RESOLUTION NO. 6341

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA APPROVING AND ADOPTING A PROCUREMENT POLICY

WHEREAS, pursuant to Article XIIIB of the California Constitution and Carpinteria Municipal Code (CMC) Title 3 (Revenue and Finance), it is the intent of the City Council to enhance the effectiveness of the procurement process; and

WHEREAS, CMC Title 3 provides a mechanism to establish efficient procedures for purchasing supplies, equipment, and services at the lowest possible cost while ensuring necessary quality, and exercising positive financial control over purchases through clearly defined purchasing authority; and

WHEREAS, the City of Carpinteria intends to enhance its purchasing systems by adhering to a Procurement Policy, duly adopted by the City Council upon staff's recommendation and set forth in the City's Administrative Services Policies and Procedures.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and incorporated herein by reference.

SECTION 2. The Procurement Policy, attached herein as Exhibit 1 and incorporated by reference, is hereby approved and adopted by the City Council.

SECTION 3. Pursuant to City's Procurement Policy, the City Manager is designated as the Purchasing Officer and may delegate the administration of the Policy.

PASSED, APPROVED AND ADOPTED on July 8, 2024, by the following vote:

AYES:	COUNCILMEMBER(S):	Lee, Nomura, Solorzano, Alarcon, Clark
NOES:	COUNCILMEMBER(S):	None
ABSENT:	COUNCILMEMBER(S):	None
ABSTAIN:	COUNCILMEMBER(S):	None

al clark

Mayor, City of Carpinteria

ATTEST:

Brian C. Barrett, CMC, City Clerk
City of Carpinteria

I hereby certify that the foregoing resolution was adopted at a regular meeting of the City Council of the City of Carpinteria held on July 8, 2024.

Brian C. Barrett, CMC, City Clerk
City of Carpinteria

APPROVED AS TO FORM:

Jena Shoaf Acos, on behalf of Brownstein Hyatt Farber Schreck, LLP acting as City Attorney of the City of Carpinteria

EXHIBIT 1: Procurement Policy

EXHIBIT 1 TO RESOLUTION NO. 6341

Administrative Services Department

Procurement Policy

Table of Contents

Purpose 1
Policy 1
Section A. Ethical Standards 2
Section B. Procurement Manual 2
Section C. Responsibilities of the Purchasing Officer 2
Section D. Responsibilities of the Operating Department 3
Section E. Vendor Relations 4
Section F. Unauthorized Purchases 4
Section G. Purchasing Thresholds 5
Section H. Purchasing Methods 5
1. Purchase Orders 5
2. Blanket Purchase Orders 6
3. Contracts 6
4. Contract Amendments 6
5. Cooperative Purchasing 7
6. Piggybacking 7
7. Sole Source Purchases 8
8. Urgency Purchases 8
9. Emergency Purchases 8
Section I. Professional Services 8
Section J. Bidding 10
1. No Bid Required 10
2. Informal Bid Purchases 10
3. Formal Bid Purchases 11
4. Bid Splitting 12
5. Rejection of Bids 12
6. Tie Bids 12
7. Bid Protest 12
8. Exemption from Bidding 13
Section K. Information Technology Purchases 14
Section L. Environmentally Preferable Procurement Policy 14
Section M. Uniform Guidance Federal Procurement Standards 15
Section N. Surplus Personal Property 17
Section O. Credit Card Usage 18
Section P. Definitions 18

PROCUREMENT POLICY

PURPOSE

The purpose of this policy is to ensure continuity and uniformity in the City of Carpinteria's purchasing practices and to provide departments with guidelines to operate purchasing practices within legal regulations and defined responsibilities of the Administrative Services Department Purchasing Team and operating departments. The purpose of this policy is to create a uniform, structured, and fair process for acquiring goods, equipment, and services, ensuring that public funds are used efficiently and ethically while adhering to related City policy (e.g., Environmentally Preferable Procurement Policy, local, woman, and/or minority-owned business preference, etc.), and complying with legal and regulatory requirements.

This policy is not intended to address every situation that may arise in the course of procurement 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.

POLICY

The policy contained herein was developed under the authority of Chapter 3.30 of Title 3 of the Carpinteria Municipal Code (CMC). The City Manager is designated as the Purchasing Officer for the City and may delegate the administration of this Policy. The Purchasing Officer maintains authority and the responsibility to coordinate and manage the purchase of the City's goods, equipment, and services according to this Policy.

The policy outlined herein is to be adhered to by the Purchasing Officer and all departments when purchasing goods, equipment, and services. This Policy promotes decision-making that incorporates prudent review and internal control procedures, while maintaining departmental responsibility and flexibility in evaluating, selecting, and purchasing goods, equipment, and services.

Pursuant to Resolution No. 4603, the City Council has elected to become subject to the Uniform Public Construction Cost Accounting Act (UPCCAA) as established by the California Uniform Construction Cost Accounting Commission for Public Projects. Procurement bidding procedures and all dollar amounts of Public Project contracts are subject to the regulations contained in the UPCCAA under Section 22000, *et seq*. of the California Public Contract Code, Carpinteria Municipal Code Chapter 3.31, and this Procurement Policy.

A. Ethical Standards

This policy aims to promote ethical behavior in procurement activities, ensuring that all actions are conducted with integrity and in accordance with ethical standards, The City strictly adheres to the Political Reform Act and the regulations of the Fair Political Practices Commission (FPPC) that apply to purchasing, which are available at http://www.fppc.ca.gov. Additionally, the City is sensitive to what constitutes unethical purchasing behavior and what, while legal, constitutes the appearance of unethical behavior. Employees are expected to give primary consideration to the interests of the City, which means seeking to obtain the maximum value for each dollar expended while remaining fair and impartial.

B. Procurement Manual

Pursuant to this Procurement Policy, the Purchasing Officer, or designee, will approve and implement a manual of purchasing procedures ("Procurement Manual").

C. Responsibilities of the Purchasing Officer

The Purchasing Officer is responsible for 1) the purchase of general goods, equipment, and services; 2) the administration of the Procurement Policy; and 3) the management of City property and surplus. To perform these functions efficiently and to support City departments, the Purchasing Officer will:

1. Coordinate and manage the purchase of the City's general goods, equipment, and services from the lowest responsive and responsible bidder as required by this Policy.

2. Ensure full and open competition on all purchases as required by law or this Policy.

3. Identify, evaluate, and utilize purchasing methods that best meet the City's needs, such as cooperative and/or piggyback purchases/agreements, blanket purchase orders, and contractual agreements.

4. Assist all departments with research and recommendations in developing specifications, including review of specifications for completeness of information, and to ensure specifications are not unnecessarily restrictive.

5. Recommend revisions to the Procurement Policy and Procurement Manual when necessary and stay informed of current developments in the field of public purchasing.

6. Provide and maintain all forms and records necessary to demonstrate compliance with legal and regulatory requirements.

7. Act as the City's agent in the transfer and disposal of surplus equipment and materials.

8. Make purchase award recommendations to the appropriate authority (e.g., selecting a contractor and submitting to City Council for approval/denial.)

D. Responsibilities of City Departments

1. Identifying Needs and Requirements
    a. Needs Assessment: Determine the specific needs and requirements for goods, equipment, and services.
    b. Specification Development: Develop clear, detailed specifications and requirements for what is to be procured (e.g., Request for Proposal/Quote.)

2. Planning and Budgeting
    a. Budget Preparation: Ensure that procurement needs are included in the departmental budget and that funds are available.
    b. Procurement Planning: Develop procurement plans that align with the department's operational goals and City Council goals and priorities.

3. Initiating Procurement Requests
    a. Requisition Submission: Submit requisitions and purchase requests with necessary approvals and documentation following the instructions and guidelines set forth in the Procurement Manual.
    b. Coordination with Administrative Services (AS): Work closely with the AS to ensure that procurement processes are initiated timely and appropriately.

4. Vendor Selection and Management
    a. Market Research: Conduct market research to identify potential suppliers and assess market conditions.
    b. Supplier Evaluation: Evaluate bids and proposals for compliance with specifications and to select the most suitable vendors based on criteria such as price, quality, and reliability.
    c. Contract Management: Manage vendor relations, monitor performance, and ensure compliance with contract terms and conditions.

5. Compliance and Risk Management
    a. Adherence to Policies: Ensure all procurement activities comply with City Policies, regulations, and ethical standards (e.g., orders may not be split to avoid purchasing requirements.)
    b. Risk Mitigation: Identify and manage risks associated with procurement activities, including potential legal, financial, and operational risks (e.g., utilizing City-approved contract templates and ensuring insurance requirements are met prior to execution of an agreement.)

6. Record-Keeping and Reporting
    a. Documentation: Maintain accurate and comprehensive records of all procurement activities, including requisitions, bids, contracts, and invoices. Provide AS with written supporting documentation of vendor selection (i.e., award of contract) or purchase order.

b. Reporting: Provide regular reports on procurement activities, expenditures, and outcomes to the Purchasing Officer, or their designee, and relevant stakeholders and oversight bodies.

7. Sustainable and Responsible Procurement
    a. Sustainability Initiatives: Incorporate sustainability considerations into procurement decisions, such as use of recycled products when practical and economically feasible, including adherence to City policy (e.g., Single-Use Plastic Ordinance.)
    b. Social Responsibility: Ensure that procurement practices support the City's social responsibility goals, such as the Environmentally Preferable Procurement Policy and local, woman, and/or minority-owned business preference.

8. Training & Engagement
    a. Staff Training: Ensure that department staff involved in procurement are adequately trained and knowledgeable about procurement policies, procedures, and best practices.
    b. Stakeholder Engagement: Engage with internal and external stakeholders to understand their needs and address any procurement-related concerns.

9. Communication
    a. Authorization: At the beginning of each fiscal year or upon any personnel changes, provide Administrative Services Department with an updated authorized signature list, designating individuals with authority to make purchases according to this policy.
    b. Vendor Problems: Immediately inform Administrative Services Department of any situations that could affect the procurement process such as vendor relations problems or shipping issues (e.g., damaged goods, late delivery, incorrect items or quantities, etc.)
    c. Sole Source: Provide written documentation to Administrative Services Department to support the use of a sole source provider and receive authorization from the Purchasing Officer, or their designee, prior to making a sole source purchase.

E. Vendor Relations

Maintaining and fostering positive relationships with suppliers of goods, equipment, and services is advantageous for the City. Staff authorized to make purchases on behalf of their departments are expected to interact with vendors professionally, promoting equal opportunity, and exhibiting fairness, integrity, and courtesy in all vendor interactions.

F. Unauthorized Purchases

Except in the case of an emergency or urgency, no purchase of goods, equipment, and services of $10,000 and over shall be made without a previously authorized purchase order or contract as required by this policy.

Unauthorized purchases may be void and may not be considered an obligation of the City.

1. Invoices without an authorized purchase order may be returned to the department or vendor unpaid.

1. Purchases over $10,000 and up to $50,000: The City Manager holds the authority to award. Purchases in this range should follow the informal bid process as outlined in Section J.2. All departments must strive to obtain three written bids, unless exempted by the provisions under Sections H4 through H8.

2. Purchase orders shall be issued to a vendor when ordering supplies and services and not “after the fact” for work already done or materials already ordered.

G. Purchasing Thresholds

The following purchasing dollar limits apply per vendor per fiscal year except for Public Projects:

1. Purchases up to $10,000 (micro-purchases): Department Directors have the authority to award. While comparative pricing is not required, it must be used when practical. Prudent judgment must be used at all times. All departments may purchase goods, equipment, and services of up to $10,000 without competitive bidding.

2. Purchase over $10,000 and up to $50,000: The City Manager holds the authority to award. The informal bid process is outlined in Section J.2. All departments must strive to obtain three written bids, unless exempted by the provisions under Sections H4 through H8. A list of contracts executed by City Manager and or his designee shall be presented to the City Council for their information via a subsequent report no later than the calendar month following execution of the contracts.

3. Purchases over $50,000: The City Council holds the authority to award through a Formal Bid Process. The Formal Bid Process is described in Section J.3.

H. Purchasing Methods

Prior to commencing work, vendors are required to possess and maintain specific types of insurance coverage suitable for the services to be rendered. All purchasing methods listed below are subject to the purchasing thresholds listed in Section G of this Policy.

1. Purchase Orders

A Purchase Order is issued to a vendor to authorize purchases of goods, equipment, and services.

The purpose of a Purchase Order is to:

a. Ensure compliance with this Procurement Policy.

b. Encumber funds when an unencumbered appropriation exists in the fund.

The Procurement Policy allows for exemptions from Purchase Order requirements and examples of such exemptions include acquiring land, utility payments, payments to other governmental agencies, claims/legal settlement payments, membership dues, employee benefit payments, and debt service payments. A detailed list of exemptions is outlined in the Procurement Manual.

2. Blanket Purchase Orders

A Blanket Purchase Order is an agreement whereby the City contracts with a vendor to provide goods, equipment, and services on an as-needed and often over-the-counter basis. Blank Purchase Orders provide a mechanism whereby items that are uneconomical to stock may be purchased in a manner that allows field operations timely access to necessary materials.

The Purchasing Division shall review Blanket Purchase Order requests based on the following criteria:

a. Geographical location

b. Responsiveness and capabilities

c. Average dollar value and type of items to be purchased

d. Frequency of need

Once a Blanket Purchase Order is issued to a vendor, any authorized City employee may contact the vendor directly to place orders per the terms and conditions specified in the Blanket Purchase Order.

3. Contracts

Contracts should be prepared for purchases of goods, equipment, and services as stated in the Procurement Manual.

Contract templates are established and updated in consultation with the City Attorney's Office. A list of contract templates is outlined in the Procurement Manual.

All City contracts must be prepared on City contract templates unless otherwise approved by the City Attorney.

4. Contract Amendments

After the contract award, amendments may need to reflect changes in the agreement.

Contracts initially approved by the Department Director and/or Purchasing Officer must be amended by the same authority as long as they do not exceed the authority's award limit. Contracts initially approved by the City Council can only be amended by the City Council unless amendment authority is delegated by the City Council to the Purchasing Officer for the authorized spending amount.

All City contract amendments must be prepared on City contract templates unless otherwise approved by the City Attorney.

5. Cooperative Purchasing

The Purchasing Officer may participate in a collective bidding process established by other governmental agencies. If the City takes the lead or otherwise has input on the bidding methods, the City's standard bidding requirements apply; otherwise, the City's bidding requirements do not apply. In any case, a City purchase order or contract is required.

6. Piggybacking

The Purchasing Officer may utilize an existing purchase order or contract between another governmental agency and a vendor to purchase the same goods as those listed in that contract (i.e., piggybacking.) There are four requirements to piggybacking:

a. The other jurisdiction's purchase order or contract must have been established following a competitive bid process in which the jurisdiction selected the lowest bidder;

b. The City's contract or purchase order term must expire before or on the expiration listed in the other jurisdiction's contract and/or purchase order;

c. The scope of services for a trade service or the specifications of goods must match those specified in the other jurisdiction's contract and/or purchase order without any substantial modifications; and

d. The cost of goods, equipment, and services must be identical to the costs listed in the other jurisdiction's purchase order and/or contract.

To piggyback, the City needs information regarding the other jurisdiction's bid process and its contract document. If the award calculation included a local preference and was awarded to their local vendor, piggybacking cannot be used. If piggybacking is used, the City's standard bidding requirements do not apply; however, a City purchase order and/or contract is still required.

Piggybacking is not allowed for public works projects or professional contracts.

7. Sole Source Purchases

Unique goods, equipment, and services that can be obtained from only one vendor, or one distributor authorized to sell in this area, with singular characteristics or performance capabilities or which have specific compatibility components with existing City products are exempt from the competitive bidding requirement and are deemed sole source purchases. Sole source purchases may include proprietary items sold directly from the manufacturer. Proprietary items are those held under exclusive title, trademark, or copyright by a private person or company. A proprietary distributorship would also apply.

Specifications that lead to sole source purchases must be avoided whenever possible as they minimize or eliminate competition unless warranted by the circumstances in the preceding paragraph.

All sole source purchases must include written documentation supporting the determination of a sole source, signed by the Department Director and submitted to the Administrative Services Department.

8. Urgency Purchases

The bidding procedures of Sections I and J may be dispensed with in the case of urgency. Urgency shall exist when the services, repair, or replacements are immediately necessary to permit the continued performance of the operations or services of the City, or to avoid the immediate danger to life, health, or property. The City Council delegates the City Manager to declare a public urgency subject to confirmation by the City Council at its next meeting for any purchase in excess of $50,000.

9. Emergency Purchases

In cases of emergency, as determined by the City Council, including, but not limited to, states of emergency defined in Section 8558 of the Government Code, when repair or replacements are necessary to permit the continued conduct of the operation of services of the City, or to avoid danger to life or property, the City Council, by majority vote, may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or give notice for bids to let contracts. The work may be done by City forces, by contract, or by a combination of the two (2). The City Council delegates to the City Manager, the authority to declare a public emergency subject to confirmation by the City Council at its next meeting.

I. Professional Services

The selection of Professional Services should be based on the professional qualifications necessary for the satisfactory performance of the Professional Services required, on demonstrated competence, and on a fair and reasonable price consistent with Government Code Section 4526 and applicable law. The cost thresholds set forth

in this section shall apply to the total cost in any one transaction, or the cumulative cost for the same Professional Services from the same Contractor arising out of the same procurement. Procurements shall not be divided so as to avoid the threshold requirements.

Informal Proposal (≤ $50,000.00):

1. Procurements of Professional Services where the total cost is expected to be $50,000.00 or less shall be made using informal proposal procedures, as set forth herein.

2. Informal proposal procedures shall be as follows:

   a. Proposals shall be obtained by written or oral request.

   b. When possible, a minimum of three vendors should be solicited.

   c. Responses shall be in writing and may be transmitted by facsimile, mail, electronically over the internet, or any other means of delivery as described in the proposal documents.

Formal Proposal (> $50,000.00):

1. Procurements of Professional Services where the total cost is expected to exceed $50,000.00 shall be made using formal proposal procedures, as set forth herein.

2. Formal proposal procedures shall be as follows:

   a. The Department Director shall use the RFP and/or RFQ process to solicit vendors. The RFP should include:

      i. Instructions to include references to related City policy such as local, woman, and minority-owned business preferences/requirements;
      ii. Specifications describing the required Professional Services;
      iii. Any required licenses, insurance and/or bond forms;
      iv. General Contract provisions;
      v. The time on or before which proposals will be received;
      vi. Where and with whom proposals shall be filed.

   b. When possible, a minimum of three vendors should be solicited. The City Manager may waive the requirements for solicitation of multiple proposals if only one individual or firm can reasonably provide the Professional Services, and/or it is in the best interest of the City to waive the requirement.

   c. Formal proposals received after the deadline for receipt of proposals shall not be accepted by the City. The City shall submit written notification to the vendors

whose proposal was received after the deadline setting forth the deadline when the proposal was actually received, and that the proposal is being rejected because it was received after the deadline.

3. If no proposals are received or if no proposals meet the requirements as specified in the RFP or RFQ documents, the City may reissue the solicitation using the informal proposal procedures, negotiate a Contract based upon the solicitation without further complying with this Section, or the City may terminate the procurement.

4. If two or more proposals are received with the same total amount, quality and service being equal, and if the public interest will not permit the delay of re-advertising for the RFP or RFQ, the City Manager may exercise discretion to accept the proposal which they determine will provide the best value to the City.

5. All proposals shall be deemed rejected if no action is taken on the proposals within 90 days after the proposals have been received and opened unless vendors agree to extend the effective date of an RFP or RFQ at the request of the City.

6. The Purchasing Officer or requesting department shall have the authority to reject all proposals if doing so is in the best interest of the City.

Selection of Consultants for Professional Services for Continuing Services

Professional consultants providing engineering, land surveying, environmental, landscape architecture, or other similar services may be retained continuously to provide professional services. The Department Director, with the approval of the Purchasing Officer, may contract on a project-by-project or on a retainer basis for additional work/services without going through the RFQ and/or RFP and selection process. At least every three (3) to five (5) years, these arrangements must be reviewed, and every effort must be made to receive proposals from at least three (3) consultants to perform the same services. This is to ensure the City is receiving the best value for, and performance level of, services contracted.

J. Bidding

Except as otherwise exempted in this policy, purchases of goods, equipment, and services must adhere to the following:

1. No Bid Required – Departments may directly purchase goods, equipment, and services to a value of $10,000. Departments must exercise reasonable prudence in seeking price quotes for such items. Bid splitting to circumvent the bidding process is prohibited.

2. Informal Bid Purchases – Purchases of goods, equipment, and services with an estimated value of over $10,000 and up to $50,000.
   Informal Bid Process

a. The responsible department must prepare a written scope of work and/or a written product specification describing the minimum requirements of the purchase.

b. Requests for bids may either be posted at City Hall, published on the City's website, mailed or e-mailed, or solicited over the phone to prospective bidders a minimum of ten (10) calendar days before the due date.

c. The department must endeavor to obtain at least three written bids. The bids may be made by mail, email or facsimile. Further negotiation with a vendor to negotiate a lower price based on the bids received from other vendors is prohibited.

d. In the event no satisfactory bids are received, the department has the option of any of the following:

   i. Abandon the purchase;

   ii. Rebid the purchase; or

   iii. Request the Purchasing Officer approval to obtain the purchase on a negotiated contract.

e. Award of Contract: Contracts for goods, equipment, and services will be approved by the Purchasing Officer to the lowest responsive and responsible bidder.

3. Formal Bid Purchases – Purchases of goods, equipment, and services with an estimated value of over $50,000.

<u>Formal Bid Process</u>

a. Bid Authorization: City Council must authorize staff to solicit formal bids.

b. Notice Inviting Bids (NIB): The responsible department must include a general description of the goods, equipment, and services to be purchased or required, describe any performances or bid security required, and the time and place for the opening of bids.

c. Bid Security: When applicable, the bidder's security will be prescribed in the NIB in an amount equal to ten percent (10%) of the bid amount. The bid security will be returned to unsuccessful bidders within sixty (60) days of the date of the award.

d. Performance Bonds: The City may require a performance bond in such amount as it reasonably finds to protect the public interest. When applicable, the form and amount of the bonds will be described in the NIB.

e. Published Notices: The NIB must be posted on the City's website and published at least twice, not less than five days apart, in a newspaper of general circulation (required for public projects only); and, if applicable, in appropriate trade publications. The date of publication must be at least fourteen (14) calendar days before the due date.

f. Bid Opening Procedure: All formal bids must be sealed and will be publicly opened and read at the date, time, and place indicated in the published notice. Sealed bids must be submitted to the City Clerk's Department and identified as to bidder, project, and "Bid" on the envelope. A written record and tabulation will be made at the time all bids received are opened. All bids received shall be open for public inspection in the city clerk's office during business hours for 30 days after the bid opening. Bids will be destroyed in accordance with the city's adopted records retention schedule. The city reserves the right to confirm mathematical accuracy of the bids prior to award of the contract.

g. Awards of Contracts: If awarded, contracts will be awarded by the City Council to the lowest responsive and responsible bidder.

4. Bid Splitting – Purchases, contracts, public work contracts, work orders and projects must not knowingly be split into single transactions or smaller segments for the purpose of circumventing the competitive formal or informal bidding process. Bid splitting is a form of unauthorized purchasing under Section D– Responsibilities of Operating Departments.

5. Rejection of Bids – The Purchasing Officer or the requesting department may, at their discretion, recommend the rejection of any or all bids. Reasons for rejection may include, but are not limited to, the following: a bid is determined to be non-responsive; the number of bids received is inadequate; bids received are not reasonably uniform in price, or the lowest bid received is deemed to be too high.

6. Tie Bids – If two or more quotes/bids are received for the same total amount or unit price, quality and service being equal, then the department may accept the lower quotes/bids obtained through negotiation with the vendors submitting the tie quotes/bids.

7. Bid Protest – Any party that submitted a bid for the Project may file a protest regarding the purchasing decision authorized.

    a. Notice of Decision: After a decision regarding a bid award has been made, the department will post notice of the intended award on the City website. If a bidder is rejected because the bid is found non-responsive or because the bidder is deemed non-responsible, the City will give written notice to said bidder of evidence reflecting such decision.

    b. Time to File Protest: All protests must be submitted to the Office of the City Clerk by email or facsimile transmission within five (5) business days from the date on the notice of intended award.

c. Form of Protest: All protests must be in writing, state the factual basis for the protest, state the facts relevant to the protest, and all evidentiary support to rebut adverse evidence that it or another bidder was either non-responsive or not responsible. All protests have to be filed in accordance with the instructions contained in the solicitation which is the subject of the protest.

d. Protest Review: The Department Director will review all timely protests and recommend that the Purchasing Officer, or City Council if a formal bid, either reject the protest and award to the lowest responsible and responsive bidder, or accept the protest and award the bid to the next lowest responsible and responsive bidder.

e. Hearing on Protest: A hearing will be set within a reasonable time to provide a decision before final approval of the selected low bid.

f. Appeal of Purchasing Officer's Decision to City Council: Such appeals must be in writing and must be filed with the City Clerk within five (5) business days from the date of the Purchasing Officer's decision.

g. Failure to Timely Appeal: A bidder who fails to file a protest within the times set forth in this section waives any right to protest the issue further. No appeal of any decision to award a bid may occur once the contract has been awarded.

8. Exemptions from Bidding – The following are exempted from obtaining competitive bids:

    a. Legal Services

        i. Anything relating to existing or threatened litigation

        ii. Anything that protects attorney-client privileged records or discussion

    b. Anything relating to a confidential ongoing investigation and other confidential police business

    c. Advertising (airtime/newspaper/magazine ad space, not advertising agencies or design services)

    d. Public Projects under UPCCAA

    e. Government printed publications

    f. Subscriptions to publications

    g. Common carrier shipments

h. Travel payments made directly to hotels, motels, airlines or for other transportation

i. Insurance and claim settlements

j. Legal brief printing and transcription

k. Membership in professional organizations

l. Credit card payments to a bank

m. Contracts with other governmental entities

n. Permit fees including, but not limited to, those to other governmental agencies for operation of a City utility

o. Events sponsorship

p. Postage and United States Postal Service post office box fees (not private mail companies)

q. Real property purchases, escrow fees and lease payments

r. Utilities including, but not limited to, payments for electricity or gas

s. Voting materials

t. Debt services

K. Information Technology Purchases

The City recognizes that purchasing information technology on the basis of the lowest purchase price alone may not always serve the best interests of the City. Therefore, to ensure hardware requirements and software compatibility, all such purchases must be reviewed by the Administrative Services Department prior to purchase.

L. Environmentally Preferable Procurement Policy

This Policy is not intended to conflict with other City policies in terms of purchasing or procuring supplies, equipment, professional (consulting) services, maintenance agreements, and construction contracts. With that, purchases or procurements shall also conform with both of the City's Environmentally Preferable Procurement Policy (City Council Resolution No. 5686) and Sustainable Community Policy (City Council Resolution No. 5500) and the amendments thereto.

M. Uniform Guidance Federal Procurement Standards

The City is to conform purchases made with Federal funds in accordance with applicable Federal laws and standards identified in the Uniform Guidance, Procurement Standards (2 CFR 200.318-327) including but not limited to, excerpts summarized below.

Where thresholds differ between City and Federal purchasing policies, City employees utilizing Federal grants will follow the most restrictive rule.

1. General Procurements Standards

   No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontractors. However, non-Federal entities may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value. Any City employee, officer, or agent that violates such standards shall be subject to disciplinary action per the City's Personnel Rules.

   Purchases must be necessary and limit the waste of government spending by avoiding acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurement to obtain a more economical purchase. Federal excess and surplus property shall be considered in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs. The City shall maintain records sufficient to detail the history of procurement, such as rationale for the method of procurement, selection of contract type, contractor selection or rejection and the basis for the contract price.

2. Competition

   Procurement procedures must be documented and conducted in a manner that provides full and open competition. Geographical preferences are prohibited unless mandated by a Federal statue or state license.

3. Methods of Procurement

   In addition to the City's Procurement Policy approval limits, one of the following procurement methods should be used (threshold amounts are subject to change by the Federal Acquisition Regulation and the City will follow the most current limitation):

   a. Micro-purchase: Purchase without soliciting competitive quotes if reasonable, if the aggregate dollar amount does not exceed the micro-purchase threshold (2 CFR 200.320 and 200.1).

b. Small Purchase: Purchase of property or services, the total amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. Price or rate quotes must be obtained from an adequate number of qualified sources as determined by the City/grantee. (2 CFR 200.320, 200.1)

c. Sealed Bid: Amounts greater than the simplified acquisition threshold with formal advertising awarded to the lowest responsible bidder. This method is primarily for construction contracts and a cost and price analysis must be performed. (2 CFR 320(b)(1))

d. Competitive Proposal: Amounts greater than Small Purchase when Sealed Bid is not appropriate. Proposals can either be fixed-price or cost-reimbursement and a cost and price analysis must be performed. (2 CFR 200.320(b)(2))

e. Noncompetitive Proposal: Amounts greater than Micro-purchase with justification documented and requirements met. This category applies to procurement where one of more of the following apply: (1) the acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold; (2) the item is only available from a single source; (3) when there is an emergency or urgency that will not permit a delay resulting from publicizing competitive solicitation; (4) the Federal awarding agency or pass-through entity expressly authorizes noncompetitive procurement; or (5) after solicitation of several sources, competition is determined inadequate. Sole Source procurements require approval from the Federal or pass-through funding source.

All five (5) procurement types must comply with the Procurement Standards which can be summarized generally as follows: (1) the purchase complies with the non-Federal entity's documented procedures in place, (2) purchases are necessary, (3) open competition (to the extent required by each method), (4) conflict of interest policy, and (5) proper documentation for the purchases.

4. Contracting with Small/Minority and Women's Business Enterprises

All necessary affirmative steps should be taken to ensure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps include:

a. Placing qualified small and minority businesses, and women's business enterprises on solicitation lists;

b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

d. Establishing procurement specifications, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

f. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.

5. Contract Cost and Price

   Cost analysis should be performed and documented with every procurement and contract modification over the Simplified Acquisition Threshold. The cost plus a percentage of cost and percentage of construction cost methods of contracting is not to be used and the City is to make independent estimates before receiving bids or proposals.

6. Federal Awarding Agency or Pass-Through Entity Review

   The City must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure compliance with the procurement standards. The City may be exempt from procurement review if compliance determination or self-certification is relied upon.

7. Bonding Requirements

   Bid guarantees, performance bonds, and payment bonds may be required for construction/facility improvement contracts/subcontracts exceeding the Simplified Acquisition Threshold to ensure that the Federal interest in the procurement is adequately protected.

8. Contracted Provisions

   The City's contracts are to contain the provisions in the Office of Management and Budget (OMB) Federal Regulations Appendix II to Title 2, Subtitle A, Part 200 – Contract Provisions for non-Federal Entity Contracts Under Federal Awards, as applicable.

N. Surplus Personal Property

Refer to CMC Chapter 3.32 Surplus Personal Property.

O. Credit Card Usage

Refer to Credit Card Usage Policy.

P. Definitions / Glossary

1. Agreement. A written understanding or arrangement between two or more parties. Also see “Contract” and “Purchase Order”.

2. Addendum. A document issued during the bid period to clarify, modify or support the plans, specifications, and other bid document terms.

3. Appropriation. City Council authorization to expend public funds for a specific purpose.

4. As Is. A term indicating that goods offered for sale in existing condition are without Warranty or Guarantee.

5. Award. The acceptance of a Bid or Proposal.

6. Bid. The executed document submitted by a Bidder in response to a Notice Inviting Bids (NIB), a Request for Proposals, or a Request for Qualifications.

7. Bidder. A person or legal entity who submits a bid in response to a solicitation. Vendor. See the Bid or Proposal.

8. Blanket Purchase Order. An Agreement of no more than one year between the City and a Vendor allowing authorized City employees to charge repetitive Purchases of goods, equipment, and services on an as-needed basis at pre-arranged prices, dollar limits, and/or other terms and conditions.

9. Brand Name. A trade name that serves to identify a product or particular manufacturer.

10. Change Order. A contract amendment to a Public Works construction contract.

11. City. City shall mean the City of Carpinteria and other such districts, authorities, or agencies as may be governed by the members of the City of Carpinteria City Council.

12. City Attorney. Shall mean and include the City Attorney of the City of Carpinteria.

13. City Council. Shall mean and include the City Council of the City of Carpinteria. It shall also mean the governing boards of such other districts, authorities, or agencies as may be governed by the City Council of the City of Carpinteria.

14. City Manager. Shall mean and include the City Manager of the City of Carpinteria.

15. Competitive Bidding. The submission of prices by vendors competing for a Contract, privilege, or right to goods, equipment, or services.

16. Contract. A written, legally binding mutual agreement between two parties, e.g., an accepted Purchase Order or fully executed agreement for the purchase of goods, equipment, and services stating the expectations of both parties such as term, cost, scope of work, insurance requirements, and labor code, and prevailing wage requirements.

17. Contract Amendment. Written modification or addition to a Purchase Order or Contract/Agreement authorized by the appropriate authority, except for construction contracts (see Change Order).

18. Discount. An allowance or deduction from a normal or list price extended by a seller to a buyer to make the unit price more competitive.

19. Dispose of. To transfer or part with, to sell; get rid of; to throw out.

20. Emergency Purchase. An emergency purchase requires the declaration of emergency and City Council action as noted in PCC Sections 22050. City may perform work in accordance with PCC Section 22035 and 22050.

21. Encumbrance. Committing budgeted funds prior to receiving goods, equipment, and services; funds are shown as an encumbrance until goods, equipment, and services are received, at which time funds are expended.

22. Equipment. Personal property necessary to conduct the City's business, including, but not limited to furnishings, machinery, vehicles, rolling stock, and other property used to conduct the City's business.

23. Formal Bid. A Bid which must be submitted in a sealed envelope and in conformance with a prescribed format, is to be opened and announced at a specified time at a public opening.

24. General Services. Services such as custodial, uniform cleaning, maintenance, and other services for which the performance of such activities do not require any unique skill, special background, or training.

25. Goods. Office supplies, custodial supplies, materials, goods, tools, or other commodities used in the general conduct of the City's business, except supplies or materials for a Public Project which is regulated under the Public Contract Code section 20160, et seq.

26. Guarantee. A pledge or assurance that something is as represented and will be replaced or repaired if it fails to meet the stated Specifications.

27. Informal Bid. Written Quotations for goods, equipment, and services which, pursuant to this Policy, are not required to meet the formal bidding requirements.

Informal Bids include unsealed written quotes, quotes received via facsimile, or quotes received via email.

28. Lowest (Responsive and) Responsible Bidder. The Bidder submitting the lowest price and is capable of performing the proposed Contract. See also “Responsive Bidder” and “Responsible Bidder”.

29. Micro-purchase. A purchase of supplies or services, the aggregate amount of which does not exceed the micro-purchase threshold.

30. Micro-purchase threshold. The dollar amount at or below which a non-federal entity may purchase property or services using micro-purchase procedures.

31. Non-Responsive Bid. A Bid that does not conform to the essential requirements of the Notice Inviting Bids. Non-Conforming Bid. Unresponsive Bid.

32. Notice Inviting Bids (NIB). A formal notice, posted on the City’s website, or published in the newspaper (required for public projects only) or elsewhere or sent directly to potential Bidders, notifying them that the City is accepting bids for a specific purpose.

33. On-Call Contracts. Contracts without a specific project scope of work, but rather categorized around general types of anticipated work or trades. When a specific scope of work is identified, task orders are authorized based on either a not-to-exceed time and materials basis or on a negotiated lump sum amount, using the unit-priced bid by the contracts. The contracts are typically on an annual or multi-year basis.

34. Procurement. The act of obtaining or buying goods or services.

35. Professional Services. Any work performed by an auditor, attorney, doctor, architect, engineer, land surveyor, construction project manager, appraiser, expert, or consultant.

36. Proposal. The executed document submitted by an offeror or in response to a Request for Proposals (and the basis for subsequent negotiation).

37. Public Contract Code (PCC). Shall mean the Public Contract Code of the State of California.

38. Public Project (See Public Contract Code section 22002). “Public project” means any of the following:

    a. Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.

    b. Painting or repainting of any publicly owned, leased, or operated facility.

c. In the case of a publicly owned utility system, a “public project” shall include only the construction, erection, improvement, or repair of dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.

“Public project” does not include maintenance work. For purposes of this section, “maintenance work” includes all of the following:

a. Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.

b. Minor repainting.

c. Resurfacing of streets and highways at less than one inch.

d. Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.

e. Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.

f. “Facility” means any plant, building, structure, ground facility, or utility system, subject to the limitation found in paragraph (3) of subdivision (c), real property, streets and highways, or other public work improvement.

37. Purchase. Renting, leasing, purchasing, licensing, or trade of goods, equipment, and services.

38. Purchase Order. A Purchaser’s document to formalize a Purchase transaction with a Vendor. Acceptance of a Purchase Order constitutes a Contract; a Purchaser’s written offer to a supplier stating all terms and conditions of a proposed transaction.

39. Purchasing Division. The division and/or department within the organization to which the purchasing function has been delegated by the Purchasing Officer.

40. Purchasing Officer. The City Manager or their designated representative.

41. Qualified Bidder. A “qualified” bidder, is a bidder that demonstrates 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 or provide the service required.

c. Has demonstrated character, integrity, reputation, judgment, experience, and efficiency, particularly concerning past purchases by the City or other public agencies.

d. Has the ability to perform within the time required.

e. Has shown the quality of performance and/or of products provided in previous contracts or services with the City or other public agencies.

f. Note: Previous documented incidents of unsatisfactory performance and/or unsatisfactory delivery, materials, or services may also result in a determination of unqualified.

42. Quotation. A Bid. A statement of price, terms of sale, and description of goods or services offered by a prospective seller to a prospective Purchaser, usually for Purchases below the amount requiring Formal Bidding.

43. Urgency Purchase. An urgency purchase does not require a declaration of emergency but must only be made to preserve or protect life, health or property, or upon natural disaster, or to forestall a shutdown of essential public services, or for reasons as determined by the City Manager.

44. Request for Proposal (RFP). All documents, whether attached or incorporated by reference, are utilized for soliciting competitive cost Proposals including the scope of work.

45. Request for Qualifications (RFQ). Documents are prepared to solicit the qualification of professionals or pricing options for a product or service.

46. Responsible Bidder. A person who has the capability in all respects to perform in full the Contract requirements, and the integrity and reliability which will assure good faith performance.

47. Responsive Bidder. (1) A person who has submitted a Bid that conforms in all material respects to the Notice Inviting Bids (NIB) or (2) one whose Bid conforms in all material respects to the terms and conditions, Specifications and other requirements of the NIB.

48. 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; required on Formal Bids.

49. Sole Source. A determination that there is only one reasonably known capable supplier due to the unique nature of the requirements, the supplier, or market conditions for the goods, equipment, and services.

50. Specifications. A description of what the Purchaser 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 goods, equipment, and services. It may include a description of any requirements for inspecting, testing, or preparing goods, equipment, and services for delivery.

51. Split. To divide a Purchase into two or more parts to avoid the requirements of the Procurement Policy. This action is prohibited by the Policy.

    Example:

    Split: If a department knows it will use $51,000 of a particular supply in one fiscal year and places two orders six months apart to keep each order below the $50,000 limit, the action is considered Splitting and is not allowed under the Policy.

    Not Split: If a department hires ABC Engineering to prepare a fee study for $8,000 and also hires the same company to oversee a capital improvement project for $9,000, the action is not considered Splitting.

52. Surplus Personal Property. Any City property that is no longer needed or usable by the holding department. Refer to CMC Chapter 3.32 Surplus Personal Property.

53. Vendor. A supplier of goods, equipment, and services.

54. Warranty. The representation that something is true. Not to be confused with “Guarantee”. A representation of utility, condition, and durability made by a Bidder or offeror for a product offered.