



CITY OF CHOWCHILLA POLICY AND PROCEDURES

PROCUREMENT

Section: Finance	Effective Date: 01/2019
Subject: Purchasing	Supersedes: 08/2015
Reference: CPP – F2.2	Council Approval: Resolution:
Applies to: All Employees	

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PURPOSE

The policies and procedures found in this section govern all purchases made on behalf of the City. They supersede all prior directives, memorandums, and practices related to the purchasing of supplies, equipment, services, and construction. This policy is a synthesis of prudent procurement practices, applicable laws, financial principles, accounting principles, and budgetary and administrative controls.

APPLICATION

ADOPTION OF PURCHASING SYSTEM

Several fundamental principles must be observed when making purchases on behalf of the City. They are: (1) ensure supplies, equipment, services and construction are obtained at the lowest possible cost, consistent with the quality and quantity required to maintain the efficient operation of City departments, (2) exercise positive financial control over all purchases, (3) assure the quality of purchases, and (4) clearly define authority for the purchasing function.

Title 4 of the Chowchilla Municipal Code was adopted to establish efficient, equitable, and uniform procedures for the purchase of supplies, equipment, services, and construction; provide for the fair and equitable treatment by the City of all persons involved in public purchasing; maximize the purchasing value of public funds; exercise financial control over purchases; clearly define authority for procurement functions; and provide safeguards for maintaining a procurement system of quality and integrity.

Throughout the acquisition process, the City will operate in a manner that encourages competition. Reputable business practices will be observed. Suppliers and contractors will be treated in a fair and business-like manner with preference given to local suppliers based on the City's ultimate receipt of sales tax, up to a total of \$1,000.00, in accordance with the Municipal Code (see below for further detail).

APPROPRIATED FUNDS

To operate effectively within the City Budget, it is necessary to record all purchases in accordance with generally accepted accounting practices for governmental entities, as well as in relationship to the funds available in the budget. Accordingly, all employees of the City shall become familiar with and follow the City's policies and procedures as they relate to procurement. Supervisors and Department Heads must be cognizant of their respective budget limitations, initiate purchases accordingly, and code invoices appropriately. Individual departments must anticipate requirements and initiate action to purchase goods and services well in advance of the time they are needed. Estimates of annual departmental usage of certain items may be necessary so that economic ordering points may be determined.



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THRESHOLDS FOR COMPETITIVE SEALED BIDS AND PROPOSALS

The City Administrator will establish thresholds for competitive sealed bids and proposals and will make changes to the thresholds, as she deems necessary.

PERSONAL PURCHASES PROHIBITED

1. City employees are strictly prohibited from obligating the City of Chowchilla, financially or otherwise, by any means, including but not limited to purchase orders and contracts, when the employee has a personal, material, financial, or other interest in the obligation. Employees are strictly prohibited from accepting any form of gratuities. For this section only, employee is defined as an individual drawing a salary or wages from the City, whether elected or not; any non-compensated individual performing personal services for the City or any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of the City; and any non-compensated individual serving as an elected official of the City.
2. At no time while appearing to represent the City, will any employee purchase any item for personal use without first informing the Supplier of the personal use. The employee with his or her personal funds shall pay all such purchases. When personal purchases are made under these circumstances, separate invoices or sales receipts must be issued by the Supplier. Such invoices must bear the employee's name, home address, and phone number and may not be delivered to the City. Employees may not accept discounts, sales, reduced prices, or other benefits offered by Suppliers because of employees' relationships with the City.
3. At no time will any employee be allowed to incur costs to the City for personal purposes, such as making personal long distance phone calls, copies, or facsimiles, mailing personal bills, letters, or packages, or otherwise committing the City to pay for an employee's personal expenses.
4. At no time will any employee use, borrow, loan, or take home City equipment or supplies for personal use, whether for recreational use or for personal business.
5. City employees should avoid any implied or actual infraction of City rules and regulations, such as receiving personal mail at City offices, using the City address or telephone number on personal checks, or any other indication that the employee might stand to gain at cost to the City.

RESPONSIBILITY FOR ENFORCEMENT

The City Administrator has the ultimate responsibility of assigning appropriate and designated or delegated authority to the Finance Director for operational enforcement and monitoring. Department Heads (and mid managers and supervisors as assigned) have the overall day to day responsibility for compliance of this administrative policy.



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PUBLIC ACCESS TO PROCUREMENT INFORMATION

Procurement information shall be a public record to the extent provided in Government Code §6252 and shall be available to the public as provided in that statute. Some of the requirements of Government Code Section 6252 are summarized below to provide a brief overview of the California Public Records Act as it may pertain to procurement records. This section is set forth here for informational purposes only. Because Government Code Section 6252, et. seq., may be changed at any time by the legislature, the City Attorney should be consulted before taking action under the California Public Records Act.

1. **DEFINITION OF "PUBLIC RECORD".** "Public record" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by the City regardless of physical form or characteristics."
2. **RECORDS MUST BE OPEN TO INSPECTION AT ALL TIMES.** Public records must open to inspection at all times during the City's office hours, except as noted below under "Exceptions". Any reasonably, segregated portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempt by law.
3. **RECORDS SHALL BE MADE PROMPTLY ACCESSIBLE.** Upon a request for a copy of records that reasonably describes an identifiable record or records, the City shall make the records promptly available to any person, upon payment of fees covering direct costs of duplication, or a statutory fee, if applicable. Upon request, an exact copy shall be provided unless impracticable to do so. Computer data shall be provided in a form determined by the City.
4. **DETERMINATIONS MUST BE MADE WITHIN TEN DAYS WHETHER THE REQUEST SEEKS COPIES OF PUBLIC RECORDS IN POSSESSION OF THE CITY THAT MAY BE DISCLOSED.** The City, upon a request for a copy of records shall, within ten- (10) days from receipt of the request, determine whether the request, in whole or in part, seeks copies of public records in the possession of the City that may be disclosed. The City shall promptly notify the person making the request of the determination and the reasons for it.
 - a. **TIME EXTENSION MAY BE ALLOWED IN UNUSUAL CIRCUMSTANCES.** In unusual circumstances, the time limit prescribed in this section maybe extended by written notice by the City Administrator, or its designee, to the person making the request. The written notice shall set forth the reasons for the extension and the date on which a determination should be dispatched.
 - i. **NO EXTENSION BEYOND 14 DAYS.** No notice shall specify a date that would result in an extension for more than 14 days. Only to the extent reasonably necessary to the proper procession of the



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particular request, as used in this section, “unusual circumstances” means:

1. **NEED TO SEARCH AND COLLECT RECORDS.** The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
 2. **NEED TO SEARCH, COLLECT AND EXAMINE RECORDS.** The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request;
 3. **NEED TO CONSULT WITH ANOTHER AGENCY.** The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the City having substantial subject matter interest in the determination of the request.
- b. **OBSTRUCTION TO RECORDS IS NOT PERMITTED.** Nothing in Government Code Section 6252, et. seq., shall be construed to permit the City to obstruct the inspection or copying of public records. Public records stored in a computer shall be disclosed as required by this section.
 - c. **NOTIFICATION OF DENIAL SHALL BEAR NAMES & TITLES OF PERSON(S) RESPONSIBLE.** Any notification of denial of any request for records shall set forth the names and titles or positions of each person responsible for the denial.
 - d. **CITY MAY ADOPT REQUIREMENTS TO IMPROVE ACCESS.** Except as otherwise prohibited by law, the City may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth by Government Code Section 6252.
 - e. **CITY MAY ADOPT PROCEDURES FOR RECORD REQUESTS.** The City may adopt regulations stating the procedures to be followed when making its records available in accordance with Government Code §6252.
5. **EXCEPTIONS.** Except as provided in Government Code §6254.7 and §6254.13, nothing in the California Public Records Act shall be construed to require disclosure of records that are any of the following:
 - a. **PRELIMINARY DRAFTS, NOTES, INTER-AGENCY, OR INTRA-AGENCY MEMORANDA NOT RETAINED BY THE CITY IN THE ORDINARY COURSE OF BUSINESS.** Preliminary drafts, notes, inter-agency or intra-agency memoranda that are not retained by the City in the ordinary course of business, if the public interest in withholding those



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records clearly outweighs the public interest in disclosure.

- b. **RECORDS PERTAINING TO PENDING LITIGATION.** Records pertaining to pending litigation to which the City is a party, or to claims made pursuant to Division 3.6 (commencing with §810) until the pending litigation or claim has been finally adjudicated or otherwise settled.
6. **CITY MUST JUSTIFY WITHHOLDING RECORDS.** The City shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of Government Code §6252, et. seq., or that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record.
7. **ACCESS TO RECORDS MAY NOT BE DENIED BASED UPON PURPOSE OF REQUEST.** The City may not limit access to a public record based upon the purpose for which the record is being requested, if the record is otherwise subject to disclosure.
8. **NOTHING IN THIS SECTION PREVENTS DESTRUCTION OF RECORDS PURSUANT TO LAW.**

DEFINITIONS

1. **BRAND NAME OR EQUAL SPECIFICATIONS.** A specification limited to one or more items by manufacturers' names or catalogue numbers to describe the standard of quality, performance, and other salient characteristics needed to meet City requirements, and which provides for the submission of equivalent products.
2. **BRAND NAME SPECIFICATIONS.** A specification limited to one or more items by manufacturers' names or catalogue numbers.
3. **BUSINESS.** Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
4. **BUSINESS, LOCAL.** Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity, which maintains a physical, working office within the city limits of the City of Chowchilla.
5. **CHANGE ORDER.** A written order signed and issued by the City Administrator, or its designee, directing the supplier or contractor to make changes or modifications to an order. The change order may make written alteration to the specifications, delivery point, rate of delivery, period of performance, price, quality, quantity, or other provisions of the contract.
6. **CONTRACT.** Any authorized City agreement, regardless of what it is called (purchase order, contract, etc.), for the procurement of supplies, equipment, services, or construction.



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7. **CONTRACTOR.** Any person having a contract with the City.
8. **CONSTRUCTION.** The furnishing of labor, equipment, materials, time or effort by a contractor for the permanent or temporary erection, painting, carpeting, alteration, demolition, maintenance, or repair of any public structure, building, plant, park, lot, facility, utility system, real property, well, road or other improvement of any kind, including work in or about streets, sewers, streams, bays, waterfronts, embankments, and work for protection against overflow.
9. **COST ANALYSIS.** The evaluation of cost data for arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.
10. **COST DATA.** Factual information concerning the cost of labor, material, overhead, and other cost elements that are expected to be incurred, or which have been actually incurred, by the contractor in performing the contract; or that are expected to be incurred by the City in the use of the equipment or material to be purchased.
11. **COST REIMBURSEMENT CONTRACT.** A contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and the provisions of this Manual, and a fee or profit, if any.
12. **DIRECT OR INDIRECT PARTICIPATION.** Involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.
13. **DISADVANTAGED BUSINESS.** A small business which is owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages.
14. **EMPLOYEE.** An individual drawing a salary or wages from the City, whether elected or not; any non-compensated individual performing personal services for the City or any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of the City; and any non-compensated individual serving as an elected official of the City.
15. **EQUIPMENT.** (See "Supplies")
16. **FINANCIAL INTEREST.** "Financial interest" as used herein, is defined by the City's Conflict of Interest Code for Designated Employees.
17. **GRATUITY.** A payment, loan, subscription, advance, deposit of money, service, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received



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18. IMMEDIATE FAMILY. A spouse, children, parents, brothers, and sisters.
19. INVITATION FOR BIDS. All documents, whether attached or incorporated by reference utilized for soliciting sealed bids. Invitations for Bids (IFB) are awarded to the lowest responsible and responsive bidder(s).
20. LOCAL BUSINESS. (See Business, Local).
21. PERSON. Any business, individual, corporation, union, committee, club, other organization, or group of individuals.
22. PRICE ANALYSIS. The evaluation of price data, without analysis of the separate cost components and profit as in cost analysis, which may assist in arriving at prices to be paid and costs to be reimbursed
23. PRICING DATA. Information concerning prices for items substantially similar to those being procured. Prices in this definition refer to offered or proposed selling prices, historical selling prices and current selling prices. The definition refers to data relevant to both prime and sub-contract prices.
24. PROCUREMENT. The buying, purchasing, renting, leasing, trading, or otherwise acquiring of any supplies, equipment, services or construction. It also includes all functions that pertain to the obtaining of any supplies, equipment, services, or construction, including descriptions of requirements, selection and solicitation of sources, preparation, and award of contracts, and all phases of contract administration.
25. QUALIFIED PRODUCTS AND SERVICES LIST. An approved list of supplies, equipment, services, or construction items described by model numbers, catalog numbers, or other means, which, before competitive solicitation, the City has determined will meet the applicable specification requirements.
26. REQUEST FOR PROPOSALS. All documents, whether attached or incorporated by reference, utilized for soliciting proposals. Requests for Proposals (RFP) are generally awarded based on factors other than and including price.
27. REQUESTING DEPARTMENT. Any department, commission, board, or agency requiring supplies, equipment, services, or construction procured pursuant to the Ordinance.
28. RESPONSIBLE BIDDER OR OFFEROR. A person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.
29. RESPONSIVE BIDDER OR OFFEROR. A person who has submitted a bid that conforms in all material respects to the requirements set forth in the solicitation.



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30. **SERVICES.** The furnishing of labor, time, or effort by a contractor, not involving delivery of a specific product other than reports which are merely incidental to the required performance. "Services" shall include professional services. "Services" shall not include employment agreements or collective bargaining agreements.
31. **SPECIFICATION.** Any description or scope of work of the physical or functional characteristics or of the nature of supplies, equipment, service, or construction. It may include a description of any requirement for inspection, testing or delivery of supplies, equipment, services, or construction.
32. **SUPPLIES.** All property, including but not limited to equipment, materials, printing, insurance, and leases of real property, excluding land or a permanent interest in land.



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CHAPTER 1 AUTHORITY TO PURCHASE

SECTION I - GOVERNING BODY

The City Council determines expenditure levels through the formulation and approval of the annual budget. In performing this policy making function, the City Council establishes a set of goals, priorities, and performance standards to which the City organization directs its collective efforts to accomplish.

SECTION II - CITY ADMINISTRATOR

The City Council has delegated to the City Administrator responsibility for carrying out a program of services to the community. It is the City Administrator's responsibility to manage the Annual Budget to accomplish the goals and priorities of the City Council. All regulations, as well as recommendations for changes in general procurement policies will only be made with the approval of the City Administrator.

1. CREATION OF THE POSITION OF PURCHASING AGENT. Title 4 of the Chowchilla Municipal Code created the position of purchasing agent, who is the City's principal public purchasing official. The City Administrator, or such other person as the City Administrator may designate, shall be the purchasing agent of the City.
2. DUTIES. In accordance with the Municipal Code, and subject to the supervision of the Mayor and City Council, the City Administrator shall:
 - a. Procure or supervise the procurement of supplies, equipment, services and construction needed by the City;
 - b. Exercise general supervision over all inventories of supplies and equipment belonging to the City;
 - c. Sell, trade or otherwise dispose of surplus supplies and equipment belonging to the City;
 - d. Establish and maintain programs for specification development, contract administration, inspection, testing, and acceptance;
 - e. Ensure all state and local procurement laws and internal procedures and policies are followed; and
 - f. Adopt and administer a code of ethics that shall be followed by all employees in the procurement of supplies, equipment, services, and construction.
3. OPERATIONAL PROCEDURES. Consistent with the Municipal Code, and with the approval of the Mayor or City Council, the City Administrator may adopt operational procedures relating to the execution of its duties.



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SECTION III - DELEGATION TO OTHER CITY OFFICIALS

In accordance with Title 4 of the Municipal Code, the City Administrator may delegate authority to purchase certain supplies, equipment, construction items or services to other City officials as deemed necessary for the effective procurement of those items.

1. **DEPARTMENT HEAD RESPONSIBILITY.** City Department Heads are responsible for meeting the goals and objectives established by the City Council and they are provided with budgeted funds to attain those goals. Each Department Head has the responsibility and authority to make certain that purchases are within the scope of the adopted budget. This authority may be delegated supervisors who are responsible for services or cost centers within the department.

Department Heads have been granted the discretion to make purchases within the scope of their respective appropriations. Department Heads may proceed with purchases (either capital outlay items or routine supplies, tools, etc.) as long as the purchases do not exceed the "bottom line" by the end of the fiscal year. Purchases that would cause expenditures to exceed a department's budget may not be made without prior written approval of the City Administrator.

Although the City Council has established goals and expenditure levels for each department, an appropriation is neither a permit nor a directive to expend funds. Purchases shall not be made unless the need for the goods or services continues to exist and the total cost of the goods or services is within the parameters of the budget as stated above. In addition, these criteria must be ultimately weighed against the availability of funds and the relationship of the departmental goals to the overall City priorities. For proper management control, it is imperative that all expenditures be authorized before purchase. Department Heads may authorize their designated employees to make purchases under \$1,000.00.



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CHAPTER 2

PURCHASES OF \$50,000.00 OR LESS

SECTION I - MICRO-PURCHASES \$0 - \$10,000

The City Administrator shall adopt operational procedures for making micro purchases not exceeding the amount fixed by the City Administrator for Small Purchases. Micro purchases may be made without competition. No bid or quote is required. Micro purchases may be made by claim, purchase order, blanket order, contract order, procurement card or any other method determined by the City Administrator to be reasonable and cost effective methods for making such purchases.

1. PURCHASING AUTHORITY
 - a. \$1,000 OR LESS. Individual employees with prior approval of their Department Head may purchase up to \$1,000.00.
 - b. \$1,001 TO \$10,000 – PURCHASE ORDER IS REQUIRED.
 - i. \$1001 - \$5,000 Department Heads (or authorized designee as approved by the City Administrator) must sign all Purchase Orders.
 - ii. \$5,001 - \$10,000 Purchases over \$5,000.00 require the prior approval of the City Administrator and Department Head.
2. PURCHASING PROCEDURE
 - a. LESS THAN \$50.00. Purchases totaling less than \$50 and purchased from Suppliers other than those listed under the Open PO Supplier listing, shall be made using petty cash
 - i. USE AN ADVANCE OR REIMBURSEMENT. The employee making the purchase shall request an advance or reimbursement from the appropriate petty cash fund. (See Petty Cash Procedures herein.)
 - b. \$1,000.00 OR LESS. Purchases totaling \$1,000.00 or less may be made with Open PO Suppliers (Finance maintains a list). If an open purchase order does not exist for the Supplier you want to use, submit a Purchase Order Request, approved by a Department Head, to Finance for a Purchase. All Purchase Order Requests over \$1,000 must be pre-approved by the appropriate Department Head.
3. LOCAL & RECYCLED PREFERENCES. Apply local and recycled materials preferences (Chapter 2, Sections IV and V below) when appropriate.

SECTION II - SMALL PURCHASES \$10,001 - \$50,000

1. CONDITIONS FOR USE. Any contract not exceeding \$50,000.00 or the amount fixed by the City Administrator for solicitation of Formal Bids, may be



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made in accordance with the informal quote procedures authorized in this Chapter. Contract requirements shall not be artificially divided to constitute Request for Quotations (RFQs) or small purchases under this Chapter.

2. PROCEDURES

- a. **USE OF INFORMAL QUOTES.** Quotes may be solicited using a Request for Quotation form and a "RFQ Terms and Conditions". The Terms and Conditions must always accompany the RFQ form because they protect the City's interests and help resolve problems that may occur with the order. The RFQ and "RFQ Terms and Conditions" may be sent by mail, facsimile or email.
 - i. Phone calls and web searches may also be used. All quotes must be documented and kept on file. Email responses and written detail of verbal quotes will suffice the documentation requirement.
- b. **SOLICIT NO LESS THAN THREE BUSINESSES.** Insofar as it is practical, no less than three businesses shall be solicited to submit quotations.
- c. **PUBLIC NOTICE AND ADVERTISING ARE NOT REQUIRED.** Public notice and advertising of the Request For Quotes is not required.
- d. **RECEIPT OF QUOTES.** A summary of quotes shall be prepared containing the name of each bidder, the number of modifications (addenda) received, if any, and a description sufficient to identify the item/services offered and the price(s). The summary shall be open for public inspection only after the time for receipt of quotes.
- e. **AWARD TO LOWEST RESPONSIBLE AND RESPONSIVE BIDDER.** Award must be made to the lowest responsible and responsive bidder.
 - i. "Responsible" bidder is a person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit that will assure good faith performance.
 - ii. Responsive" bidder is a person who has submitted a bid that conforms in all material respects to the requirements set forth in the solicitation.
- f. **AWARD TO OTHER THAN LOWEST BIDDER.** If award is made to other than the bidder offering the lowest price, a memo must be attached to the Purchase Order Request, and signed by the Department Head, which indicates why the lowest bidder or bidders do not meet specifications or are not responsible bidders.
- g. **DEPARTMENT RECOMMENDATION FOR AWARD.** After reviewing the



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- c. PUBLIC NOTICE AND ADVERTISING ARE NOT REQUIRED. Public notice and advertising of the informal Request For Proposals is not required.
- d. RECEIPT OF PROPOSALS. Although it is not necessary that informal proposals be received in a sealed envelope, no proposal shall be handled to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during the process of negotiation. A summary of proposals shall be prepared containing the name of each offeror, the number of modifications (addenda) received, if any, and a description sufficient to identify the item or service offered. The register of proposals shall be open for public inspection only after contract award.
- e. AWARD OF PROPOSAL DETERMINED IN THE BEST INTEREST OF THE CITY. Award must be made to the proposal determined to be in the best interest of the City, after consideration of all evaluation factors identified in the RFP.
- f. EVALUATION FACTORS. The informal Request For Proposals shall state the relative importance of price and other evaluation factors.
- g. DISCUSSION WITH RESPONSIBLE OFFERORS AND REVISIONS TO PROPOSALS. As provided in the Request For Proposals, discussion may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. Discussions shall be for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Such revisions may be permitted after submissions and before award for obtaining best and final offers. In conducting discussions, there shall be no disclosure of identity of competing offerors or of any information derived from proposals submitted by competing offerors.
- h. AWARD RECOMMENDATION. The Department Head must indicate on the Purchase Order Request the Supplier or Contractor that is recommended for award.
- i. DEPARTMENT RECOMMENDATION FOR AWARD. After reviewing the proposals received, the Division Manager shall submit a Purchase Order Request with a recommendation of award to the City Administrator.
- j. CITY ADMINISTRATOR APPROVAL REQUIRED. The City Administrator must approve award of the proposal before a purchase order will be issued.
- k. QUOTES AND SUMMARY ATTACHED TO PO REQUEST. A copy of the original RFP and copies of all proposals received must be attached to the



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Purchase Order Request, and summarized on the "Bid Summary". Please highlight the recommended proposal.

- I. PUBLIC RECORD. The names of the businesses submitting proposals, and the date proposals were due, shall be recorded and maintained as a public record. The contract file shall contain the basis on which the award was made.

- m. PROCEDURE. Follow the Informal Quotes procedures in Section Two of this Chapter, except with reference to award to lowest bidder. Award of RFPs are made as noted above in item e.

SECTION IV - LOCAL PREFERENCE

- 1. BASED ON RECEIPT OF SALES TAX. The City's ultimate receipt of sales tax, up to a total of \$1,000.00, shall be considered in determining the lowest price.

- 2. DESIGNATION OF CITY AS RECIPIENT OF TAX. Any bidder who receives an award due to consideration of a local preference shall designate in writing the City of Chowchilla as the ultimate recipient of sales tax for the contract that is awarded.

- 3. EXCEPTIONS TO APPLICATION OF LOCAL PREFERENCE.
 - a. Procurements made with federal or state grant funds;
 - b. Procurements of construction or public works projects; or
 - c. Procurements made in cooperation with other public entities.

SECTION V - PREFERENCE FOR RECYCLED PRODUCTS

- 1. PREFERENCES. The City will consider preferences in determining the lowest price(s) for products containing recycled materials. The following preferences are based on the amount and type of recycled content. The preferences are not cumulative; only one preference may be applied to a single product. The City shall apply the highest dollar preference per product.
 - a. 50% OR MORE, POST-CONSUMER RECYCLED CONTENT. The City will consider a 5% preference for products containing 50% or more post-consumer recycled content.
 - b. 25% OR MORE, POST-CONSUMER RECYCLED CONTENT. The City will consider a 2% preference for products containing 25% or more post-consumer recycled content.
 - c. 10% OR MORE, PRE AND POST-CONSUMER RECYCLED CONTENT. The City will consider a 1% preference for products containing 10% or more pre or post-consumer recycled content.



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2. EXCEPTIONS TO APPLICATION OF RECYCLED MATERIALS PREFERENCE. The following exceptions may apply:
 - a. Procurements made with federal or state grant funds;
 - b. Procurements of construction or public works projects; or
 - c. Procurements made in cooperation with other public entities.
3. PROOF OF CONTENT. The City reserves the right to demand sufficient proof of the amount and type of recycled content before awarding bid.

SECTION VI - OTHER SOLICITATION METHODS

Subject to the limitations of this Chapter, any type of contract which is appropriate to the procurement and which will promote the best interests of the City may be used; with the exception of the cost-plus-percentage-of-cost contract which is prohibited.

SECTION VII - EXCEPTIONS TO PROCEDURES

See Chapter 5 for exceptions to these procurement procedures.



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CHAPTER 3

PURCHASES EXCEEDING \$50,000.00

SECTION I - COMPETITIVE SEALED BIDDING

1. **CONDITIONS FOR USE.** Any contract for the purchase of supplies, equipment and construction of an aggregate annual value exceeding \$50,000.00 or the amount set by the City Council for solicitation of Formal Bids, shall be awarded by compliance with the competitive sealed bidding procedures contained in this Chapter, except as otherwise provided in Chapter 4 (Contracting for Designated Professional Services), Chapter 5 (Exceptions to Competitive Procurement Procedures), and Chapter 7 (Procurement of Public Projects, Architect-Engineer and Land Surveying Services) of this Manual.

Competitive sealed bids are generally used when the product or service desired is simple to quantify and the City is able to determine the product or service that will meet its needs or purposes. A detailed specification is generally used to describe the goods or services desired.

2. **PROCEDURES.**
 - a. **INVITATION FOR BIDS.** An Invitation For Bids shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement. Potential bidders must not be precluded from qualifying during the solicitation period.
 - i. **SELECT IFB OR RFP.** Select either an Invitation for Bids (IFB) or Request for Proposals (RFP) format, depending on your procurement.
 - ii. **BID CONTENT.** Develop a bid specification for the item or services needed. It must incorporate a clear and accurate description of technical requirements for the material, product, or service and identify all requirements which the offerors must fulfill, and all other factors used in evaluating the bid.
 - b. **SOLICIT ALL BIDDERS ON BID LIST.** Insofar as it is practical, all bidders listed in the Bid List for the type of supplies, equipment or construction being bids shall be invited to bid. Ensure the list includes enough qualified sources to ensure maximum open and free competition.
 - c. **PUBLIC NOTICE AND ADVERTISING.** Adequate public notice of the Invitation For Bids shall be given a reasonable time, not less than ten (10) calendar days prior to the date set forth therein for the opening of bids. Such notice may include publication in electronic form including, but not limited to, publication on the Internet, or publication in a newspaper of general circulation a reasonable time before opening. The public notice



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shall state the place, date and time of bid opening.

- d. **RECEIPT OF BIDS.** Bids shall be received in sealed envelopes bearing on the outside the bid title and number. Bids must be received by the date and time designated in the Invitation For Bids.
- e. **LATE BIDS.** Late bids shall be returned to the bidders unopened.
- f. **BID OPENING.** Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation For Bids. The amount of each bid, and such other relevant information as the City Administrator deems appropriate, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection in accordance with Government Code §6252, the Public Information Act.
- g. **BID ACCEPTANCE AND BID EVALUATION.** Bids shall be unconditionally accepted without alteration or correction, except as authorized in the Purchasing Ordinance. Bids shall be evaluated based on the requirements set forth in the Invitation For Bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The Invitation For Bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the Invitation For Bids.
- h. **CORRECTION OR WITHDRAWAL OF BIDS; CANCELLATION OF AWARDS.** Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written notice received in the office designated in the invitation to bids prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the City or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:
 - i. **MISTAKE IS CLEARLY EVIDENT.** The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - ii. **MISTAKE IS NOT EVIDENT.** The bidder submits evidence that



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clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the City Administrator.

3. AWARD.

- a. **AWARD TO LOWEST RESPONSIBLE AND RESPONSIVE BIDDER.** Award must be made to the lowest responsible and responsive bidder.
 - i. **"RESPONSIBLE" BIDDER.** A person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit that will assure good faith performance.
 - ii. **"RESPONSIVE" BIDDER.** A person who has submitted a bid that conforms in all material respects to the requirements set forth in the solicitation.
- b. **AWARD TO OTHER THAN LOWEST BIDDER.** If award is made to other than the bidder offering the lowest price, a memo must be attached to the Purchase Order Request, and signed by the Department Head, which indicates why the lowest bidder or bidders do not meet specifications or are not responsible bidders.
- c. **DEPARTMENT RECOMMENDATION FOR AWARD.** The Department Head shall review all bids received, apply the Local Preference and the Recycled-Materials Preference (see below) when applicable, and submit a Purchase Order Request with a recommendation of award to the City Administrator. A summary of the bids received must be attached to the Purchase Order Request (Exhibit F). The summary may be in memo form.
- d. **AWARD BY CITY COUNCIL.** Purchases exceeding \$75,000.00 or an amount set by City Council shall be awarded by the City Council after receiving the recommendation of the City Administrator forwarded through the City Administrator.
- e. **AWARD BY CITY ADMINISTRATOR.** The City Administrator may award purchases of less than the amount that requires award by City Council, after receiving the recommendation of the City Administrator or requesting Department Head. The City Administrator may execute contracts and other necessary related documents on behalf of the City for purchases within his or her awarding authority.

4. PREFERENCES.

- a. **LOCAL PREFERENCE.** The City's ultimate receipt of sales tax, up to a total of \$1,000.00, shall be considered in determining the lowest price,



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- an Invitation For Bids may be issued requesting the submission of unpriced offers. Review of the unpriced offers may be followed by an Invitation For Bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.
6. OTHER SOLICITATION METHODS. Subject to the limitations of this Chapter, any type of contract which is appropriate to the procurement and which will promote the best interests of the City may be used; with the exception of the cost-plus-percentage-of-cost contract which is prohibited.
 7. NO "CONFIRMING ORDERS". Orders shall not be placed before purchase orders are issued. The City of Chowchilla will not honor any purchases that vary from these procedures.
 8. EXCEPTIONS. See Chapter 5, Exceptions to Competitive Procurement Procedures.
 9. CANCELLATION OF SOLICITATION. See Chapter 6, Cancellation of Invitations For Bids or Requests For Proposals.

SECTION II - FORMAL COMPETITIVE SEALED PROPOSALS

1. CONDITIONS FOR USE. When the City Administrator determines that the use of competitive sealed bidding is either not practicable or not advantageous to the City, a contract may be entered into by use of the competitive sealed proposals method. Competitive sealed proposals are generally used when the product or service desired is difficult to quantify or the City desires to have the offerors determine the product or service that will meet its needs or purposes. Rather than issue a detailed specification, an RFP uses a more general Scope of Work to describe the goods, services, or results desired.
2. PROCEDURES.
 - a. REQUEST FOR PROPOSALS. A Request For Proposals shall be issued and shall include a scope of work and contractual terms and conditions applicable to the procurement.
 - i. USE RFP SAMPLE AS A GUIDE. RFPs for services should be developed using a Request for Proposal and RFP Standard Terms and Conditions, unless otherwise directed by the City Administrator.
 - ii. EVALUATION FACTORS. The Request For Proposals shall indicate all evaluation factors, including price, which will be used in award of a contract. The relative importance of each factor may be stated. It must incorporate a clear and accurate description of technical requirements for the material, product, or service and identify all requirements which the offerors must fulfill, and all other factors used in evaluating the bid.



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- b. SOLICIT ALL BIDDERS ON BID LIST. Insofar as it is practical, all bidders listed in the Bid List for the type of product or services being bid shall be invited to bid. Ensure the list includes enough qualified sources to ensure maximum open and free competition.
- c. PUBLIC NOTICE AND ADVERTISING. Adequate public notice of the Request For Proposals shall be given provided the minimum time for adequate public notice shall be thirty (30) calendar days prior to the date set forth therein for receipt of the proposals. Such notice may include publication in electronic form including, but not limited to, publication on the Internet, or publication in a newspaper of general circulation a reasonable time before opening.
- d. RECEIPT OF PROPOSALS.
 - i. Proposals shall be received in sealed envelopes bearing on the outside the RFP title and number. Proposals must be received by the date and time designated in the Request for Proposals.
 - ii. No proposals shall be handled to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during the process of negotiation. A register of proposals shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after contract award.
- e. LATE PROPOSALS. Late proposals shall not be opened and shall be returned to the offerors.
- f. RFP OPENING. Proposals shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation For Bids. The name of each offeror and such other relevant information as the City Administrator deems appropriate shall be recorded; the record and each proposal shall be open to public inspection only after an award has been made.
- g. DISCUSSION WITH RESPONSIBLE OFFERORS AND REVISIONS TO PROPOSALS. As provided in the Request For Proposals, discussion may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. Discussion shall be for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and before award for obtaining best and final offers. In conducting discussions, there shall be no disclosure of identity of competing offerors or of any information derived from proposals submitted



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CHAPTER 4

DESIGNATED PROFESSIONAL SERVICES

SECTION I - CONTRACTING FOR DESIGNATED PROFESSIONAL SERVICES

1. PROFESSIONS THAT REQUIRE EXTENDED ANALYSIS, DISCRETION AND INDEPENDENT JUDGMENT. The services of certain professions that involve extended analysis, the exercise of discretion and independent judgment in their performance, and an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience in the field, including, but not limited to accountants, physicians, lawyers, and dentists, shall be procured in accordance with the selection procedures specified in this Section. No contract for the services of legal counsel may be awarded without the approval of City Council. Procedures for the purchase of architect, engineer, and land surveying services are not included in this section. Architect, engineer, and land surveying services are found Article 7 (Procurement of Construction, Architect-Engineer and Land Surveying Services) of this Manual.
2. Selection Procedure.
 - a. STATEMENT OF QUALIFICATIONS. Persons engaged in providing the designated types of professional services may submit statements of qualifications and expressions of interest in providing such professional services. The City may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.
 - b. PUBLIC ANNOUNCEMENT AND FORM OF REQUEST FOR PROPOSALS. The City Administrator, through a Request For Proposals, shall give adequate notice of the need for such services. The Request For Proposals shall describe the services required, list the types of information and data required of each offeror, and state the relative importance of particular qualifications.
 - c. DISCUSSIONS. The City Administrator may conduct discussions with any offeror who has submitted a proposal to determine such offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion.
 - d. AWARD. Award shall be made to the offeror determined in writing to be best qualified based on the evaluation factors set forth in the Request For Proposals, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best



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qualified offeror, then negotiations will be formally terminated with the selected offeror. If proposals were submitted by one or more other offerors determined to be qualified, negotiations may be conducted with such other offeror or offerors, in the order of their respective qualification ranking, and the contract may be awarded to the offeror then ranked best qualified if the amount of compensation is determined to be fair and reasonable.

Award shall be made by the following authorities:

- i. **AWARD BY CITY COUNCIL.** Purchases exceeding \$75,000 shall be awarded by the City Council after receiving the recommendation of the City Administrator forwarded through the City Administrator.
 - ii. **AWARD BY CITY ADMINISTRATOR.** The City Administrator may award purchases of less than the amount fixed for award by City Council, upon receiving the recommendation of the requesting Department Head. The City Administrator may execute contracts and other necessary related documents on behalf of the City for purchases within his or her awarding authority.
3. **PUBLIC RECORD.** The names of the businesses submitting proposals, and the date proposals are due, and the basis on which the award was made shall be recorded and maintained as a public record. The contract file shall contain the basis on which the award was made.
4. **EXCEPTIONS.** See Chapter 5, Exceptions to Competitive Procurement Procedures.



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CHAPTER 5

EXCEPTIONS TO COMPETITIVE PROCUREMENT PROCEDURES

SECTION I - SOLE SOURCE PROCUREMENT

1. **NEGOTIATIONS.** A contract may be awarded without competition when the City Administrator determines in writing, after conducting a good faith review of available sources, that there is only one source for the required supply, service, or construction item. The City Administrator shall conduct negotiations, as appropriate, as to price, delivery, and terms.
2. **COST OR PRICING DATA.** When the City determines that analysis of the proposed price is necessary to determine if it is reasonable and fair, a contractor shall submit cost or pricing data upon request and shall certify that to the best of its knowledge and belief the cost or pricing data submitted was accurate, complete and current as of a mutually determined date.
3. **AWARD.** See Section V of this Chapter.

SECTION II - COOPERATIVE AGREEMENTS

1. **COOPERATIVE AGREEMENTS.** The City Administrator may arrange for the City to enter an agreement with one or more local, county, state, federal or other public entity, school district, League of California Cities, California Communities Program, or other non-profit association or group consisting of governmental entities, in order to cooperatively purchase supplies, equipment, services, including but not limited to materials, vehicles and apparatus, in cooperation, provided that:
 - a. The purchase contract with the Supplier(s) is the result of competitive bidding or negotiation and is made in compliance with the competitive bid or proposal requirements of any participating entity or organization; and
 - b. The purchase conforms to the City's specifications for the item or service; and
 - c. The estimated price of the purchase is lower than that estimated for the purchase if made directly by the City pursuant to this Manual.
2. **AWARD.** See Section V of this Chapter.

SECTION III - PIGGYBACK PURCHASES

1. **PIGGYBACK PURCHASES.** The City Administrator may arrange for the City to enter purchase contracts with a Supplier(s) for the purchase of supplies, equipment, services, including but not limited to materials, vehicles and apparatus, the pricing and terms of which have been previously established



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by another local, county, state, federal or other public entity, school district, League of California Cities, California Communities Program, or other non-profit association or group consisting of governmental entities, provided that:

- a. The purchase contract with the Supplier(s) is the result of competitive bidding or negotiation and is made in compliance with the competitive bid or proposal requirements of any participating entity or organization; and
 - b. The purchase is made within a reasonable time of the competitive bid or negotiation, and
 - c. The purchase conforms to the City's specifications for the item or service; and
 - d. The estimated price of the purchase is lower than that estimated for the purchase if made directly by the City pursuant to this Manual.
2. AWARD. See Section V of this Chapter.

SECTION IV - STANDARDIZATION

1. When supplies, equipment, or services have been uniformly adopted or otherwise standardized, or when an item is designated to match others in use by the City, the purchase is not subject to this Manual.
2. AWARD. See Section V of this Chapter.

SECTION V - AWARD AND RECORD OF SOLE SOURCE, COOPERATIVE, PIGGYBACK, AND STANDARDIZATION PROCUREMENTS

1. AWARD BY CITY COUNCIL. Purchases exceeding \$75,000.00 or an amount set by City Council shall be awarded by the City Council after receiving the recommendation of the City Administrator.
2. AWARD BY CITY ADMINISTRATOR. The City Administrator may award purchases of less than the amount that requires award by City Council, after receiving the recommendation of the City Administrator or requesting Department Head. The City Administrator may execute contracts and other necessary related documents on behalf of the City for purchases within his or her awarding authority.
3. PUBLIC RECORD. A record of cooperative, piggyback and standardization procurements shall be maintained as public record for purchases of item(s) or service(s) exceeding the amount fixed by the City Administrator for solicitation of Informal Quotes. Said record shall list each supplier or contractor's name, the amount and type of each contract, a listing of the item(s) or service(s) procured under each contract, and the identification number of each contract file. The record shall be kept with the corresponding purchase order.



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SECTION VI - EMERGENCY PROCUREMENTS

1. **AUTHORIZATION.** Notwithstanding any other provisions of this Manual, the City Administrator may make or authorize others to make emergency procurements of supplies, equipment, services, or construction items when there exists a threat to public health, welfare, or safety; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file and maintained as a public record for purchases of item(s) or service(s) exceeding the amount fixed by the City Administrator for solicitation of Informal Quotes. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the items(s) or service(s) procured under the contract, and the identification number of the contract file.
2. **Ratification.** Emergency procurements shall be ratified as soon as practicable, as follows:
 - a. **RATIFICATION BY CITY COUNCIL.** Emergency procurements exceeding \$75,000.00 or the amount set by City Council shall be ratified by the City Council at their next regular meeting after receiving the recommendation of the City Administrator.
 - b. **RATIFICATION BY CITY ADMINISTRATOR.** Emergency procurements exceeding \$50,000.00 shall be ratified by the City Administrator after receiving the recommendation of the Department Head.

SECTION VII - ROUTINE EXPENDITURES FOR UTILITIES, PAYROLL, ETC.

Routine expenditures that benefit several departments, such as telephone, utilities, and payroll benefit costs, shall be paid by the Finance Department without the use of a Purchase Order Request. Computer spreadsheets, reports, or other coding information will be sufficient. Also, in the event of an emergency, and it is in the public interest, these procedures may be temporarily waived.



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CHAPTER 6 CANCELLATION OF INVITATIONS FOR BIDS OR REQUESTS FOR PROPOSALS

SECTION I - CANCELLATION OF INVITATIONS FOR BIDS OR REQUESTS FOR PROPOSALS

An Invitation For Bids, a Request For Proposals, or other solicitation may be cancelled, or any or all bids or proposals maybe rejected in whole or in part as maybe specified in the solicitation, when it is for good cause and in the best interests of the City. The reasons therefore shall be made part of the contract file. Each solicitation issued by the City shall state that the solicitation maybe cancelled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the City. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation, and where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurement of similar items. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.



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CHAPTER 7

PROCUREMENT OF PUBLIC PROJECTS, ARCHITECT-ENGINEER AND LAND SURVEYING SERVICES

SECTION I - PUBLIC PROJECTS

ADOPTION OF THE UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING PROCEDURES. Except as otherwise provided, public projects shall be procured in accordance with the Uniform Public Construction Cost Accounting Act (Public Contract Code §22000-§22045), adopted and incorporated herein by this reference, three copies of which have been filed with the office of the City Clerk. The procedures shown in separate manual entitled “California Uniform Public Construction Cost Accounting Procedures” (CUPCCAP) must be used for construction projects.

SECTION II - ARCHITECT-ENGINEER AND LAND SURVEYING SERVICES

1. PUBLIC ANNOUNCEMENT AND SELECTION PROCESS.
 - a. PUBLIC ANNOUNCEMENT. It is the policy of the City to announce publicly all requirements in excess of \$25,000 for architect-engineer and land surveying services and to negotiate such contracts based on demonstrated competence and qualifications at fair and reasonable prices. In the procurement of architect-engineer and land surveying services, the City Administrator, or designee, shall request firms to submit statements of qualifications and performance data.
 - b. SELECTION PROCESS. A selection committee shall be formed to evaluate the proposals and recommend award of a contract. The committee shall be composed of three members, including the City Administrator, or designee, and the head of the using department in need of the architect-engineer or land surveying services. The selection committee shall conduct discussions with no less than three firms regarding the proposed contract, and the relative utility of alternate methods of approach, for furnishing the required services and shall select from among them no less than three of the firms deemed most qualified to provide the required services. The selection shall be made in order of preference, based on criteria established and published by the selection committee.
 - c. NEGOTIATION. The City Administrator, or designee, shall negotiate a contract with the firm considered to be the most qualified for architect-engineer or land surveying services at compensation which the City Administrator, or designee, determines in writing to be fair and reasonable to the City. In making this decision, the City Administrator, or designee, shall take into account the estimated value, the scope, the complexity, and the professional nature of the services to be rendered. Should the City Administrator, or designee, be unable to negotiate a satisfactory contract



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with the firm considered to be the most qualified at a price the City Administrator, or designee, determines to be fair and reasonable to the City, negotiations with that firm shall be formally terminated. The City Administrator, or designee, may then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the City Administrator, or designee, shall formally terminate negotiations and may then undertake negotiations with the third most qualified firm. Should the City Administrator, or designee, be unable to negotiate a contract at a fair and reasonable price with any of the selected firms, the selection committee shall select additional firms in order of their competence and qualifications, and the City Administrator, or designee, may continue negotiations in accordance with this Section until an agreement is reached.



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CHAPTER 8

DEBARRING OF BIDDERS

SECTION I - AUTHORITY TO DEBAR OR SUSPEND

1. After reasonable notice to the person or firm involved, and reasonable opportunity for that person or firm to be heard, upon written recommendation by the City Administrator or the City Administrator, or designee, the City Council may debar a person for cause from consideration for award of contracts. The debarment shall be for a period of not more than [three years]. The City Council may suspend a person or firm from consideration for award of contracts if there is probable cause to believe that the person or firm has engaged in any activity that might lead to debarment. The suspension shall be for a period not to exceed [six months]. The causes for debarment include:
 - a. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
 - b. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a City contractor or supplier;
 - c. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
 - d. Violation of contract provisions, as set forth below, of a character which is regarded by the City Council to be so serious as to justify debarment action:
 - e. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - f. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor or supplier shall not be considered to be a basis for debarment;
 - g. Any other cause the City Council determines to be so serious and compelling as to affect responsibility as a City contractor or supplier, including debarment by another governmental entity for any cause listed in this Manual; and
 - h. For violation of the ethical standards set forth in Chapter 13, Section 5 of this Manual.



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SECTION II - DECISION TO DEBAR OR SUSPEND

The City Council shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken and inform the debarred or suspended person involved of its rights concerning judicial or administrative review.

SECTION III - NOTICE OF DECISION

A copy of the decision required by Section 6-102 (Decision to Debar or Suspend) shall be mailed or otherwise furnished immediately to the debarred or suspended person or firm.

SECTION IV - FINALITY OF DECISION

A decision under Section 11 of this Chapter shall be final and conclusive, unless the debarred or suspended person or firm within 10 days after receipt of the decision takes an appeal to the City Council or commences a timely action in court in accordance with applicable law.



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CHAPTER 9

RIGHTS AND DUTIES OF BIDDERS, OFFERORS AND CONTRACTORS

SECTION I - RIGHTS

1. **RIGHT OF NONDISCLOSURE.** Bidders and offerors have the right of nondisclosure of proprietary information. No such information shall be disclosed without the prior written consent of the bidder or officer. Written disclosure consents shall be kept in the solicitation file that is maintained by the City Administrator.
2. **RIGHT TO PROTEST.** Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the City Council. Protestors are urged to seek resolution of their complaints initially with the City Administrator. A protest with respect to an Invitation For Bids or Request For Proposals shall be submitted in writing prior to the opening of bids or the closing date of proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to such protest prior to bid opening or the closing date for proposals. The protest shall be submitted within ten- (10) calendar days after such aggrieved person knows or should have known of the facts giving rise thereto.
3. **STAY OF PROCUREMENTS DURING PROTESTS.** In the event of a timely protest under Subsection (1) of this Section, the City Administrator shall not proceed further with the solicitation or award of the contract until all administrative and judicial remedies have been exhausted or until the City Council makes a determination on the record that the award of a contract without delay is necessary to protect substantial interests of the City.

SECTION II - DUTIES

1. **DETERMINATION OF NON-RESPONSIBILITY.** The unreasonable failure of a bidder or offeror to supply promptly information in connection with an inquiry with respect to such bidder or offeror may be grounds for a determination of non-responsibility with respect to such bidder or offeror. If a bidder or offeror who otherwise would have been awarded a contract is found non-responsible, the City Administrator shall prepare a written determination of non-responsibility, setting forth the basis of the finding. The final determination shall be made part of the contract file and be made a public record. A copy of the determination shall be sent promptly to the non-responsible bidder or offeror.
2. **REQUIRED SUBMISSIONS RELATING TO THE AWARD OF CONTRACTS.** When the City Administrator determines that analysis of the proposed price is necessary to determine if it is reasonable and fair, upon request a prospective contractor shall submit cost or pricing data when the contract is to be



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- awarded by competitive sealed proposals or by sole source procurement authority.
3. **REQUIRED SUBMISSIONS RELATING TO CHANGE ORDERS OR CONTRACT MODIFICATIONS.** Contractors shall submit cost or pricing data before the pricing of any change order or contract modification, including adjustments to contracts awarded by competitive sealed bidding. Such data shall be submitted, regardless of whether the cost or pricing data was required in connection with the initial pricing of the contract, when the change or modification involves aggregate increases or aggregate decreases in costs, plus applicable profits, that are expected to exceed \$50,000.00. Anytime one or more change orders or contract modifications increase or decrease the total aggregate amount of the order by 10% or more, the change shall require the approval of City Council.
 4. **CERTIFICATION REQUIRED.** Actual and prospective contractors who are required to submit cost or pricing data in accordance with this Section, shall certify that, to the best of their knowledge and belief, the cost or pricing data submitted was accurate, complete and current as of a mutually specified date prior to the award of contract or the pricing of the change order or contract modification.



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CHAPTER 10

TYPES OF CONTRACTS, CONTRACT CLAUSES, AND MISCELLANEOUS PROVISIONS AND RIGHTS

SECTION I - TYPES OF CONTRACTS

1. GENERAL AUTHORITY. Subject to the limitations of this Section, any type of contract which is appropriate to the procurement and which will promote the best interests of the City may be used; with the exception of the cost-plus-percentage-of-cost contract which is prohibited.
2. Multi-Term Contracts.
 - a. SPECIFIED PERIOD. Unless otherwise provided by law, a contract for supplies, equipment, or services may be entered into for any period deemed to be in the best interests of the City upon the following conditions:
 - i. The solicitation contained the term of the contract;
 - ii. The solicitation contained the conditions of renewal or extension, if any; and
 - iii. Funds are available for the first fiscal period at the time of contracting.

Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds for extension the contract.

- b. DETERMINATION BEFORE USE. Prior to the utilization of a multi-term contract, it shall be determined in writing:
 - i. That the estimated requirements cover the period of the contract and are reasonably firm and continuing; and
 - ii. That such a contract will serve the best interests of the City by encouraging effective competition or otherwise promoting economies in City procurement.
 - c. CANCELLATION DUE TO UNAVAILABILITY OF FUNDS IN SUCCEEDING FISCAL PERIODS. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be cancelled and the contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies, equipment, or services delivered under the contract. The cost of cancellation may be paid from any appropriations available for such purposes.



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3. MULTIPLE SOURCE CONTRACTING.
 - a. GENERAL. A multiple source award is an award of an indefinite-quantity contract for one or more similar supplies, equipment, or services to more than one bidder or offeror.
 - b. LIMITATIONS ON USE. A multiple source award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Multiple source awards shall be made in accordance with the procedures as applicable. Multiple source awards shall not be made when a single award will meet the City's needs without sacrifice of economy or service. Awards shall not be made for the purpose of dividing the business, making available product or supplier selection to allow for user preference unrelated to utility or economy, or avoiding the resolution of tie bids. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements.
 - c. CONTRACT AND SOLICITATION PROVISIONS. All eligible City departments using the contract shall be named in the solicitation, and it shall be mandatory that the actual requirements of such departments that can be met under the contract be obtained in accordance with the contract, provided that:
 - i. The City shall reserve the right to take bids separately if a particular quantity requirement arises which exceeds its normal requirement or an amount specified in the contract; and
 - ii. The City shall reserve the right to take bids separately if the City Administrator approves a finding that the supply or service available under the contract will not meet a nonrecurring special need of the City.
 - d. INTENT TO USE. If a multiple source award is anticipated before issuing a solicitation, the City shall reserve the right to make such an award and the criteria for award shall be stated in the solicitation.
 - e. DETERMINATION REQUIRED. The City Administrator shall make a written determination setting forth the reasons for a multiple source award, which shall be made a part of the procurement file.

SECTION II - CONTRACT CLAUSES

City contracts for supplies, equipment, services, and construction may include provisions necessary to define the responsibilities and rights of the parties to the contract. The City Administrator, after consultation with the City Attorney, may issue clauses appropriate for supply, equipment, service, or construction contracts, addressing but not limited to the following subjects.



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1. The unilateral right of the City to order in writing changes in the work within the scope of the contract;
2. The unilateral right of the City to order in writing temporary stopping of the work or delaying performance that does not alter the scope of the contract;
3. Variations occurring between estimated quantities of work and actual quantities;
4. Defective pricing;
5. Liquidated damages;
6. Specified excuses for delay or nonperformance;
7. Termination of the contract for default;
8. Termination of the contract in whole or in part for the convenience of the City;
9. Suspension of work on a construction project ordered by the City; and
10. Site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site condition clause need not be included in a contract.
 - a. When the contract is negotiated;
 - b. When the contractor provides the site or design; or
 - c. When the parties have otherwise agreed with respect to the risk of differing site conditions.
11. **PRICE ADJUSTMENTS.**
 - a. Adjustments in price resulting from the use of contract clauses required by Subsection (1) of this Section shall be computed in one or more of the following ways:
 - i. By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
 - ii. By unit prices specified in the contract or subsequently agreed upon;
 - iii. By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;
 1. In such other manner as the contracting parties may mutually agree; or
 2. In the absence of agreement by the parties, by a unilateral



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determination by the City of the costs attributable to the events or situations under such clauses with adjustment of profit or fee as computed by the City, as accounted for in accordance with [generally accepted accounting policies] and subject to the provisions of Article 9 (Appeals and Remedies).

- b. A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of Section 3-202 (Cost or Pricing Data).
12. STANDARD CLAUSES. The City Administrator may establish standard contract clauses for use in City contracts.
13. CONTRACT ADMINISTRATION. A contract administration system designed to insure that a contractor is performing in accordance with the solicitation under which the contract was awarded, and the terms and conditions of the contract, shall be maintained.

SECTION III - PROVISIONS

1. COST-REIMBURSEMENT. A cost reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the City than any other type or that it is impracticable to obtain the supply, equipment, service, or construction items required except under such a contract. All such contracts exceeding \$75,000.00 shall be approved by City Council. All such contracts exceeding the amount set by the City Administrator for award of informal bids, shall be approved by the City Administrator, after receiving the recommendation of the requesting Department Head.
2. BEST INTEREST OF THE CITY. Any type of contract that best suits the interest of the City, except that of a cost-plus-a-percentage-of-cost contract, is authorized. Other types of cost-reimbursement contracts may be used when uncertainties involved in the work to be performed are of such magnitude that the cost of performance is too difficult to estimate with reasonable certainty and use of a fixed-price contract could seriously affect a contractor's financial stability or result in payments by the City for contingencies that never occur. Use of cost-type contracts are also authorized when it is impracticable to contract on any other basis.
3. PRIOR APPROVAL OF CITY COUNCIL. The City Administrator shall obtain approval of City Council before any cost-reimbursement type negotiations are initiated.
4. APPROVAL OF ACCOUNTING SYSTEM. Except with respect to firm fixed-price contracts, no contract type shall be used unless it has been determined by the City Administrator that:



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- a. The proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and
- b. The proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted cost accounting principles.

SECTION IV - RIGHT TO INSPECT PLACE OF BUSINESS

The City may, at reasonable times, inspect the part of the plant, place of business or worksite of a supplier, contractor or subcontractor at any tier, which is pertinent to the performance of any contract awarded to or be awarded by the City.

SECTION V - REPORTING OF ANTICOMPETITIVE PRACTICES

When for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, the City Administrator or City Attorney shall notify the State Attorney General of the relevant facts.

SECTION VI - CITY PROCUREMENT RECORDS

1. **CONTRACT FILE.** The City Administrator shall maintain a contract or bid file of all determinations and other written records pertaining to the solicitation, award, or performance of a contract.
2. **RETENTION OF PROCUREMENT RECORDS.** All procurement records shall be retained and disposed of by the City in accordance with records retention guidelines and schedules approved by the City Council.

SECTION VII - CONTRACT OVERSIGHT

Department Heads will be responsible for oversight of the contracts to ensure contractors perform in accordance with terms/conditions/specifications of contracts.



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CHAPTER 11

SPECIFICATIONS

SECTION I - DEFINITION OF SPECIFICATION

Specification means any description of the physical or functional characteristics, or of the nature of a supply, equipment, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, equipment, service, or construction item for delivery. It may include a descriptive requirement of work to be done, service to be performed or solution that is required by the City.

SECTION II - MAXIMUM PRACTICABLE COMPETITION

All specifications shall be drafted to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs, and shall not be unduly restrictive. The policy enunciated in this Section applies to all specifications, including but not limited to, those prepared for the City by architects, engineers, designers, drafters, and consultants.

SECTION III - QUALIFIED PRODUCTS LIST

When in its best interest, the City may establish a list of pre-qualified products. Suppliers that wish to have their products considered may be required to submit them for evaluation and pre-qualification before being permitted to offer them in response to a competitive solicitation.

SECTION IV - BRAND NAME OR EQUAL SPECIFICATION

1. USE. Brand name or equal specifications may be used when the City Administrator determines that:
 - a. No other design or performance specification or qualified products list is available;
 - b. Time does not permit the preparation of another form of purchase description, not including a brand name specification;
 - c. The nature of the product or the nature of the City's requirements makes use of a brand name or equal specification suitable for the procurement;
or
 - d. Use of a brand name or equal specification is in the City's best interests.
2. DESIGNATION OF SEVERAL BRAND NAMES. Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as "or equal" references and shall further state that substantially equivalent products to those designated will be considered for award.



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3. **REQUIRED CHARACTERISTICS.** Unless the City Administrator determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand names or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.
4. **NONRESTRICTIVE USE OF BRAND NAME OR EQUAL SPECIFICATIONS.** Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for describing the standards of quality, performance, and characteristics desired, and is not intended to limit or restrict competition.
5. **COMPETITION.**
 - a. **SOURCES OF BRAND NAME ITEM(S).** The City Administrator shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable.
 - b. **SOURCES OF EQUIVALENT ITEM(S).** The City Administrator shall not restrict solicitation to such sources, but shall also seek to identify sources from which equivalent items can be obtained.
 - c. **ONLY ONE KNOWN SOURCE.** If only one source can supply the requirement, the procurement shall be made under Section 3-105 (Sole Source Procurement).



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CHAPTER 12

INTERNAL PURCHASING FORMS

SECTION I - PURCHASE ORDER REQUEST

The City of Chowchilla Purchase Order Request or Requisition form shall be submitted to obtain a Purchase Order Number. This form may be hand written on the preprinted form, generated by computer, or a computer worksheet. Each request for purchase shall be priced out completely and must be accompanied by sufficient information to issue a Purchase Order. The individual requesting the purchase order shall verify that funds are available in the account before requesting a purchase order. For purchases through an "Open Purchase Order Supplier" (see Section VI), purchase order requests are optional, except when the purchase exceeds the \$1,000.00 limit. In that case, a confirming purchase order request will be issued and will still require the appropriate authorizing signatures.

SECTION II - PURCHASE ORDER

Each Department, Administration, Finance, Community Development, Police, Parks & Recreation, Public Works, Utilities, is assigned blocks of Purchase Order (PO) numbers. The procedures is as follows:

1. The designated authorized supervisor in each department will assign a PO number for each Requisition. Employee not authorized to assign PO numbers must contact their Department Head for assistance.
2. Reference the Purchase Order number on each Requisition.
3. Obtain the appropriate authorizing signature (s) in accordance to the guidelines listed above.
4. Forward Requisitions and invoice to Finance Department as soon as possible, keeping the "Schedule of Processing Dates" for the current fiscal year in mind.
5. Retain "Department Copy" of the Requisition.

The Finance Department personnel will match Invoices, Requisitions, and Purchase Orders, and issue the Purchase Orders for signing by the Finance Director. Finance personnel will then prepare all necessary batches and reports for generating payments, the Finance Director will review and approve the coding and data entry, and finance personnel will prepare checks, and file all related records appropriately.

NOTE: Before authorizing payment, Department heads, or authorized supervisors, are required to verify that the actual work has been performed, that orders have actually been received, and that the proper quality and quantities received are as specified.



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SECTION III - "PREPAID" CHECK

"Prepaid" checks, or hand written checks, may be issued to Suppliers for items requiring immediate payment, or for payments needed sooner than the regularly scheduled warrant will be prepared. The procedures for these checks are as follows:

1. Process Requisition as normal, with required signatures. Mark PO Request with date needed highlighted.
2. Indicate whether the check is to be mailed or returned to originator.
3. If check is needed to accompany order, check and order form will be returned to originator for ordering and mailing.
4. Requests for "Prepaid" checks should be turned in to Finance at least 3 days before the required date.
5. Requests for "Prepaid" checks will be processed with the next regular warrant if the required date is after the next regular warrants processing date.

SECTION IV - OPEN PURCHASE ORDER SUPPLIERS

City employees are authorized to make minor purchases on behalf of the City, and may do so without first obtaining a Purchase Order number, only from the Suppliers listed in the attached Exhibit A, all of which are within the City of Chowchilla.

No single purchase can exceed \$1,000.00 without prior approval of the Department Head. The employee making the purchase is responsible for these mandatory elements:

1. Signing the invoice.
2. Indicating on the invoice the account number to be charged.
3. Indicating the purpose of the expenditure.
4. Describing the item (if not itemized on invoice).
5. Indicating the assigned vehicle or equipment number, if applicable. .

Invoices shall be submitted to the Finance Department timely in order for payment to be made promptly, according to the "Schedule of Processing Dates".

SECTION V - PETTY CASH PURCHASE

Small purchases of items totaling \$50.00 or less (other than those purchases made from the Open Purchase Order Suppliers per Chapter 12, Section IV) shall be made using petty cash. Employees may request from the Finance Department an estimated amount of petty cash before purchasing small items by either of two options.



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1. Signing a voucher for an advance amount and returning the change and store receipt the next business day;
2. Request reimbursement upon submitting the receipt for such small purchases.

A store receipt must be submitted and the employee verifying they have received reimbursement in exchange for the store receipt and exact change must sign a voucher.

SECTION VI - PURCHASE OF STATIONERY AND OFFICE SUPPLIES

There shall be an annual review of the process of ordering stationery and office supplies for all departments of the City.

The Finance Department shall coordinate the annual review and prepare materials for competitive bidding July of each year. Finance Department shall compile a list of general office supplies normally purchased each year, and Department Heads shall submit requests for quantities of these items. Each department shall request the supplies and services it needs.

Purchases of plaques and stationery, such as letterhead, business cards, and envelopes, will be coordinated by the City Clerk's office. Each Department shall request quantities of each item needed, with specific personalization (for departments or employees' names) indicated.

SECTION VII - PROFESSIONAL SERVICE AND SPECIAL PURPOSE CONTRACTS

Professional service contracts and special purpose contracts may be entered into for the purpose of engaging individuals or organizations for technical and professional services. They may be used when the need arises for such things as financial audits, arbitrage rebate calculations, grant administration, grant applications, engineering services, planning services, computer consultation, telephone installations, etc. These contracts may be used without requesting proposals or bids, although those may be done periodically for recurring contracts. These contracts may be entered into when there is no other alternative, or it is the sole source, or where the expertise of an individual or organization is a known factor. The nature of the services to be provided and the cost involved shall be stated in the contract. Most agreements need to be approved by City Council on the Consent Calendar if the authorization of funds is needed.

SECTION VIII - CREDIT CARD PURCHASE

Designated employees may make purchases on behalf of the City using certain credit cards. These cards shall be used only for purchases for, or costs incurred on behalf of, the City. The credit card will be checked out from the Accounting Supervisor, signed for, and returned within the time allowed. All invoices or charge slips shall be turned in with an accompanying Purchase Order Request including the assigned account numbers, and any modifications, within 5 working days.



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Before obtaining the credit card, a City employee must submit a Requisition form to the Accounting Supervisor. This Requisition must be filled out with requested items and estimated amounts, and must include the Administrator's authorizing signature. The credit card, receipt, and amended Requisition (with the actual dollar amount), must be turned in the next business day.

Department heads may request to have accounts set up for other companies. Finance Department will process any credit applications. The same procedures will apply to these companies.

CAL CARD

Designated employees may be assigned Cal-Cards for making purchases on behalf of the City. These cards shall be used only for purchases or costs incurred on behalf of the City. All other authorization and purchasing procedures will apply to the use of these cards. These employees will be responsible for accounting for the purchases made and for obtaining proper approvals within the timelines established by the Cal-Card procedures. Credit cards may be revoked at any time.



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CHAPTER 13

MISCELLANEOUS PROCEDURES FOR ALL PURCHASES

SECTION I - INSPECTION AND TESTING

The Department Head shall have the authority to and discretion as to the exercise of the authority to inspect supplies and equipment delivered to determine their conformity with the specifications set forth in the order of contract. The Department Head shall have authority to require chemical, physical, or other tests of samples submitted with bids and samples of deliveries that are necessary to determine their quality and conformity with specifications.

SECTION II - SURPLUS SUPPLIES AND EQUIPMENT

All departments shall submit to the Department Head, at such times and in such form as he may prescribe, reports showing all supplies, materials and equipment which are no longer used or useable or which may have become obsolete, unsuitable, or worn out. The Department Head shall have the authority to sell said supplies, materials, and equipment or to exchange the same for, or trade in the same on new supplies, materials, and/or equipment. Such sales, exchanges or trade-ins shall be made to the highest and best responsible and responsive bidder pursuant to the procedures of Chapter 2, whichever section is applicable, or shall be made at a public auction as hereinafter set forth.

SECTION III - SURPLUS VEHICLES AND RELATED EQUIPMENT

All departments shall submit to the Department Head, at such times and in such form as he may prescribe, reports showing all vehicles and related equipment which are no longer used or useable or which may have become obsolete, unsuitable, or worn out. Upon direction of the City Council, the Department Head may dispose of surplus vehicles and equipment by sealed bid sale with newspaper advertising, following the applicable provisions of and pursuant to this Chapter. Such sales, exchanges, or trade-ins shall be made to the highest and best responsible and responsive bidder or shall be made at a public auction as hereinafter set forth.

SECTION IV - PUBLIC AUCTION

1. NOTICE. A notice describing the property in sufficient detail for its identification shall be prepared by the Department Head and shall be given at least five (5) days before the time fixed therefore by publication once in a newspaper of general circulation.
2. Public Auction. No City Council member nor any officer or employee of the City shall be a purchaser at any such public auction authorized, conducted or administered by City, nor shall any City officer or employee directly or indirectly submit a bid at the auction if he has participated in the preparation



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or conduct of the auction.

3. **SALE TO HIGHEST BIDDER.** The property so offered for sale shall be sold to the highest responsible bidder for cash, provided that the Department Head may, at his discretion, fix a minimum sale price and may refuse to sell unless the minimum price is offered, and may further refuse to sell unless a deposit of security is immediately made.
4. **REMOVAL OF PROPERTY.** Any property sold at public auction shall be removed by buyer at the end of the auction (any costs associated with moving property to be at purchaser's expense), upon payment of the purchase price.
5. **DEPOSIT FUNDS IMMEDIATELY.** The proceeds of the auction sale or sales shall immediately be deposited and placed in the proper fund of the City.

SECTION V - CODE OF ETHICS

1. **POLICY.** City employees shall discharge their duties impartially to assure fair competitive access to all procurements made by the City. They shall conduct themselves to foster public confidence in the integrity of the City's procurement activities.
2. **CONFLICT OF INTEREST.** No City employee shall participate directly or indirectly in procurement when the employee knows that:
 - a. The employee or any member of the employee's immediate family has a financial interest pertaining to the project; or
 - b. The employee or any member of the employee's immediate family is negotiating or has an employment arrangement that is contingent upon or will be affected by the procurement.
3. **WITHDRAW FROM PARTICIPATION.** Upon discovery of an actual or potential conflict of interest, an employee shall promptly withdraw from further participation in the project.
4. **GRATUITIES.** No person shall offer, give, or agree to give any City employee any gratuity or offer of employment in connection with City procurement. No City employee shall solicit, demand, accept, or agree to accept from any other person a gratuity or an offer of employment in connection with City procurement.

SECTION VI - MANDATORY CONTRACT PROVISIONS

The purpose of this section is to provide for City policy on conforming to mandatory contract provisions.

1. **BREACH OF CONTRACT.** Contracts in excess of \$10,000.00 shall contain contractual provisions or conditions that will allow for administrative, contractual or legal remedies in instances in which contractors violate or



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- breach contract terms and shall provide for appropriate remedial action.
2. **TERMINATION.** Contracts in excess of \$10,000.00 shall contain suitable provisions for termination and the basis for settlement. These provisions will describe the conditions under which a contract may be terminated for default or for circumstances beyond the control of the City of Chowchilla.
 3. **PAYMENT OF PREVAILING WAGES.** Contracts for public works projects in excess of \$1,000.00, shall include a provision for compliance prevailing wage laws for payment of no less than minimum wage to laborers and mechanics and sets forth a requirement that wages be paid not less than once a week.
 4. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.** Contracts awarded by the City for public works projects shall include provisions for compliance with all applicable contract work hours and safety standards requirements.
 5. **PATENTS AND COPYRIGHTS.** All contracts involving research, development, experimental or demonstration work regarding any discovery or invention which arises or is developed in the course of or under such contract shall include a hold harmless that contractor/supplier will hold the City harmless for contractor's/supplier's negligent or willful violation of patents and copyrights.
 6. **TRANSFER OF RISK.** Refer to the Central Valley Risk Management Authority for relevant provisions regarding transfer of risk.

SECTION VII - BID LIST

The City shall maintain a list of bidders who have requested in writing that they be added to the City's Bid List. Suppliers and contractors will be listed by categories of commodities and services they provide. Formal bid solicitations will be mailed to all bidders listed in the category of the goods or services being solicited. Bidders who do not respond to four (4) consecutive bid solicitations will be removed from the bid list. Bidders will be reinstated to the Bid List upon request. The City may hire a firm to maintain its Bid List.

SECTION VIII - COST OR PRICE ANALYSIS

In addition to performing when only one Bid or Proposal is received, an analysis of the proposed price is necessary to determine if it is reasonable and fair for any procurements in excess of \$250,000, including contract modifications. Upon request, a contractor shall submit cost or pricing data upon request and shall certify that to the best of its knowledge and belief the cost or pricing data submitted was accurate, complete and current as of the date set forth for receipt of proposals.

SECTION IX - UNNECESSARY OR DUPLICATE ITEMS

Acquisition of unnecessary or duplicative items must be avoided at all times.