PCC §22040**

Any person may examine the plans, specifications, or working details, or all of these, adopted by the public agency for any project.

## Appendix A Public Contract Code

### **PCC §22041**

This article does not apply to the construction of any public building used for facilities of juvenile forestry camps or juvenile homes, ranches, or camps established under Article 15 (commencing with Section 880) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, if a major portion of the construction work is to be performed by wards of the juvenile court assigned to those camps, ranches, or homes.

### **PCC §22042**

The commission shall review the accounting procedures of any participating public agency where an interested party presents evidence that the work undertaken by the public agency falls within any of the following categories:

- (a) Is to be performed by a public agency after rejection of all bids, claiming work can be done less expensively by the public agency.
- (b) Exceeded the force account limits.
- (c) Has been improperly classified as maintenance.

### **PCC §22043**

In those circumstances as set forth in subdivision (a) of Section 22042, a request for commission review shall be in writing, sent by certified or registered mail received by the commission postmarked not later than five business days from the date the public agency has rejected all bids. In those circumstances set forth in subdivision (b) or (c) of Section 22042, a request for commission review shall be by letter received by the commission not later than five days from the date an interested party formally complains to the public agency. The commission review shall commence immediately and conclude within 30 days from the receipt of the request for commission review. During the review of a project that falls within subdivision (a) of Section 22042, the agency shall not proceed on the project until a final decision is received by the commission.

### **PCC §22044**

The commission shall prepare written findings. Should the commission find that the provisions of this chapter or of the uniform cost accounting procedures provided for in this chapter were not complied with by the public agency, the following steps shall be implemented by that agency:

- (a) On those projects set forth in subdivision (a) of Section 22042, the public agency has the option of either:
  - (1) abandoning the project, or
  - (2) awarding the project to the lowest responsible bidder.
- (b) On those projects set forth in subdivision (b) or (c) of Section 22042, the public agency shall present the commission's findings to its governing body and that governing body shall conduct a public hearing with regard to the commission's findings within 30 days of receipt of the findings.

Appendix A  
Public Contract Code

**PCC §22045**

- (a) No later than January 1, 1985, the commission shall recommend, for adoption by the Controller, written procedures implementing the accounting procedures review provided for in this article.
- (b) The Controller shall, upon receipt of the commission's recommendation, review and evaluate the recommended procedures and either formally adopt or reject the recommended procedures within 90 days of submission of the commission.