



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
June 1, 2011**

TO: Mayor and City Council
FROM: Michael Chandler, Senior Management Analyst
Cathy Spinella, Finance Manager
SUBJECT: Purchasing Policy Update
DATE: May 24, 2011

RECOMMENDATION:

Adopt a resolution rescinding Resolution No. 138-02 and replacing the City's Purchasing Policy.

BACKGROUND:

The City's Purchasing Policy was last amended by Resolution No. 138-02 on November 20, 2002, and subsequently revised administratively in April 2004 to clean up several non-substantive items. The policy provides specific detail on the procedures and authority by which City staff and the City Council may purchase goods and services. City staff began evaluating ways to update and improve this policy in October 2009. Initial draft revisions were submitted to City departments in July 2010 for review and comment. After incorporating the department suggestions, City staff forwarded the document to the City Attorney for review in December 2010.

A final draft of the revised policy was presented to the Finance Subcommittee at its meeting of February 3, 2011. The Subcommittee approved the revised policy, with one Subcommittee member suggesting a further reduction to the threshold for formally bidding Professional Services contracts, such as for consultants and other specialized services. The existing Purchasing Policy threshold by which the City must formally bid a Professional Services contract is \$100,000 and up. The revised policy recommends formally bidding these contracts if the amount exceeds \$75,000; the Subcommittee member suggested reducing the threshold to those contracts over \$50,000. At the meeting, the Assistant City Manager and Finance Manager explained that the formal bidding process is costly and time-consuming, and recommended maintaining the already lowered threshold for formally bidding Professional Services contracts at greater than \$75,000 in order to maintain departmental efficiencies and save limited operational funds and resources.

The revised Purchasing Policy provides a number of key modifications. Specifically, it:

- Provides a streamlined format that is more organized and easy to follow
- Reduces ambiguity by clearly defining authority of City Council, City Manager, and Department Heads

- Establishes threshold for requisite City Attorney review of service contracts (excluding legal services) at over \$75,000 vs. \$25,000 (if standard contract used without modification, insurance requirements are met, contract prepared and signed in accordance with Purchasing Policy, etc.)
- Adds numerous Environmentally Preferable Procurement provisions
- Segregates General Services (i.e. janitorial, maintenance, or security services) purchases from Personal Property (i.e. materials, equipment, goods) acquisitions, and simplifies purchasing thresholds for General Services to require informal proposals for contracts of \$100,000 and less, and formal proposals for contracts over \$100,000
- Establishes threshold for formal bidding of Professional Services (i.e. consultants and other specialized services) for contracts over \$75,000 (current threshold is \$100,000)
- Allows for automatic adjustment of Public Project Construction monetary limits for formal and informal bidding as prescribed by the State Controller's office without further amendment by City Council (pursuant to recent Ordinance No. 1363 C.S. amending Chapter 3.36 of Municipal Code adopted April 6, 2011)
- Provides greater detail on the process from development of plans and specifications to project close out for Public Projects

A copy of the Revised Purchasing Policy is included as Exhibit A, along with a flow chart (Exhibit B) designed to give the user a condensed overview and quick reference of the various thresholds for informal or formal bidding, and the levels of purchasing authority for key positions. Because the new policy is presented in an entirely different format, and contains numerous substantive changes from the current policy, creating a redlined version of the current policy to illustrate the revisions was not effective. Instead, a copy of the existing Purchasing Policy from April 2004 is included for reference as Exhibit C.

FISCAL IMPACT:

No impact other than procedural.

ACTION:

Adopt a resolution rescinding Resolution No. 138-02 and replacing the City's Purchasing Policy.

Attachments:

Resolution

Exhibit A - Revised Purchasing Policy (May 2011)

Exhibit B - Flowchart for Revised Purchasing Policy

Exhibit C - Current Purchasing Policy (April 2004)



APPROVED BY: City Manager

RESOLUTION NO. -11

RESCINDING RESOLUTION 138-02
AND REPLACING THE CITY'S PURCHASING POLICY

WHEREAS, the City's Purchasing Policy was last amended by Resolution No. 138-02 on November 20, 2002, and subsequently revised in April 2004 to administratively clarify several non-substantive items; and

WHEREAS, City staff, including the Purchasing Officer and Finance Manager, recommend replacing said Purchasing Policy with a new and improved version; and

WHEREAS, the recommended revision to the Purchasing Policy ("Revised Policy"), included as Exhibit A, offers a streamlined format that is more clear, organized and easy to use, and incorporates best practices in municipal purchasing; and

WHEREAS, the key changes from the current Purchasing Policy to the Revised Policy are referenced in the attached staff report.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Martinez hereby rescinds Resolution 138-02 and adopts the Purchasing Policy as set forth in Exhibit A, attached hereto.

* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a Regular Meeting of said Council held on the 1st day of June, 2011, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ

EXHIBIT A

MAY 2011 PURCHASING POLICY

1. PURPOSE AND SCOPE OF PURCHASING POLICY

Purpose of Purchasing Policy

The purpose of this Purchasing Policy is to implement the purposes, goals and policies of the City's Purchasing System (set forth in the Martinez Municipal Code, Chapter 3.32) and the provisions of the City's Bidding Procedures (set forth in the Martinez Municipal Code Chapter 3.36). In particular, the purpose of the Purchasing Policy is to establish cost effective and efficient systems to contract for the acquisition and disposition of property and services, with the least possible impact on the environment, and to define purchasing authority and responsibilities.

The Purchasing Policy was developed under the authority provided in Martinez Municipal Code Chapter 3.32. This policy is to be adhered to by the Purchasing Officer and all departments when procuring services, personal property and carrying out public project construction.

This policy is not intended to address every issue, exception, or contingency that may arise in the course of purchasing activities. Employees are expected to exercise good judgment in the use and stewardship of City resources, in accordance with authorized budget appropriations and state law.

2. METHOD OF CONTRACTING

2.1 Definition of Contract. Generally, a contract is a set of promises between two or more parties, which is legally enforceable. A contract with the City is legally enforceable only if it prepared in accordance with State Law, the Purchasing System and this Purchasing Policy.

2.2 Formation of Contracts by City Manager Designees. A City employee may "offer" or "accept" a contract on behalf of the City only if the City Council or City Manager has delegated contract signing authority to the employee ("Authorized Designee").

2.3 Contract Documentation (including City Standard Form Contracts). All City contracts must be documented in accordance with this Purchasing Policy. The form of the contract document will vary, depending upon the subject matter as well as the magnitude and details of the transaction. Although some transactions will require the preparation of specialized contract documents, most City contracts will be documented on a City Standard Form Contract. The contract for some smaller transactions will consist solely of a purchase order, small jobs contract or other documentation as determined by the Finance Division.

3. SUBJECT MATTER CATEGORIES OF CONTRACTS

The following represent the categories of contracts based on the subject matter of the transaction. The majority of the City's contractual transactions will clearly fit into one of these categories; however, there are also specialized transactions for which a specially tailored contract may be required. Employees should contact either the Finance Division or the City Attorney if there is any question regarding the applicable category for a particular transaction.

3.1 Personal Property means all things that are movable at the time of contracting for sale, such as supplies, materials, equipment, and goods (including specially manufactured goods). Personal property specifically excludes "real property." Personal property contracts specifically exclude any contract for the installation of personal property as a fixture to real property when it is part of a "public project construction" contract.

3.2 Services mean the performance of work by an independent contractor. Employment contracts are not covered by this Policy. Services may be categorized as Professional Services or General Services.

3.2.1 **Professional Services** generally means services that require a specialized license, and for which professional liability insurance is available, or consultant services which solely include providing ideas or information. Professional Services generally include, but are not limited to, accountants, appraisers, architects, attorneys, auditors, bankers, brokers, computer specialists, construction inspectors, construction managers, doctors, educators, engineers, environmental, planning, and other specialized consultants, financial advisors, geologists, GIS specialists, IT professionals, landscape architects, land surveyors, physicians, plan checkers, and trainers.

3.2.2 **General Services** means any service that is not a professional service. General Services include janitorial services, security services and maintenance work.

3.3 Public Project Construction means work that is subject to the competitive bidding requirements of California Public Contract Code Section 22002 and Martinez Municipal Code Chapter 3.36. Public Project generally includes construction, reconstruction, erection, alteration, renovation, improvement, demolition, repair work, painting, or repainting (excluding minor repainting), involving any publicly owned, leased, or operated facility including buildings, structures, ground facilities, plants, utility systems, real property, streets and highways, or other public improvements.

3.3.1 **Exclusion of Maintenance Work.** "Public project" work specifically excludes maintenance work, defined by Public Contract Code section 22002 as including routine, recurring, and usual work for the preservation of the public facility for its intended purpose, minor repainting, resurfacing streets less than one inch, and landscape maintenance (including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems). However, maintenance work may require payment of prevailing wage.

4. AUTHORIZATION TO PREPARE, SIGN AND IMPLEMENT CONTRACTS

4.1 City Council. The City Council shall retain the power to approve and authorize execution of:

- a) Any contract in excess of or not included within the purchasing authority specified in this policy as being exercisable by the City Manager or his/her designee
- b) Any contract which the City Council determines it wishes to award regardless of whether such purchasing authority for that contract has been delegated to the City Manager, provided that such authority has not been expressly delegated by ordinance to some other authorized person.

4.2 Authority Prerequisites. Each of the authorities designated in this Policy to sign and implement contracts is conditioned upon the funds being budgeted and appropriated by the City Council, and for Public Construction Projects, approval of the plans and specifications by the City Council.

4.3 Purchasing Officer (City Manager). Pursuant to Chapter 3.32.020 of the Martinez Municipal code, the City Manager is appointed the Purchasing Officer of the City. The duties of the Purchasing Officer may be combined with those of any other City officer or position. The City Manager may also delegate his/her duties as Purchasing Officer to other City staff. The Purchasing Officer shall serve as the centralized management employee for coordination and conduct of the purchasing function for all city departments. In addition to those powers set forth in Martinez Municipal Code Sec. 3.32.020, the Purchasing Officer shall possess the following duties and authorities:

- a) Purchase or contract for supplies, services and equipment necessary for the operation of City departments in accordance with this Purchasing Policy and other policies and regulations as may be prescribed by the City Council and the City Manager.
- b) Negotiate and recommend the execution of contracts for the purchase of real property, personal property and services.
- c) Promote full and open competition on all City purchases.
- d) Initiate and maintain appropriate purchasing policies and records.
- e) Administer the transfer of surplus or unused personal property between departments as needed and the sale of surplus personal property.

4.4 Department Heads. Department Heads have the following duties and responsibilities in the purchasing process:

- a) To anticipate requirements sufficiently in advance to allow adequate time to obtain goods in accordance with the best purchasing practices.
- b) To communicate and coordinate purchases with the Purchasing Officer as necessary.
- c) To provide detailed, accurate specifications to ensure goods obtained are consistent with requirements and expectations.
- d) To prepare requisitions and purchase orders in accordance with standard procedures to minimize the processing effort.
- e) To minimize urgent and sole source purchases or services and to provide written documentation when such purchases may be necessary.

- f) To not split orders for the purpose of avoiding procurement requirements.
- g) To ensure compliance with the provisions of the Recycled and Source Reduction Purchasing Policy.

A City employee may approve a contract on behalf of the City only if the City Manager has delegated contract signing authority to the employee in accordance with this section.

- a) Transactions of up to \$100,000: City Manager
- b) Transactions of up to \$75,000: Assistant City Manager
- c) Transactions of up to \$25,000: Department Heads
- d) Public Project Construction of up to \$125,000: City Manager, Assistant City Manager, and Public Works Director

With the exception of Public Project Construction, Department Heads may further delegate contract approval with the written authorization of the City Manager. Annually, each year the Department Head shall file a form with the Finance Division listing departmental personnel with approved authority to approve contracts.

4.5 Signing Finance Documents. Each Department Head shall identify and update on a regular basis the employee authorized to sign specific finance documents to implement payments for contracts, using the “Authorized Signature List.” The list shall identify City employees authorized to sign finance documents which implement payments under contract including purchase orders, warrant requisitions, partial/progress payments, invoices and final payments.

4.6 Change Orders for non-Public Construction Projects. Any change to a purchase order or other executed City contract shall be documented as a change order or contract amendment. Change orders or contract amendments less than 10% may be approved by the Department Head or his/her designee with signing authority for the original contract. Change order or contract amendments of 10% or more shall be reviewed by the Assistant City Manager and shall be subject to the approval of the Assistant City Manager or City Manager. Taxes, shipping and handling may cause the purchase order to exceed the authorized purchase amount without the execution of a contract amendment or change order. These items do not require a change order even if they exceed 10% of the original purchase order amount.

4.6.1 Public Project Construction Change Orders. Public Project Construction change orders or contract amendments to contracts approved by the City Council cannot exceed 10% of the approved contract amount without City Council approval. All Public Project Construction change orders or contract amendments of 10% or less of the approved contract amount may be approved by the Department Head or his/her designee with signing authority for the original contract. All other Public Project Construction change orders or contracts in excess of 10% of the approved contract amount are subject to the approval of the City Manager, Assistant City Manager or Public Works Director, unless the addition of the change order to the approved contract amount results in a total project cost of greater than \$100,000, in which case the change order is subject to City Council approval.

4.7 City Attorney Approval as to Form. Every City contract is subject to review and approval as to form by the City Attorney.

4.7.1 Approval as to Form for Contracts of \$75,000 or Less. City Attorney review is not required when all of the following conditions are present:

- a) The contract is for professional or general services not involving legal services;;
- b) The amount of the contract is \$75,000 or less;
- c) The contract is prepared on a City Standard Form Contract or Small Jobs Contract without modification;
- d) The City's standard insurance requirements have been met, including certificates and the provision of the properly executed endorsements for all coverages; and
- e) The contract has been prepared and signed in accordance with this Purchasing Policy.

4.7.2 Approval as to Form for Contracts Greater than \$75,000, and all Construction Contracts. Any proposed contract that does not meet the parameters of section 4.7.1 shall be submitted to the City Attorney for review and approval as to form in accordance with the requirements of this Purchasing Policy.

4.8 Contract Extensions and Renewals. Contract extensions and renewals may be performed for General or Professional services in an amount of \$25,000 or less at the discretion of the Department Head. Such renewals should be used in limited occasions, and only when the quality and value of the work performed under the original contract – and the ongoing need for a continuation of the contracted services – results in a clear benefit to the City for extension or renewal of an existing contract. Granting such extension or renewal shall never be used as a substitute for exercising due diligence and good judgment in the stewardship of City resources.

5. ENVIRONMENTALLY PREFERABLE PROCUREMENT (EPP).

Each department and the City's Purchasing Officer shall make every reasonable effort to purchase environmentally preferable products whenever technically and economically feasible. The following practices will help ensure the City's participation in environmentally preferable procurement:

- a) Each department and the City's Purchasing Officer shall make every reasonable effort to purchase and use recycled-content office products, whenever practicable.
- b) The City shall include EPP requirements in janitorial contracts, and direct City custodians to purchase and use EPP products.
- c) The City shall use recycled mulch and soil products in City landscaping projects whenever practicable and will include the same requirements in City landscaping contracts.
- d) The City shall use recycled-content playground equipment and surfacing whenever practicable.
- e) The City shall make an effort to purchase other environmentally preferable products whenever feasible such as energy-saving lights, appliances, and equipment.
- f) The City will consider the environmental attributes of a product before purchasing, such as its recycled content, toxicity, energy usage, and polluting emissions. The City will choose the most environmentally preferable product whenever practicable.

- g) The City shall use recycled-content material to the extent feasible. Recycled content includes material and byproducts that have been recovered or diverted from solid waste, and have been utilized in place of raw or virgin material in manufacturing of a product. It is derived from post-consumer recycled material, manufacturing waste, industrial scrap, agricultural waste, and other waste material, but does not include material or byproducts generated from, and commonly reused within, an original manufacturing process.

6. ACQUISITION OF PERSONAL PROPERTY

6.1 General Considerations. For each proposed acquisition of personal property, the following steps may be taken:

- 6.1.1 Identify and document the personal property proposed to be acquired to meet a particular City project need.
- 6.1.2 Determine the estimated dollar amount of the proposed contract, in order to determine which method of contracting applies:
 - a) Minor Projects (for amounts \$10,000 or less);
 - b) Informal Bidding (for amounts more than \$10,000, but less than or equal to \$25,000);and
- 6.1.3 Formal Bidding (for contracts in amounts more than \$25,000).
- 6.1.4 Determine whether there is an existing annual purchase order available to satisfy the particular City project need.
- 6.1.5 Determine whether there is an existing contract through a separate public agency (a.k.a., a “piggy-back” contract). If feasible, determine if the personal property may be acquired through the piggy-back contract and if this procurement is economically viable for the City. If so, no further bids are required.
- 6.1.6 If there is any emergency, document the facts to support the required findings.
- 6.1.7 Determine whether there are environmentally preferable products feasibly available to minimize adverse impacts to workers or the community.
- 6.1.8 When feasible to do so and in compliance with the procedures of this policy, vendors within the City of Martinez should be utilized for the acquisition of personal property.

6.2 Minor Projects (\$10,000 or Less). Contracts for the acquisition of personal property in amounts of \$10,000 or less are subject to the following requirements.

- 6.2.1 **Identify the Property.** Document the personal property to be acquired to meet a particular City project or operational need in accordance with Section 6.1.1.
- 6.2.2 **Identify Potential Vendors.** Identify a reasonable number of potential vendors available to supply the personal property. The number of vendors identified shall be based on the magnitude and complexity of the transaction. For smaller routine transactions, it shall be reasonable to identify only one potential vendor. Identifying additional potential vendors whenever feasible and cost effective to benefit from additional quotes is encouraged.

- 6.2.3 **Request Quotes.** Informal quotes shall be requested from the vendors. The request may either be written or non-written (e.g., orally, via telephone, or via internet), and the quotes may either be submitted in written or non-written form, depending upon the magnitude and complexity of the transaction. Documentation shall be made regarding the date, time, substance and contact information for each request for quotes and each quote received.
- 6.2.4 **Evaluate Quotes.** Evaluate and document all quotes requested and received. Contract terms with one or more vendors in order to obtain favorable terms to meet the City's needs may be negotiated.
- 6.2.5 **Execute Contract.** If it is determined that a vendor's quote meets the City's project needs at a reasonable cost (in the most cost effective manner feasible under the circumstances), ensure that there are sufficient funds appropriated in the adopted budget to cover the transaction, and either:
 - a. Execute the contract through a Purchase Order; or
 - b. Recommend execution of the contract by an authorized employee.

6.3 Informal Bidding (Acquisition of personal property greater than \$10,000 up to \$25,000). Contracts for the acquisition of personal property in amounts greater than \$10,000 and up to \$25,000 are subject to these Informal Bidding requirements.

- 6.3.1 **Identify the Property.** Document the personal property to be acquired to meet a particular City operational or project need.
- 6.3.2 **Identify Potential Vendors.** Identify a reasonable number of potential vendors available to supply the personal property. The number of vendors identified shall be based on the magnitude and complexity of the transaction considering potential vendors. Either identify a minimum of three potential vendors or document the basis for selecting less than three potential vendors, including knowledge of (or steps taken to determine) the availability of the same or similar property (and the approximate price), the specialized nature of the property, the need to acquire the property urgently, and that the cost of obtaining quotes from additional vendors outweighs the potential for cost savings associated with obtaining additional quotes.
- 6.3.3 **Request Quotes.** Request informal quotes from the vendors identified in Section 6.3.2. The *request* may either be written or non-written (e.g., orally, via telephone, or via internet), depending upon the magnitude and complexity of the transaction. The request for informal quotes shall:
 - a) Identify the property to be acquired pursuant to Section 6.1.1 at a sufficient level of detail;
 - b) Identify the date and time of the bid deadline (at least 24 hours after the request is made to all identified potential vendors); and
 - c) Identify the method for comparing bids (if the City will consider any criteria other than lowest monetary responsible bidder, such as evaluating quality, useful life, availability, replacement parts, and or environmentally preferable products). Documentation shall be made regarding the date, time, substance and contact information for each request for quotes and each quote received.

- 6.3.4 **Receive Quotes.** All informal quotes shall be submitted in writing and may be transmitted electronically or by facsimile by the bid deadline, and shall clearly identify the personal property proposed to be provided and the price therefore.
- 6.3.5 **Evaluate Quotes, Submit Purchase Order and Execute Contract.** Evaluate and document all quotes requested and received, conduct reference checks of potential vendors if needed, and identify the apparent successful vendor based on the method for comparing bids described in the Request for Quotes. If the apparent successful vendor meets the City’s project needs and provides the “best value” feasible under the circumstances:
 - a) Ensure there are sufficient funds appropriated in the adopted budget to cover the transaction; and
 - b) Submit the Purchase Order to Finance. Documentation regarding the quotes received shall be submitted to Finance at the time of the first request for payment of an invoice.

6.4 Formal Bidding (Acquisition of personal property greater than \$25,000). Contracts for the acquisition of personal property in amounts greater than \$25,000 may be subject to these “Formal Bidding” requirements, unless part of a recurring Annual Purchase Order that can be used throughout the year for purchasing multiple items such as parts and supplies, or at the discretion of the City Manager or Assistant City Manager. In all instances, employees are expected to exercise good judgment in the use and stewardship of City resources. When formal bidding is to be used, the following procedures shall apply:

- 6.4.1 **Identify the Property.** Document the personal property to be acquired to meet a particular City operational or project need in accordance with Section 6.1.1. Include any particular project or operational requirements such as bid deadline, firm offer period, bid security, bidder’s qualifications, performance schedules, liquidated damages, performance security insurance, warranties and licenses.
- 6.4.2 **Identify Potential Vendors.** Identify qualified potential vendors available to supply the personal property.
- 6.4.3 **Notice Inviting Bids.** Prepare a written notice inviting bids, publish the notice in a newspaper of general circulation at least ten days before the date of opening bids and mail it to potential bidders from the City’s bidders list, if applicable, at least 10 calendar days before the bid deadline. Based on the magnitude and complexity of the transaction, more than three bidders may need to be identified. If the estimated dollar amount of the contract is greater than \$100,000, the draft Notice Inviting Bids may be submitted to the City Attorney’s Office for review and approval as to form prior to posting or mailing the Notice Inviting Bids.
- 6.4.4 **Submittal of Bids.** All bids shall be submitted in writing in a sealed envelope and may not be transmitted electronically or by facsimile.
- 6.4.5 **Opening the bids.** Bids shall be opened on the specified deadline, and a bid recap prepared summarizing all bids received. All original bids shall be retained in accordance with the City’s Records Retention Policy.
- 6.4.6 **Evaluating the Bids.** The bids shall be reviewed and evaluated to determine the apparent lowest responsible bidder. The apparent lowest responsible bidder shall be the bidder who meets all of the following criteria:

- a) The lowest monetary bidder, including an allowance for a credit of three percent from the bid amount of any “locally owned business,” defined as a business within the Martinez city limits.
- b) The bid is “responsive”; and
- c) The bidder is “responsible” including any information from any necessary reference checks.

If it is determined the apparent lowest responsible bidder meets the City’s project needs, the department shall ensure there are sufficient funds appropriated in the adopted budget to cover the transaction, and award the contract to the apparent lowest responsible bidder.

7. ACQUISITION OF SERVICES

7.1 General Considerations. For each proposed acquisition of services, the following steps shall be taken:

- 7.1.1 Identify and document the services proposed to be acquired to meet a particular City project need.
 - a) The description shall be at a level of detail based on the magnitude and complexity of the transaction, sufficient to document that the services acquired meet the City’s project needs, and that the City will pay a reasonable price for the services in the most cost effective manner feasible under the circumstances.
 - b) For smaller routine transactions (\$5,000 or less), the documentation could be as simple as a one paragraph description of the services acquired.
 - c) The more complex or costly the transaction, the more detailed the description of the services and the City’s project needs, including qualifications (such as special licenses), timing considerations, specific deliverables, performance criteria, quality and a comparison of available alternative services.
- 7.1.2 Confirm that the proposed services will be provided by an “independent contractor” as defined in Section
- 7.1.3 Determine the estimated dollar amount of the proposed contract, in order to determine which method of contracting applies:
 - a) General Services of \$100,000 or less: Informal proposal
 - b) General Services greater than \$100,000: Formal proposal
 - c) Professional Services of \$75,000 or less: Informal proposal
 - d) Professional Services of greater than \$75,000: Formal proposal
- 7.1.4 If there is an emergency, document the facts to support the findings. Any expenditure made in connection with emergency activities, for the direct protection and benefit of the City’s inhabitants, is authorized in accordance with Martinez Municipal Code Section 14.04.090.
- 7.1.5 Identify and document a reasonable number of potential contractors (service providers) available to supply the services. The number of contractors identified shall be based on the magnitude and complexity of the transaction. For smaller routine transactions (\$5,000 or less for General Services) it shall be reasonable to identify only one potential contractor. For larger contracts, a minimum of three potential contractors shall be identified, or documentation shall be provided for selecting less than three potential contractors, including:
 - a) knowledge of the availability of the same or similar services and the approximate

- prices
- b) the specialized nature of the services
- c) the need to acquire the services urgently
- d) the cost of obtaining proposals from additional contractors outweighs the potential benefit of the additional proposals.

7.2 Informal Proposals (General Services Projects of \$100,000 or Less, Professional Services Contracts of \$75,000 or Less).

- 7.2.1 **Identify the services.** Document the services to be acquired, as outlined in section 7.1.1 of this policy.
- 7.2.2 **Identify Potential Contractors.** Identify a reasonable number of potential contractors (service providers) available to supply the services, as outlined in Section 7.1.7 of this Policy.
- 7.2.3 **Request Informal Proposals.** Informal proposals (including qualifications and a dollar proposal for the services required) from the contractors shall be requested. The request may either be written or non-written (e.g., orally, via telephone or via internet) and the proposals may either be submitted in written or non-written form for General Services contracts depending upon the magnitude and complexity of the transaction; and in written form for Professional Services Contracts.
- 7.2.4 **Evaluate Informal Proposals.** All informal proposals and qualifications received shall be evaluated and documented. Contract terms may then be negotiated with one or more contractors in order to obtain favorable terms that meet the City's project needs.
- 7.2.5 **Execute Contract.** If a proposed contract with a contractor meets the City's project needs at a reasonable cost and in the most cost effective manner feasible under the circumstances, and it is determined that there are sufficient funds appropriated in the adopted budget to cover the transaction, then the contract may be finalized as follows:
 - a) For General Services and Professional Services Contracts in amounts of \$15,000 and less, the City's Small Jobs Contract may be executed.
 - b) For all other General or any Professional Service Agreements and Public Construction Contracts in an amount greater than \$15,000, the City's Standard Form Contract shall be prepared, the contractor's signature on the original contract, and all documentation required by the contract, e.g., insurance requirements, shall be obtained.
 - c) Notwithstanding 7.2.5 (a) and (b) above, architectural and environmental consultants require specialized contracts other than the aforementioned City contracts.

7.3 Formal Proposals (Acquisition of General Services greater than \$100,000, and Professional Services contracts greater than \$75,000). Contracts for the acquisition of services in amounts greater than \$100,000 for General Services and greater than \$75,000 for Professional Services are subject to competitive negotiation.

- 7.3.1 **Identify the Services.** Document the services to be acquired, as outlined in Section 7.1 of this Policy.
- 7.3.2 **Identify Potential Contractors.** Identify potential contractors (service providers) available to supply the services, as outlined in Section 7.1.5 of this Policy.

7.3.3 Request proposals

- a) For General Services, proposals, including qualifications and a dollar proposal for the services required, shall be requested from the contractor in writing. The proposal shall identify the date and time of the proposal deadline and the method for comparing proposals.
- b) For Professional Services, proposals or qualifications shall be requested from the contractors in writing. The request for proposal shall identify the date and time of the proposal deadline and the method of comparing proposals.
- c) The proposals or qualifications shall be submitted in writing. Documentation shall be completed regarding the date, time, substance, and contact information of each request for proposal or qualification and each proposal or qualification received.

7.3.4 Evaluate Proposal. All proposals or qualifications received shall be documented and evaluated.

- a) For General Services, the apparent successful contractor shall be identified based on the method for comparing proposals identified in Section 7.3.3 (a).
- b) For Professional Services, the Department Head shall select an Evaluation Committee to evaluate proposals or qualifications in accordance with the method for comparing proposals identified in Section 7.3.3 (b), which may include interviews with one or more contractors. The Evaluation Committee shall provide recommendations to the Department Head and City Manager. Contract terms with one or more contractors in order to obtain more favorable terms that meet the City's projects needs may be negotiated.

7.3.5 Execute Contract. If a proposed contract with a contractor provides the best value to the City under the circumstances, the contract may be finalized as follows:

- a) Ensure there are sufficient funds appropriated in the adopted budget to cover the transaction.
- b) Prepare the proposed contract in accordance with all standard contract requirements.
- c) Ensure the City Attorney has approved the contracts as to form.
- d) Schedule and recommend the proposed contract for review and approval by the City Council for Professional Services greater than \$75,000 and General Services greater than \$100,000.
- e) Following approval by the City Council, obtain final contract signatures from the contractor and the City Manager or designee for Professional Services greater than \$75,000 and General Services greater than \$100,000.

8. PUBLIC PROJECT CONSTRUCTION

8.1 Projects Subject to Public Project Construction. Each contract for public project construction shall be subject to all relevant requirements of state and federal law, and the procedures of the Uniform Public Construction Cost Accounting Act, California Public Contract Code Section 21000 et. seq. ("UPCCAA").

8.1.1 The specific requirements of the UPCCAA are identified in the text of the UPCCAA and are subject to change by the state, and the dollar thresholds for each procedure are subject to modification by the California State Controller; the UPCCAA generally provides:

- a) Each contract for public project construction in an amount more than \$125,000 shall be subject to the formal bidding process as set forth in the UPCCAA.
 - b) Each contract for public project construction in an amount of more than \$30,000 up to \$125,000 shall be subject to the informal bidding process as set forth in the UPCCAA.
 - c) Each contract for public project construction in an amount of \$30,000 or less may be performed by the employees of the City; or may be awarded at the discretion of the City by negotiated contract or by purchase order in accordance with the UPCCAA. The City shall endeavor to follow the informal bidding procedures for these projects whenever practical.
 - d) Maintenance work is separate and distinct from Public Works projects and does not fall under the provisions of the UCCAP. For accounting purposes, however, the informal or formal bidding requirements specified herein will be observed and shall be as noted for Public Works projects in excess of \$30,000.
- 8.1.2 In accordance with Public Contract Code Section 22020 and Section 3.36.060 of the Martinez Municipal Code, the monetary limits specified above shall adjust automatically and without further amendment by the City Council upon notification from the California State Controller of such amended monetary limit. Such adjustment shall be effective on the date specified in the Controller's notification. The monetary limits specified above shall also adjust automatically and without further amendment by the City Council whenever the Legislature amends Public Contract Code Section 22032 by adjusting the monetary limits contained therein.

8.2 Development of Plans and Specifications. Plans and specifications for all public project construction must be approved by City Council.

- 8.2.1 The Engineering Division will prepare plans and specifications using the City's standard form that will permit the widest opportunity to prospective bidders to respond to the request for bids based on the specifications. The Recycling and Source Reduction Policy will be included in specifications.
- 8.2.2 Insurance requirements for the project must match those as designated by the Risk Manager and legal aspects must match those as designated by the City Attorney (i.e. as contained in the City's Standard Construction Contract). In addition, the commercial aspects of the proposed contract must be reviewed and approved by the Public Works Director.

8.3 Bonds. The following bonds shall be required for contracts:

- 8.3.1 Bid bonds may be required in amounts of 10% for any projects requiring formal bids, and for informal bids over \$30,000.
- 8.3.2 Performance bonds, and labor and materials bonds, shall be required for all public project construction, in amounts of 10% each.
- 8.3.3 Maintenance and guarantee bonds may be required as set forth in the contract.

8.4 Solicitation of Formal Bids. Projects estimated to cost more than \$125,000 must be let by formal bidding procedures.

- 8.4.1 Notices describing the project, stating where to obtain more information, the time and

place for submitting bids and their opening shall be:

- a) Emailed or faxed to construction trade journals and/or local plan rooms not less than fifteen (15) days before the opening of the bids (per PCC Section 22037).
- b) Published in a newspaper of general circulation at least fourteen (14) days before the date of the opening of the bids.

8.5 Solicitation of Informal Bids. Projects estimated to cost less than \$125,000 may be let by informal bidding procedures.

8.5.1 Notices describing the project, stating where to obtain more information, the time and place for submitting bids and their opening shall be:

- a) Mailed to trade journals not less than ten (10) days before the opening of the bids (per PCC Section 22034).
- b) Mailed to the qualified contractors on the City's relevant bidders list at least ten (10) days before the date of the opening of the bids.

8.6 Rejection of Formal or Informal Bids. At its discretion and pursuant to Public Contract Code Section 22038, the City may reject any bids presented. Notification of rejected formal bids shall be done in writing. After reevaluating its cost estimates of the project, the City shall have the option of either the following:

- a) Abandoning the project
- b) Re-advertising for bids in the manner described by the UPCCAA
- c) By passage of a resolution by a four-fifths vote of the City Council in accordance with Chapter 3.36 of the Martinez Municipal Code and PCC Section 22038, declaring that the project can be performed more economically by the employees of the City, and doing the project by force account without further complying with this policy.

8.7 Award of Contract.

8.7.1 Schedule and recommend the proposed contract for review and approval by the appropriate authority.

- a) Construction contracts valued at or over \$125,000 shall be awarded by the City Council.
- b) Construction contracts valued less than \$125,000 may be awarded by the City Council, City Manager, Assistant City Manager, or Public Works Director pursuant to Section 4.3 of this policy.

8.8 Execution of Contract.

8.8.1 **Execute Contract.** Construction contracts shall be finalized as follows:

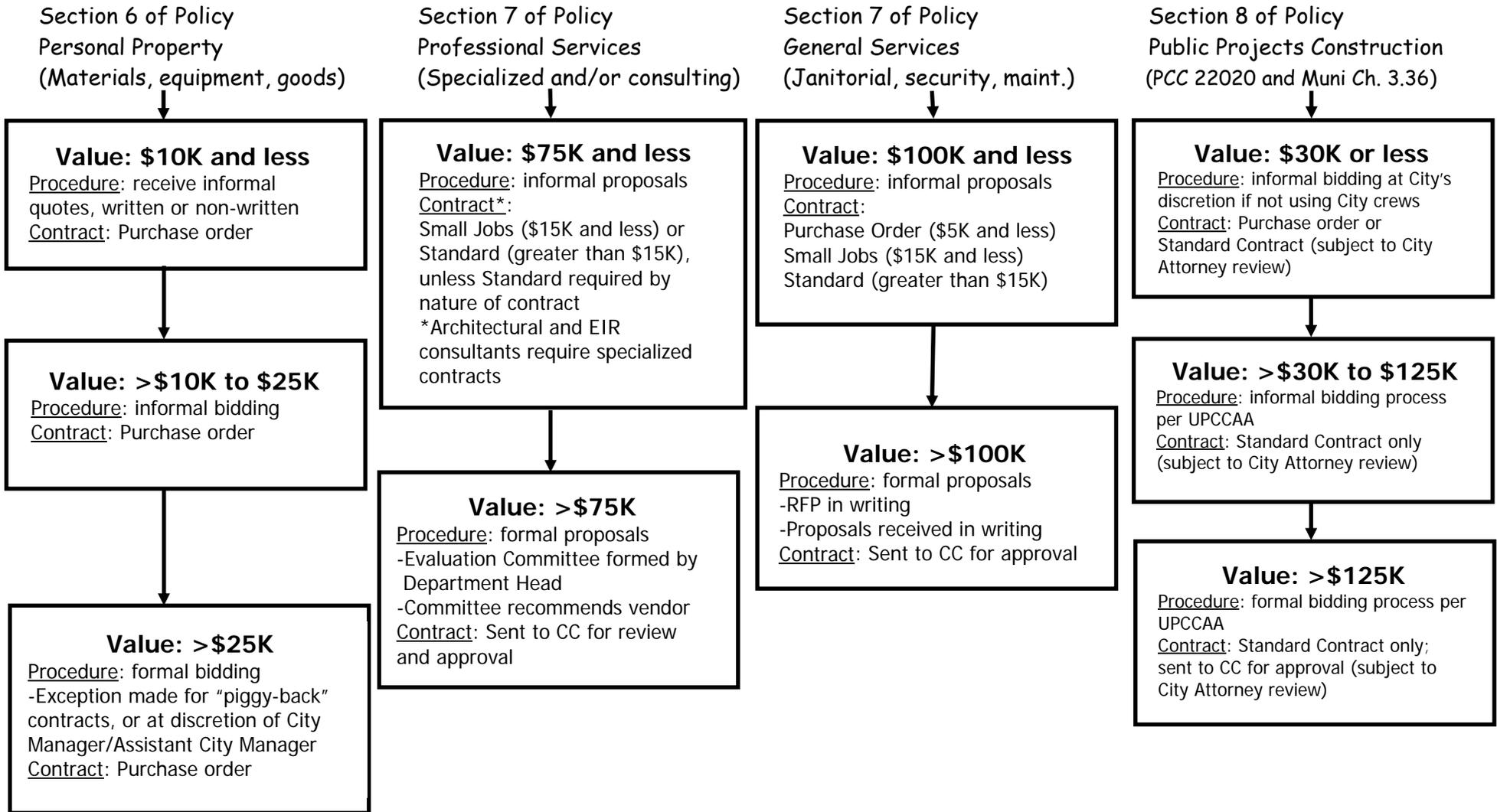
- a) Ensure there are sufficient funds appropriated in the adopted budget to cover the transaction.
- b) Prepare the proposed contract in accordance with all standard contract requirements.
- c) Ensure the City Attorney has approved the contracts as to form.
- d) Following approval by the City Council, obtain final contract signatures from the contractor and the City Manager or designee.

8.9 Contract Monitoring, Administration, and Project Close Out. A copy of all public construction contracts must be forwarded to Finance Manager to be retained for financial audit purposes, with an original to the City Clerk. The Public Works Department will administer the contract; receive the maintenance bond and guarantee (if required); supervise the work specified in the contract; approve progress payments; bring the project to the City Council to authorize project acceptance, Notice of Completion, and release of retention; and authorize payment of final invoices. The Finance Division will process payments in accordance with the terms of the contract. Project files and records will be retained for a prescribed number of years based on funding requirements or standard City policy.

EXHIBIT B
PURCHASING POLICY 2011 FLOW CHART

- 1) Transactions of up to \$100,000: City Manager (CM)
- 2) Transactions of up to \$75,000: Assistant City Manager (ACM)
- 3) Transactions of up to \$25,000: Department Heads
- 4) Public Project Construction of up to \$125,000: CM, ACM or Public Works Director

Note: This chart is only intended to be used as a reference and is not a substitute for consulting with the appropriate section of the Purchasing Policy for specific guidance and direction.





PURCHASING POLICY

Revised: April 2004

PURCHASING POLICY OVERVIEW

Purpose

The purpose of this policy is to establish efficient procedures for the purchase of supplies, services and equipment at the lowest possible cost, and with adequate financial controls; to assure continuity and uniformity in purchasing operations; and to define purchasing authority and responsibilities.

The policy outlined herein was developed under the authority contained in Section 3.32.030 of the Municipal Code. This policy is to be adhered to by the Purchasing Officer and all departments when procuring supplies, services and equipment. The further purpose of this policy is to define decision making with prudent review and internal control procedures, and to maintain departmental responsibility and flexibility in evaluating, selecting, and purchasing supplies, equipment and services.

These guidelines are not intended to address every issue, exception, or contingency that may arise in the course of purchasing activities. The basic standard that should always prevail is to exercise good judgment in the use and stewardship of City resources, including keeping within the budget authorized by the City Council.

Purchasing Authority

The City Council shall retain the power to approve and authorize the execution of:

- 1) Any contract involving a public project not governed by Municipal Code Chapter 3.36,
- 2) Any contract in excess of or not included within the purchasing authority specified in this policy as being exercisable by a City employee, and
- 3) Any contract which the City Council determines it wishes to award (irrespective of whether or not purchasing authority for that contract has been assumed or delegated by the City Manager), provided that such authority has not been expressly delegated by ordinance to some other authorized person.

Chapter 3.32.020 of the Municipal Code states that the City Manager is appointed the Purchasing Officer of the City. The duties of the Purchasing Officer may be combined with those of any other City officer or position. The City Manager may delegate his/her duties as Purchasing Officer to other City staff.

EXHIBIT C

The Purchasing Officer shall serve as the centralized management employee for coordination and conduct of the purchasing function for all city departments as further detailed in the policy.

Purchasing authority is further delegated by the City Manager on a limited basis to Department Heads. Under such circumstances, the Department Heads shall become Purchasing Officers within the limitations specified herein. Purchasing authority designates a buyer to be an agent for the City who may commit funds pursuant to budgetary appropriations. Within the scope of the buyer's authority, he/she is legally authorized to create contractual obligations for the City of Martinez providing sufficient funds are available.

Each Department Head is responsible for the commercial aspects of all purchase commitments made by members of is/her department for supplies, equipment, repairs, construction, and services. These commercial aspects include the development of new sources of supplies; selection of qualified bidders; obtaining and evaluating quotations; negotiation of prices, terms and conditions; preparation of purchase documents; and award, and administration of the purchase commitment.

Requisitioning authority and purchasing authority are different and each has a specific purpose.

Purchasing Authority

A purchase order is the written document, which contains the definition of the need for a purchased material/service.

Department Heads can further delegate purchasing authority as they determine is justified to operate their departments. Annually, each Department Head shall file a form with the Finance Division listing departmental personnel with purchasing authority.

Approval Authorizations

Approval authorizations are established as follows:

Name/Position	Purchase Authority (Up to)
Department Head	\$10,000
Administrative Services Director	\$25,000 Materials & supplies \$100,000 all other contracts
Community Development Director	\$100,000 Public projects contracts
City Manager	\$100,000 Any type of contract except Public projects
City Council	Unlimited

EXHIBIT C

In addition to those powers set forth in Martinez Municipal Code Sec. 3.32.020, the Purchasing Officer shall possess the following powers and duties:

1. Purchase or contract for supplies, services and equipment necessary for the operation of City departments in accordance with the purchasing policies prescribed and other rules and regulations prescribed by the City Council and the City Manager.
2. Negotiate and recommend the execution of contracts for the purchase of supplies and services and equipment.
3. Promote full and open competition on all City purchases.
4. Initiate and maintain appropriate purchasing forms and files.
5. Administer the transfer of surplus or unused supplies and equipment between departments as needed and the sale of surplus supplies and equipment.

Department Heads are charged with the following responsibilities in the purchasing process:

1. To provide the Purchasing Officer at the beginning of each fiscal year, an updated authorized signature list designating those individuals who are delegated the authority to make purchases in accordance with established policies and procedures.
2. To anticipate requirements sufficiently in advance to allow adequate time to obtain goods in accordance with the best purchasing practices.
3. To communicate and coordinate purchases with the Purchasing Officer as necessary.
4. To provide detailed, accurate specifications to ensure goods obtained are consistent with requirements and expectations.
5. To prepare requisitions and purchase orders in accordance with instructions so as to minimize the processing effort.
6. To inform the Purchasing Officer of any vendor relation problems, shipping problems (i.e. damaged goods, late delivery, wrong items delivered, incorrect quantity delivered, etc) and any situations, which could affect the purchasing function.
7. To minimize urgent and sole source purchases and to provide written documentation when such purchases may be necessary.
8. To notify vendors of purchase award when authorized by the Purchasing Officer.
9. To not "split" orders for the purpose of avoiding procurement requirements.
10. To consider the use of recycled products when practical and economically feasible. To be considered economical, the added costs should not exceed 10% of the lowest non-recycled product price.

Vendor Relations

It is to the City's advantage to promote and maintain good relations with vendors. The Purchasing Office and operating department staff shall conduct their dealings with vendors in a professional manner and shall promote equal opportunity and demonstrate fairness, integrity, and courtesy in all vendor relations. When feasible to do so, vendors within the City of Martinez should be utilized for supplies, services and equipment.

Sole Source Purchase

Commodities and services, which can be obtained from only one vendor, are exempt from competitive bidding. Sole source purchases may include proprietary items sold directly from the manufacturer, items that have only one distributor authorized to sell in this area or a certain product that has been proven to be the only acceptable product. All sole source purchases shall be supported by written documentation signed by the appropriate department head and forwarded to the Purchasing Officer.

Cooperative Purchases

The City of Martinez may participate in purchases and contracts established by other political jurisdictions, when this arrangement is in the best interests of the City.

CONTRACTING FOR CONSTRUCTION

The City has adopted the State of California Uniform Construction Cost Accounting Procedures. These procedures are intended to provide uniformity of cost accounting standards for construction work performed or contracted by public entities in the state and a method for the bidding of public works projects.

These procedures provide a synopsis of the general provisions of the UCCAP and adopt local administrative procedures to comply with the intent of the UCCAP. The UCCAP should be consulted for detailed information.

General

The UCCAP permits the City to solicit bids and award contracts for public works projects as follows:

- Projects over \$100,000 - Formal Bids
- Projects less than \$100,000 - Informal Bids
- Projects less than \$25,000 - may be performed by:
 - 1) City employees
 - 2) Negotiated contract, or
 - 3) Purchase Order

Maintenance work is separate and distinct from Public Works projects and does not fall under the provisions of the UCCAP. For accounting purposes, however, the bidding requirements will be observed and shall be as noted for Public Works projects.

Procedures

Development of Plans and Specifications

1. Plans and specifications for projects estimated to cost more than \$100,000 must be approved by City Council.
2. The department will prepare plans and specifications using the City's standard form that will

EXHIBIT C

permit the widest opportunity to prospective bidders to respond to the request for bids based on the specifications. The Recycling and Source Reduction Policy will be included in specifications.

3. Prior to the finalization of the plans and specifications, the insurance requirements for the project must be reviewed and approved by the Risk Manager. In addition, the commercial aspects of the proposed contract must be reviewed and approved by the Department Head and legal aspects by the City Attorney.
4. Bid bonds may be required in amounts stated in the specifications.

Solicitation of Bids and Proposals

1. Projects estimated to cost more than \$100,000 must be let by formal competitive bids.
 - A. Notices describing the project, stating where to obtain more information, the time and place for submitting bids and their opening shall be:
 - (1) Mailed to trade journals not less than 30 days before the opening of the bids
 - (2) Published in a newspaper of general circulation at least two times not less than 5 days apart and at least 14 days before the opening of the bids
 - B. Rejection of Formal or Informal Bids. At its discretion, the City may reject any bids presented, and after reevaluating its cost estimates of the project, the City shall have the option of either the following:
 - (1) Abandoning the project
 - (2) Re-advertising for bids in the manner described by this article
 - (3) By passage of a resolution by a four-fifths vote of the City Council declaring that the project can be performed more economically by the employees of the City, have the project done by force account without further complying with this policy.

Award of Contract

1. Construction contracts valued over \$100,000 shall be awarded by the City Council.
2. Construction contracts valued less than \$100,000 shall be awarded by the Community Development Director or his/her designee.
3. The contract must comply with the provisions of the Recycled and Source Reduction Purchasing Policy .

Preparation/Review of Contracts

All contractors must use the City's standard contract forms to insure that the City's interests are protected and to facilitate review.

1. All contracts exceeding \$25,000 must be approved as to form by the City Attorney.
2. It is strongly recommended that the City Attorney's office be consulted as early as possible to review and prepare the contract.

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Contract Monitoring and Administration

1. A copy of all contracts must be forwarded to Accounts Payable and to the City Clerk to be retained for financial audit purposes.
2. Departments will administer the contract and supervise the work specified in the contract, approve progress payments, accept the work and authorize payment of invoices.
3. The Accounts Payable office will process payments in accordance with the terms of the contract.

List of Qualified Contractors

The Community Development Department will maintain a list of all licensed contractors that are qualified to bid. Pursuant to Section 22034 of the State of California Public Contract Code, annually in November a notice must be sent to appropriate trade journals, by the Community Development Director inviting contractors to submit their names to be included on the list of bidders for the following calendar year.

PURCHASING OF MATERIALS/SERVICES

General

Materials and Services, other than professional services are purchased by the Departments by means of formal or informal bids or by open market purchase. The Department Head may delegate certain purchases to others.

Bidding Requirements:

- Transactions over \$25,000 - formal bids
- Transactions less than \$25,000 - informal bids
- Transactions less than \$10,000 - may be open market purchase

Procedures

Development of Plans and Specifications. (For transactions to be formally bid.)

1. Plans and specifications for materials or services estimated to cost more than \$25,000 must first be approved by City Council.
2. The department will prepare the specifications for the material or service required. Specifications shall not be unduly restrictive, but written to promote the overall economy and encourage competition.
3. Prior to finalization of the specifications, the Department Head will review and forward to the Risk Manager if appropriate and to the City Attorney if the City's Standard Specifications are not used.

Purchase Orders

The need for materials or services shall be thoroughly described on a purchase order form for proper

EXHIBIT C

action. The requisition shall include specifications commensurate with the complexity of the item or service required.

1. If the material/service was approved in the annual budget, no further purchase order review is necessary after 2 and 3 above are complied with.
2. Purchase orders for materials/services that are not included in the budget are subject to the following review:
 - A. Over \$25,000 to City Council
 - B. Less than \$25,000 to City Manager
 - C. Less than \$5,000 to Department Head
3. It is the responsibility of Department Head to verify the accuracy of account charged.
4. It is the responsibility of the department head to insure that funds in the specified account are available to pay for the products and/or services requested.

Solicitations of Bids and Proposals

1. Transactions estimated to exceed \$25,000 must be let by formal competitive bid.
 - A. A notice describing the material or service to be purchased, stating where to obtain more information, the time and place for submitting bids and their opening shall be:
 - (1) Published in a newspaper of general circulation at least ten days before the date of opening bids.
 - (2) Mailed to suppliers whose names are on the bidder list.
 - (3) Other interested suppliers.
 - B. Transactions estimated to cost between \$10,000 and \$25,000.
 - (1) Informal bid requests shall be solicited in writing for transactions estimated to cost less than \$25,000 but greater than \$10,000 from a minimum of three suppliers unless the impracticalities for not doing so are documented.
 - C. Transactions estimated to be less than \$10,000.
 - (1) Quotations shall be solicited from at least three suppliers.
 - (2) Solicitation may be verbal or written. All must be documented for future reference.

Awards

1. Awards of purchases of materials or services over \$25,000 must be approved by City Council.
2. Awards for materials or services less than \$25,000 but more than \$10,000 may be made by the City Manager or his/her designee.
3. Awards up to \$10,000 may be made by the Department Head.
4. Recycled and Source Reduction Policy must be reviewed.
5. For contracts less than \$25,000, City Attorney review is optional, provided department uses a standard agreement form to protect the City's interests. All other contracts must be approved as to form by the City Attorney.

Leases

Leases for equipment are considered, for bidding purposes and approvals, the same as a purchase. The total lease value (full term of the lease agreement) will determine the level of bidding and

approval criteria.

PROFESSIONAL SERVICES

General

Professional services under \$100,000 are exempt from the formal bid process.

1. The item of personal/professional services must be contained in the annual budget as part of a capital project or an item approved by the City Council.
2. A personal service contract up to \$5,000 is left to the discretion of the department when the items are budgeted. (This amount is equivalent to the small claims jurisdictional limit). Contracts more than \$5,000 but less than \$100,000 must be approved by the City Manager or his/her designee.
3. Personal/professional services contracts from \$5,000 - \$100,000 may be secured by the City's standard contract where the project is budgeted or funds deposited. The agreement is to be reviewed by the City Attorney as to form and then signed by the City Manager, providing adequate appropriation has been included in the budget. Major contracts, those contracts over \$100,000, require Council review. See # 4 below.
4. Personal/professional services in excess of \$100,000 will be secured by a written agreement approved as to form by the City Attorney and authorized by the City Council. All contracts approved by the City Council require only the signature of the City Attorney, City Manager, and other party and attested to by the City Clerk.
5. Personal/professional services for legal services are to be approved and signed by the City Attorney, providing adequate appropriations have been included in the budget.

Procedures

1. Professional services contracts estimated to cost more than \$100,000 must be formally advertised stating the description of the services where to obtain more information, and a time for submitting proposals.
 - A. Notices shall be:
 - (1) Published in a newspaper of general circulation 14 days before the due date of the proposal.
 - (2) Mailed to those consultants who have previously expressed an interest to provide service to the City.
 - (3) Mailed to others, if desired, by the Purchasing Officer.
 - B. Request brochures and qualifications for the professional services engagement. The information furnished by the consultants should provide the following essential information:
 - (1) Firm's principals stating experience, background, academic training, and where registered.
 - (2) Qualifications of key personnel to be used on the project.

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- (3) Office location and space availability where work is to be performed.
 - (4) Size of organization and availability of sufficient personnel to complete project within time required.
 - (5) Name of any outside consultants used, how they will be utilized on the project, and the registration of the outside consultant's principals, if appropriate.
 - (6) List of previous clients and similar projects.
 - (7) List of references, including banks.
 - (8) Length of time in business.
- C. Select a desired number of consultants with whom personal interviews are desired. Interviews to be conducted on an individual basis and not as a group. At the interview, the services to be furnished, and the proposed approach to organization, liaison, completion schedules, and other pertinent items are to be discussed.

Selection Review Process

Major Projects - Fee of \$100,000 or more.

The City Manager or his/her designee will appoint a review board of qualified individuals familiar with the project needs and personal/professional practices to interview those consulting firms, which in his/her opinion appear to have the desirable qualifications.

Minor Projects - Fee less than \$100,000

When selecting a consultant to provide services on a specific project the City Manager or his/her designee shall consider the capabilities and qualifications of the consultants. The City Manager or designee shall also give consideration to distributing the work among various consultants on an informal rotational basis whenever feasible.

Department Heads may approve and sign for projects up to their requisition limit. City Manager signs and approves up to \$100,000.

Where the City has previous experience with particular consultants who have rendered satisfactory services to the City in the past, the City Manager may determine it unnecessary to go through the procedure outlined herein.

Fee Negotiation

Following interviews and evaluation, the firm deemed to be most qualified shall be selected and fee and contract negotiation entered into. A final determination of the services to be furnished, the type of fee arrangement and actual amount of fee shall be established. Projects that will utilize special funds, i.e., federal funds will have to be evaluated and fee payment established in accordance with criteria prescribed by funding entity.

The actual fee to be paid will be governed by the complexity of the project and the completeness of services required. In the event that a service and fee agreement cannot be reached with the first consultant selected, negotiations are to be terminated and the next consultant in order of priority

called to negotiate.

Assessment District Considerations

All other factors being equal, the desires of major property owners guaranteeing the consultant's fee should be given strong consideration in the employment of the consultant.

Consulting work performed on a contingency fee basis is discouraged and not allowed in federally funded work. Where the fees cannot be adequately guaranteed to the consultant by the property owners or by the City, the assessment district work can proceed only on a contingent fee basis. In that event the fee shall be increased a sufficient amount over the fee which would otherwise be applicable, to compensate the consultant for the risks and the extended payment period involved.

Additional Considerations

All other factors being equal, consultants whose qualifications are satisfactory, who have sufficient experience and capabilities for providing the necessary professional services and who have offices within the City shall normally be given priority in being considered for employment by the City.

Change orders: Purchase orders represent a contract between the City and the selected vendor. Any substantial change to a Purchase Order shall be documented as a change order. Change orders shall be reviewed by the Administrative Services Director and shall be subject to the approval of the City Manager. A purchase order may not be increased by more than 10% or \$2,500, whichever is less, without a change order, except for taxes, shipping and handling.

Taxes, shipping and handling may cause the purchase order to exceed the authorized purchase amount. These items do not require a change order even if they exceed 10% of the original purchase order amount.

Where the professional is regulated by the State of California, the principal member of the firm must be registered in the State of California in the field of which he/she is to be employed.

The City Attorney has prepared a suggested contract form which must be used whenever applicable to insure that the City's interest is protected. All contracts over \$25,000 must be approved as to form by the City Attorney.

Definitions:

- | | |
|----------------------|--|
| <i>Agreement</i> | An understanding or arrangement between two or more parties. |
| <i>Appropriation</i> | City Council authorization to expend public funds for a specific purpose. |
| <i>As Is</i> | A term indicating that goods offered for sale in existing condition are without warranty or guarantee. |

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<i>Award</i>	Acceptance of a Bid or Proposal
<i>Bid</i>	The executed document submitted by a bidder in response to a Notice Inviting Bids, a Proposal, or a Request for Quotations.
<i>Bidder</i>	A person or legal entity who submits a bid in response to a solicitation.
<i>Blanket Purchase Order</i>	An agreement of no more than one year between the City and vendor allowing authorized city employees to charge repetitive purchases of supplies, equipment or services at pre-arranged prices, dollar limits and/or other terms and conditions.
<i>Change Order</i>	Written modification or addition to a purchase order or contract/agreement authorized by the appropriate authority.
<i>City</i>	City shall mean the City of Martinez or agencies as may be governed by the members of the City of Martinez City Council.
<i>City Attorney</i>	Shall mean and include the City Attorney for the City of Martinez.
<i>City Council</i>	Shall mean and include the City Council of the City of Martinez or agencies as may be governed by the City Council of the City of Martinez.
<i>City Manager</i>	Shall mean and include the City Manager for the City of Martinez.
<i>Competitive Bidding</i>	The submission of prices by individuals or firms competing for a contract, privilege, or right to supply merchandise or services.
<i>Contract</i>	A verbal or written, legally binding mutual promise between two parties, e.g. an accepted purchase order. Under the law, agreement and contract are essentially synonymous.
<i>Designee</i>	A duly authorized and appointed representative of an employee, the latter of whom holds a superior position to the person appointed to represent him or her.
<i>Formal Bid</i>	A bid which must be submitted in a sealed envelope and in conformance with a prescribed format, to be opened and announced at a specified time at a public opening.

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- Guarantee*** A pledge or assurance that something is as represented and will be replaced or repaired if it fails to meet the stated specifications.
- Informal Bid*** Written or verbal quotation for supplies, equipment and/or services which pursuant to this policy, is not required to meet the applicable formal bidding requirements. Informal bids include unsealed written quotes, verbal quotes, and quotes received via fax.
- Notice Inviting Bids*** A formal notice published in the newspaper or elsewhere or sent directly to potential bidders notifying them that the City is accepting bids for a specific purpose.
- Professional Services*** Any work performed by an auditor, attorney, doctor, architect, engineer, land surveyor, construction project manager, appraiser, expert, or consultant, for example.
- Public Contract Code*** Shall mean the *Public Contract Code* of the State of California
- Qualified Bidder*** A "qualified bidder" is a bidder that demonstrates some or all of the following characteristics:
- a) can provide product quality, fitness and capacity for the required usage
 - b) has the ability, capacity, and skill to perform the contract to provide the service required
 - c) has demonstrated character, integrity, reputation, judgment, experience, and efficiency, particularly with reference to past purchases by the City or other public agencies
 - d) has the ability to perform within the time required
 - e) has shown quality of performance and/or of products provided in previous contracts or services with the City or other public agencies
 - f) possesses any other qualifications that establish the bidder is capable of timely and competently performing the required service or providing the required materials.
- Quotation*** A Bid. A statement or price, terms of sale, and description of goods or services offered by a prospective seller to a prospective purchaser, usually for purchase below the amount requiring Formal Bidding.
- Request for Proposal*** All documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals. The RFP procedure permits negotiation of

EXHIBIT C

proposals and prices as distinguished from Competitive Bidding and a Notice Inviting Bids. The procedure allows changes to be made after proposals are opened and contemplates that the nature of the proposals and/or prices offered will be negotiated prior to award.

Request for Quotation

The document generally used for seeking competition on small purchase or on any purchase that does not require competitive sealed bidding. Can be used for obtaining price and delivery information for Sole Source and emergencies.

Sealed Bid

A bid which has been submitted in a sealed envelope to prevent its contents from being revealed or known before the deadline for the submission of all bids. This is required on formal bids.

Sole Source

An award for a commodity or service to the only seasonably known capable supplier due to the unique nature of the requirement, the supplier, or market conditions.

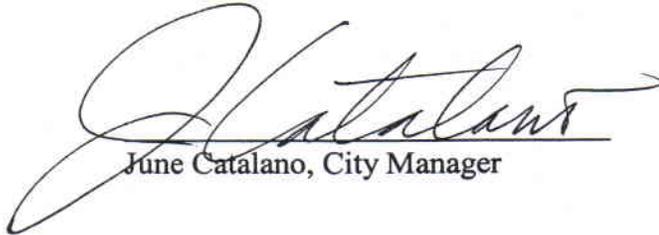
Specifications

A description of what the purchase seeks to buy or accomplish, and consequently, what a bidder must be responsive to in order to be considered for award of a contract. A specification may be a description of the physical or functional characteristics, or the nature of a supply or service. It may include a description of any requirements for inspecting, testing, or preparing a supply or service item for delivery.

Warranty

The representation that something is true. Not be confused with "Guarantee". A representation of utility, condition, and durability made by a bidder or offered for a product offered.

cc: City Attorney
Department Heads


June Catalano, City Manager