

**RESOLUTION NO. 88-2021**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA REVISING ADMINISTRATIVE POLICY NO. 76, "PURCHASING POLICY" TO ADD ARTICLE 13 "RECOVERED ORGANIC WASTE AND RECYCLED-CONTENT PAPER PROCUREMENT POLICY TO CONFORM TO SENATE BILL 1383 AND FINDING ADOPTION OF RESOLUTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**WHEREAS**, the City of Pacifica first adopted Administrative Policy No. 76 (Purchasing Policy) on November 27, 2014 with the latest revision on October 14, 2019; and

**WHEREAS**, as part of the SB 1383 Regulations (14 CCR § 18993.1(f)), cities are required to procure annually a quantity of recovered organic waste products, and recycled-content and recyclable paper. California's Department of Resources Recycling and Recovery (CalRecycle) states "these procurement requirements will strengthen California's green, self-sustaining economy. Demand for these products will drive infrastructure investment and create new green collar jobs in the state"; and

**WHEREAS**, the City Council now desires to accept and adopt the revised Administrative Policy No. 76, attached hereto and hereinafter incorporated by reference, to conform to Senate Bill 1383.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Pacifica that:

1. The City Council hereby finds that the facts set forth in the recitals to this resolution are true and correct and establish the factual basis for the City Council's adoption of this resolution.
2. The City Council hereby finds that the action to adopt this resolution to revise the City's Administrative Policy No. 76 (Purchasing Policy) is exempt from the provisions of the California Environmental Quality Act (CEQA), under Section 15061(b)(3) of the CEQA Guidelines (14 Cal. Code Regs. 15000 et seq.) because the proposed amendments to the Purchasing Policy are being adopted pursuant to CalRecycle's SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared by CalRecycle, and the activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and that EIR. No mitigation measures identified in the EIR are applicable to the City's enactment of these amendments. Moreover, none of the conditions requiring a subsequent or supplemental EIR, as described in Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163, have occurred. The EIR therefore adequately analyzes any potential environmental effects as a result of the adoption of amendments to the Purchasing Policy and no additional environmental review is required. On a separate and independent basis, the amendments to the Purchasing Policy are exempt from CEQA pursuant to Section 15308, Class 8 of the CEQA Guidelines as actions that will not have a significant impact on the environment and as actions taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate. There are no unusual circumstances that would cause the amendments to the Purchasing Policy to have a significant effect on the environment.
3. The City Council of the City of Pacifica hereby adopts the revisions to the Administrative

Policy No. 76, "Purchasing Policy" attached hereto as Exhibit "A", which is attached hereto, with additions denoted by underline and deletions denoted by ~~strikethrough~~.

4. This resolution shall take effect on January 1, 2022.

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**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Pacifica, California, held on the 13<sup>th</sup> day of December 2021, by the following vote:

**AYES**, Councilmembers: Beckmeyer, Bier, Bigstyck, O'Neill, Vaterlaus.

**NOES**, Councilmembers: n/a.

**ABSENT**, Councilmembers: n/a.


**ABSTAIN**, Councilmembers: n/a.

  
\_\_\_\_\_  
Sue Beckmeyer, Mayor


ATTEST:

  
\_\_\_\_\_  
Sarah Coffey, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michelle Kenyon, City Attorney

**"ATTACHMENT A"**

 <b>CITY OF PACIFICA</b> ADMINISTRATIVE POLICY	No.  76
PURCHASING POLICY	DATE ISSUED: 11/27/2014  REVISED: 12/13/21

**ARTICLE 1. GENERAL INFORMATION**

**1.1 CONTROLLING REGULATIONS**

Controlling regulations for the Purchasing function are set forth in the City of Pacifica Municipal Code, and California Government Codes Sections 54202 and 54203. In the event of any conflict between the purchasing policies set forth in this Administrative Policy ("Purchasing Policies") and federal law, state law, the City of Pacifica Municipal Code, and/or any City policy or provision, then the most stringent requirement must be used.

- 1.1.1 Purchasing Policies shall be modified by means of periodic Resolution of the City Council.
- 1.1.2 Nothing within the Purchasing Policies shall be construed as requiring a department, purchaser, or contractor to procure products that do not perform adequately for their intended use, exclude adequate competition, or are not available at a reasonable price in a reasonable period of time. Additionally, nothing within the Purchasing Policies shall be construed as requiring the City, department, purchaser, or contractor to take any action that conflicts with local, State, or federal requirements.
- 1.1.3 Purchasing procedures may be developed and/or modified to facilitate compliance with Purchasing Policies, subject to City Manager approval.
- 1.1.4 Except for Article 12, these Purchasing Policies shall not apply to Public Projects as defined by Section 22002 of the California Public Contract Code. All Public Projects and purchases related to the conduct of Public Projects shall be subject to the provisions set forth in Title 3, Chapter 15 of the City of Pacifica Municipal Code and Article 12 of these Purchasing Policies.
- 1.1.5 All dollar amounts noted in the policy shall be increased annually effective July 1 by the Consumer Price Index for All Urban Consumers (CPI-U) set in June for the San Francisco-Oakland-San Jose area.

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### 1.2 ETHICS AND ACCOUNTABILITY

Purchasing Policies are developed under the authority of Chapter 3-4, Purchasing System, of the City of Pacifica Municipal Code. Section 3-4.02 designates the City Manager (or his/her designee) to serve as the Purchasing Officer. The Purchasing Officer is charged with the responsibility and authority for coordinating and controlling the City's purchasing function in accordance with these Purchasing Policies.

- 1.2.1 The Purchasing Officer and all departments shall adhere to the Purchasing Policies when procuring materials, supplies, equipment, vehicles, and services. All purchases shall be limited to the approved budget or as otherwise authorized by City Council. Purchasing dollar limits specified in the Purchasing Policies are "per order" unless otherwise indicated in these Purchasing Policies.
- 1.2.2 Applicable competitive bidding categories, authorization limits or contract award procedures will be based on unit cost, total purchase cost for consolidated bid items, or fiscal year aggregates in the case of standing purchase orders or similar ongoing purchasing arrangements. Staging of purchases to avoid competitive bidding procedures or authorization limits is prohibited.
- 1.2.3 All personnel engaged in the purchasing function shall exercise good judgment in the use and stewardship of City resources, and all purchasing functions shall be conducted with absolute integrity and objectivity. Purchases are subject to public scrutiny; employees shall follow a strict rule of personal conduct that will not compromise the City in the conduct of its business. Any employee intentionally and/or repeatedly making purchases in a manner that circumvents, ignores, or fails to comply with Purchasing Policies will be subject to disciplinary action, in accordance with City personnel procedures.

### 1.3 PURCHASING OFFICER RESPONSIBILITIES

The Purchasing Officer is responsible for procurement of materials, supplies, equipment, vehicles, and services; administration of purchasing policies and procedures; and management of surplus City property. To perform these functions efficiently and assist departments, the Purchasing Officer shall:

- A. Coordinate and manage procurement of the City's materials, supplies, equipment, vehicles and services from the lowest responsive and responsible bidder when required by the Purchasing Policies.
- B. Ensure full and open competition on all purchases as required by the Purchasing Policies, and make purchase award recommendations to the appropriate authority.
- C. Identify, evaluate, and utilize purchasing methods that best meet the needs of the City (cooperative purchases, standing purchase orders, contractual agreements, etc.).
- D. Recommend revisions to Purchasing Policies and procedures when necessary, and keep informed of current developments in the field of Public Purchasing.
- E. Act as the City's agent in the transfer and disposal of surplus equipment and materials.



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### **1.4 DEPARTMENT RESPONSIBILITIES**

The City Manager has assigned the responsibility for administering the Purchasing Policies and procedures to the individual departments (each a "Department") through the Department Director. Each Department is responsible for facilitating prudent efficient and cost-effective purchases. To meet these responsibilities, Departments shall:

- A. Purchase supplies, services, and equipment necessary for the operation of City departments in accordance with the Purchasing Policies and other rules and regulations prescribed by the City Council and City Manager.
- B. Negotiate and recommend the execution of contracts for purchases of supplies, services, and equipment in accordance with the Purchasing Policies.
- C. Ensure staff is trained on the terminology and requirements set forth in the Purchasing Policies and any purchasing procedures promulgated by the City Council or City Manager.
- D. Promote open competition on City purchases as determined by applicable federal, state, or local law or where it is in the best interest of the City.
- E. Minimize urgent and sole source purchases, and provide written findings and documentation when such purchases may be necessary.
- F. Refrain from "splitting" orders or projects for the purpose of avoiding procurement requirements or authorization limits.
- G. Anticipate requirements sufficiently in advance to allow adequate time to obtain goods in accordance with best purchasing practices.
- H. Maximize coordination of purchases into a lesser number of large transactions to take advantage of cost savings for bulk purchases of commonly used goods and services.

### **ARTICLE 2. ENCUMBRANCE OF FUNDS**

Except in emergency or urgent situations, the Purchasing Officer shall not issue any Purchase Order, nor shall any contract be approved for materials, supplies, equipment, vehicles, or services unless there exists an unencumbered appropriation in the department budget account against which said purchase or contract is to be charged. Funds shall be encumbered by means of Purchase Order for all purchases exceeding \$5,000.

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### **ARTICLE 3. PURCHASING METHODS**

#### **3.1 PETTY CASH**

The Assistant City Manager is authorized to establish petty cash funds and spending limits with individual departments or divisions, as he or she deems appropriate, with the approval of the City Manager. The spending limit shall be reasonable, and it shall remain consistent throughout the City. Departments may request petty cash for use in purchasing incidental and immediately needed items, and for expenditures that would be impractical to process through a purchase order as described in Section 3.3, below. Department staff may make purchases in amounts not to exceed \$100.00 per order, and multiple petty cash slips shall not be used to "split" orders so as to circumvent this limit. The Department Director shall sign all petty cash slips.

Each Department's petty cash "bank" will be replenished based on submittal of signed petty cash slips and receipts for expenditures made. The Assistant City Manager will be responsible for assuring compliance with this policy, in coordination with the Department Director responsible for daily operations and the security of petty cash in each department. The Assistant City Manager or designee shall perform an annual internal audit of each Department's petty cash bank in compliance with the City's internal control policies.

#### **3.2 CREDIT CARDS**

Under certain circumstances, use of a City credit card may be the most appropriate method for purchases. The following will ensure internal control and timely payment of charges.

- 3.2.1** City credit cards will be distributed on an as-needed basis to staff at the discretion of the Department Director. Signature authority will be consistent with that for purchase orders, as set forth in Section 3.3, below.
- 3.2.2** City credit cards shall be utilized for purchase of supplies and materials, and shall not be used to contract for professional services.
- 3.2.3** Use of the City credit card for personal purchases, cash advances or to purchase alcohol is prohibited.
- 3.2.4** Failure to comply with established procedures may result in discontinuance of use of the credit card by the employee/department, and may subject the employee to disciplinary personnel action, in accordance with City personnel procedures. The city council, as specified herein, have found that the use of a particular vendor to perform such services is in the best interests of the city.

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**3.3 PURCHASE ORDERS**

**3.3.1** Purchase Orders for items and services shall be limited to dollar values and approval authority as indicated in the table below:

<b>Purchase Value</b>	<b>Approval Authority</b>	<b>Requirements</b>
Up to \$5,000	Supervisory	No specific requirements
Up to \$10,000	Department Head	Solicitation of at least three (3) bids. Telephone or written bids are acceptable and must conform to the informal procedures set forth in Article 4.
Up to \$25,000	Assistant City Manager	Solicitation of three (3) bids. Must be in writing and shall conform to the formal bidding procedures as set forth in Article 5.
Up to \$50,000	City Manager	Solicitation of three (3) bids and approval of City Manager. Bids must be in writing and conform to the formal bidding procedures as set forth in Article 5.
All purchases in excess of \$50,000	City Council Approval	

Except where otherwise established by State law, the dollar amount of the purchasing limits set forth above shall be periodically reviewed by the City Council and adjusted where deemed appropriate.

**3.3.2** Competitive quotes are not required for purchases below \$5,000, but telephone quotes shall be solicited prior to completing Purchase Orders if practical.

**3.3.3** Purchases between \$5,000 and \$10,000 require solicitation of at least three (3) bids. Telephone or written bids are acceptable and must conform to the informal procedures set forth in Article 4, below. The Assistant City Manager or his/her designee shall develop a telephone quote form or City of Pacifica request for quotation form that shall be used and attached to the purchase order.

**3.3.4** Purchases between \$10,000 and \$25,000 require solicitation of at least three (3) bids. Bids must be in writing and shall conform to the formal bidding procedures set forth in Article 5, below, and must be attached to the purchase order when submitted. At a minimum, the following information must be included: vendor name, address,



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contact (name of person who quoted prices), phone number, product description, delivery information, and the date the bid was quoted.

- 3.3.5** Purchases between \$25,000 and \$50,000 require solicitation of at least three (3) bids and the express written approval of the City Manager. This authority is not to be delegated. Bids must be in writing, shall conform to the formal bidding procedures set forth in Article 5, below, and must be attached to the purchase order when submitted. At a minimum, the following information is to be included: vendor name, address, contact (name of person who quoted prices), phone number, product description, delivery information, and the date the bid was quoted.
- 3.3.6** Except in emergency or urgent circumstances, no work shall start until a purchase order has been issued for the project or service; purchase orders will not be issued, and no work shall commence, until all required documentation (e.g., insurance certificates and endorsements, licenses, permits) has been received.
- 3.3.7** Blanket Purchase orders which involve multiple individual purchases may be drawn on a single source open purchase order for those vendors who are a convenient source of supply by reason of economy, proximity, delivery, or quality of services.
- 3.3.8** Vendor Cards - Some vendor cards may use store "credit" or "debit" cards as a tool for City employees to purchase items and services. These items and services shall be limited to dollar values and approval authority as indicated in Section 3.3.1.

### **3.4 CONTRACTS FOR GOODS AND SERVICES**

- 3.4.1** City contracts shall be consistent with State and federal laws, and shall be fully executed prior to the performance of any contract work. Each contract shall be approved as to form by the City Attorney unless such contract is developed consistent with a template pre-approved as to form by the City Attorney (in which case the individual contract need not receive separate attorney approval).
- 3.4.2** Contract signature authority shall be aligned with that for purchase orders, as set forth in Section 3.3.1, above. Signature limits shall be per contract unless otherwise specified in these Purchasing Policies. The City Manager or designee may execute any contract for which authorization has been granted pursuant to Ordinance, Resolution, or other action of the City Council, provided sufficient unencumbered funds exist. Contracts or agreements related to transfer of title to real property must be approved by the City Council and signed by the Mayor or designee. Any contract made, or purported to be made, by the City in violation of this section shall be void and of no force or effect.
- 3.4.3** The term or life of an Agreement shall be set, including, *e.g.*, dates for required performance, with dates for phase completion if applicable, as well as for overall project completion. An Agreement may be made for a project in which completion of required work extends beyond one year; such an Agreement is not considered a multiyear agreement in the context of these Purchasing Policies.
- 3.4.4** Multi-year agreements are encouraged for ongoing general services and consultant/professional services with a defined scope of work such as, but not limited to, janitorial and landscape maintenance, attorneys and accountants, and printing. The cumulative annual value of multi-year contracts and single-year contracts with



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options to renew shall be considered in obtaining the appropriate signature authority. Any renewal periods for such contracts shall require a contract amendment, including proper signatures, executed prior to performance of the additional work or provision of the additional goods.

- 3.4.5** The City Manager or designee may approve alternative selection, evaluation and award procedures for a specific contract or class of contracts-except Public Project contracts which shall be governed by <sup>1</sup>Title 3, Chapter 15 of the City of Pacifica Municipal Code-if available information demonstrates that a substantial cost savings, enhancement in quality or performance, or other public benefit will result from use of the alternative contracting method. The alternative contracting method shall meet the purpose and goals of the Purchasing Policies and shall substantially promote the public interest in a manner that could not be achieved by complying with the competitive procurement methods otherwise available under the Purchasing Policies.

### **3.5 CHANGE ORDERS, TASK ORDERS, AND CONTRACT AMENDMENTS**

A substantial change to a Purchase Order or Contract (i.e., pricing, terms and conditions, specifications and/or scope of work) shall be documented as a Change Order, Task Order, or Contract Amendment.

- 3.5.1** Department Heads may sign Change Orders, Task Orders, and Contract Amendments for purchases and contracts up to \$10,000; provided, however, that the cumulative total of the original purchase or contract together with the related change order, task order, or contract amendment shall not exceed \$10,000.
- 3.5.2** When the initial purchase or contract exceeds \$10,000, the signature authority for that purchase or contract shall designate, on the Purchase Order, the signature authority for related Change Orders, Task Orders, and Contract Amendments. However, for purchases authorized by City Council, the Resolution authorizing the purchase shall also designate the signature authority for related Change Orders, Task Orders, and Contract Amendments.
- 3.5.3** Change Orders, Task Orders, and Contract Amendments generally should not exceed 10% of the original contract amount unless authorized by the applicable signing authority. A new scope of work and/or a new contract may be required when the change exceeds 10% of the original amount. The individual designated in the initial Purchase Order or City Council Resolution shall make that decision.
- 3.5.4** A Change Order, Task Order or Contract Amendment is not required when taxes, shipping and/or handling cause a purchase to exceed the authorized (Purchase Order) amount; the signatory limit may also be exceeded in that circumstance.

### **3.6 URGENT AND EMERGENCY PURCHASES**

Sound judgment shall be used in keeping urgent and emergency purchases to an absolute minimum. Specific procedures for managing these purchases shall apply, as determined by the Purchasing Officer.

**Definitions** - For the purposes of this Section 3.6, the following definitions shall apply:

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- a. "Emergency purchase" shall mean purchases made under circumstances of a Federal, State or City declared disaster or where circumstances pose clear, substantial, and imminent danger ( e.g., fire, flood, explosion, storm, earthquake, epidemic, riot, civil defense) and immediate action is necessary to prevent or mitigate major loss or significant impairment of life, health, property, or essential public services; procurement should not be delayed by use of normal competitive and financial procedures. Emergency purchases related to Public Projects must meet requirements established by Title 3, Chapter 15 of the City of Pacifica Municipal Code, and the Uniform Construction Cost Accounting Act.
- b. "Urgent purchase" shall mean a purchase made when a sudden, unexpected occurrence, while not an emergency as defined in the Purchasing Policies, necessitates expedited action to prevent or mitigate loss, protect property or public health and safety, and ensure essential public services (e.g., street signal outage, heating system failure at the Senior Center in winter, off-site fire truck repair).

**3.6.1 Urgent Purchases** - Immediate purchases of material, supplies, equipment, and services may be made when an urgent circumstance (as defined in the Purchasing Policies) exists, and procurement should not be delayed by use of normal competitive and financial procedures. Urgent purchases of up to \$10,000 shall be authorized by the Department Head or designee; the Assistant City Manager may authorize urgent purchases up to \$25,000; and the City Manager may authorize urgent purchases up to \$50,000. Urgent purchases shall be followed, as soon as practical, with submission of a confirming purchase order or contract that includes a written justification for the purchase having been made outside normal procedures. Lack of planning does not constitute justification for an urgent purchase.

**3.6.2 Emergency Purchases** - In an emergency (as defined in the Purchasing Policies), the City Manager or his/her designee may authorize the immediate purchase of material, supplies, equipment, and services, including those in excess of his/her City Council-approved signature threshold. Such purchases shall be followed, as soon as practical, with submission of a Confirming Requisition that includes a written justification for the purchase having been made outside normal procedures. City Council shall be notified, at its next regular meeting, of any emergency purchases in excess of \$50,000.

**3.6.3** In the case of a disaster or for civil defense, nothing contained in this document shall limit the authority of the City Manager to make purchases and take such other emergency steps as are, or may be, authorized by the City Council, including opening a line or lines of credit to accommodate necessary purchases.

**3.6.4** Emergency purchases related to Public Projects are not subject to these provisions and shall be governed by Title 3, Chapter 15 of the Pacifica Municipal Code and the applicable provisions of the California Public Contract Code or the Uniform Construction Cost Accounting Act.

**3.6.5** Should any urgent or emergency purchase cause any budget line item to exceed the approved budget, the department shall request City Manager approval to exceed and amend the budget, subject to subsequent City Council approval for an additional budget appropriation or a budget amendment to cover the purchase.

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### **ARTICLE 4. INFORMAL COMPETITIVE PRICING - GOODS AND GENERAL SERVICES, NON-PUBLIC PROJECTS**

#### **4.1 COMPETITIVE QUOTES**

The Department or the Purchasing Officer may purchase goods and services in the open market based on evaluation of competitive quotes. A minimum of three (3) competitive quotes shall be solicited for purchases greater than \$5,000 and less than \$10,000. Requests for quotations must be made or distributed, utilizing a form provided or approved by the Assistant City Manager. Written documentation of quotes must be provided. All telephone and written bid documentation shall be retained for audit purposes in accordance with the City's Records Retention Policy.

- 4.1.1** The Purchasing Officer or designee may award the purchase to the lowest responsive and responsible party whose quote fulfills the intended purpose, quality, and delivery needs of the solicitation, provided an unencumbered appropriation for that item exists. In lieu of awarding the purchase, the Purchasing Officer or designee may reject the quotes, or may negotiate further to obtain terms more acceptable to the City.
- 4.1.2** Staff may dispense with quotes in emergency and urgent circumstances, and for exempt and sole source purchases, as these are defined in the Purchasing Policies.

### **ARTICLE 5. FORMAL COMPETITIVE PRICING - GOODS AND GENERAL SERVICES, NON-PUBLIC PROJECTS**

When non-public works project purchases are anticipated to exceed \$5,000, and/or require City Council approval, formal competitive procedures must be completed. These procedures include sealed proposals solicited through a Request for Proposal (RFP) and sealed bidding solicited through an Invitation to Bid (IFB).

#### **5.1 REQUEST FOR PROPOSALS (RFP)/ REQUEST FOR QUALIFICATION (RFQ)**

- 5.1.1** A contract or purchase may be entered into by means of sealed proposals solicited through a Request for Proposal (RFP)/Request for Qualifications (RFQ). The RFP or RFQ shall state the criteria for evaluation and the relative importance of price and other factors.
- 5.1.2** The Purchasing Officer or designee shall determine the RFP/RFQ procedures, including whether and where public notice of formal proposals/bids shall be made. Sealed proposals/bids shall be submitted to the Purchasing Officer or Department Head, as appropriate, by the date and time specified on the prescribed forms.
- 5.1.3** No work shall be performed unless and until a Purchase Order has been issued, or a contract has been executed except under urgent and emergency circumstances as defined in this policy.
- 5.1.4** RFPs/RFQs shall be awarded to the lowest responsible bidder/most responsive bid. In making this determination, the Purchasing Officer or designee may consider the criteria set forth in Article 6, below.



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### ARTICLE 6. MOST RESPONSIVE BID

In addition to price, the Purchasing Officer or designee may consider the following criteria in determining the most responsive bidder.

- 6.1 The ability, capacity, and skill of the bidder/proposer, including the adequacy of physical facilities and financial resources, to perform the contract/purchase order within the specified time and production requirements.
- 6.2 The bidder's/proposer's record of performance on previous contracts/purchase orders with the City.
- 6.3 The character, integrity, experience, and reputation of the bidder/proposer, including compliance with laws and ordinances relating to the contract/purchase order.
- 6.4 The bidder's/proposer's ability to provide future maintenance and service for the use of the subject of contract/purchase order.
- 6.5 The number and scope of conditions attached to the bid or quotation.
- 6.6 The quality, availability, and adaptability of supplies or contractual services to the particular use required.
- 6.7 The compatibility of supplies, materials, or equipment with existing supplies, materials, or equipment already in use in the City.
- 6.8 The City's past experience with similar supplies, materials, or equipment in best meeting the City's need.
- 6.9 The City's experience and ability to maintain or operate the supplies, materials, or equipment.

### ARTICLE 7. EXEMPTIONS FROM COMPETITIVE PRICING

- 7.1 **Protection of Public Welfare** - Competitive pricing procedures may be dispensed with when necessary for the protection of the public peace, health, safety, welfare, or property, or when the interests of the City or the public require that an order be placed with the nearest available source of supply.
- 7.2 **Less Expensive Alternative** - The City Manager or Assistant City Manager is authorized to approve purchases and dispense with competitive pricing requirements when there is a less expensive alternative (State contract, used equipment, etc.) that will serve the City as well as new equipment services available on the open market.
- 7.3 **Purchases Not Susceptible to Competitive Process** - Purchases not readily adaptable to the open market and bidding processes may be eligible for exemption from competitive pricing. These purchases include, but are not limited to subscriptions, memberships, software licenses, advertisements, and travel expenses. Exemptions are restricted to those items appearing on a list maintained by the Assistant City Manager. Departments may submit written requests to the



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Administrative Services Director for additional exemptions, which will be approved if appropriate and added to the list.

- 7.4 Sole Source Purchases** - Upon recommendation of the Department Head, the City Manager may waive bidding requirements for sole source purchases if he/she determines sufficient justification exists. Sole source purchases shall be coordinated by the Assistant City Manager, and may include proprietary items sold directly from the manufacturer, items that have only one distributor authorized to sell in this area, items that perform a complex or unique function, or purchases when a certain product is the only one proven to be acceptable or compatible with existing equipment. Sole source purchases should be kept to a minimum, to encourage competition and more favorable prices.
- 7.5 Cooperative Purchases** - The Purchasing Officer has the authority to: join with other public jurisdictions in Cooperative Purchasing Agreements; buy directly from a vendor at a price established by competitive bidding by another public jurisdiction in substantial compliance with this document, even if the City has not joined with that public agency in a formal agreement; and, purchase from the United States of America, any state, municipality or other public corporation, or agency, without following formal purchasing procedures as defined in the Purchasing Policy. A Purchase Order is required for purchases made through Cooperative Purchase Agreements, subject to approvals and dollar limitations accordingly.

### **ARTICLE 8. PURCHASE SPECIFICATIONS**

- 8.1** Use of brand names in specifications shall be for the purpose of describing the standard of quality, performance, and characteristics the City desires, and not be intended to limit or restrict competition. If a brand name is incorporated into a specification, a minimum of two acceptable brands shall be listed whenever possible and shall be followed by the statement "or approved equal" unless the sole source policy applies.
- 8.2** Use of specifications provided by a specific manufacturer should be avoided; however, if used, the name of the manufacturer, model number, etc., should be indicated. The bid document shall clearly state that the use of the manufacturer's specifications is for the sole purpose of establishing the level of quality desired. The Purchasing Officer will determine and approve any product submitted as an "or equal."
- 8.3** The Purchasing Officer may limit bidding to a specific product type or a brand name product when purchasing equipment or supplies required to be compatible with existing equipment or to perform complex or unique functions.

### **ARTICLE 9. DISPOSAL OF SURPLUS PROPERTY**

Any sale, donation, or disposal of surplus personal property shall be accomplished in conformance with Administrative Policy No. 7.

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### **ARTICLE 10. RISK MANAGEMENT**

- 10.1** The City Manager shall identify a Risk Management administrator to establish insurance requirements and monitor compliance in accordance with the type of services provided. The Purchasing Officer or designee shall work in cooperation with the Risk Management administrator to include the proper insurance requirements in any standard contract for services. Purchase Orders will not be issued until all required insurance certificates and endorsements have been received, reviewed, and approved; additional requirements may apply to Public Projects.
- 10.2** Requirements for contract bonds, such as Performance Bonds, Labor and Material Bonds and/or Fidelity Bond shall be determined by the Department Head, with advisement from the Purchasing Officer and Risk Management administrator, when required. Bonds are maintained by the project manager, and forwarded to the City Clerk's office upon contract completion.

### **ARTICLE 11. CONTRACTOR'S OPERATING REQUIREMENTS**

- 11.1** Any person doing business with the City must possess a current City of Pacifica Business License, as required by the Pacifica Municipal Code.
- 11.2** Prior to contract award, the Department shall verify that the contractor's State Contractors License is valid and in good standing, and the Contractor has not been debarred by the federal or state government.
- 11.3** All contractors (including consultants and service providers) and their respective subcontractors who meet any of the following criteria shall be required to successfully pass a California Department of Justice Live Scan Fingerprinting background check conducted by the City of Pacifica Police Department:
- Work with children when performing on-site services
  - Access City of Pacifica computers

Contractors shall be responsible for obtaining Live Scan Fingerprinting prior to performing work and shall bear the cost thereof at the time of fingerprinting.

### **ARTICLE 12. FEDERAL PROCUREMENT**

Any procurement made pursuant to a federal award or subject to reimbursement, in whole or in part, with federal funds must comply with the City's procurement procedures, including the general requirements set forth in this Policy, state law, the City's Municipal Code and the applicable federal procurement requirements set forth in 2 CFR §§ 200.317 through 200.326, as may be amended, including, but not limited to, 2 CFR § 200.322 ("Procurement of recovered materials"), 2 CFR § 200.323 ("Contract cost and price"), 2 CFR § 200.324 ("Federal awarding agency or pass-through entity review"), 2 CFR § 200.325 ("Bonding requirements"), 2 CFR § 200.326 ("Contract provisions") and 2 CFR § 200.318 ("General Procurement Standards"). In the event of any conflict between the purchasing policies set forth in this Administrative Policy ("Purchasing Policies") and federal law, state law, the City of Pacifica Municipal Code, and/or any City policy or provision, then the most stringent requirement must be used. City employees must comply with funding agency requests for review of technical specifications or procurement documents as provided in 2 CFR § 200.324.

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### 12.1 GENERAL FEDERAL REQUIREMENTS AND RECOMMENDATIONS

- 12.1.1** *Cost/Price Analysis.* For federally funded procurements in excess of the currently applicable Simplified Acquisition Threshold, including contract modifications, a cost or price analysis must be performed, and must include making independent estimates before receiving bids or proposals. (See 2 CFR § 200.323.) Costs or prices based on estimated costs for federally funded contracts are allowable only as provided in 2 CFR § 200.323.
- 12.1.2** *Profit Negotiation.* For a federal contract awarded without price competition, profit must be negotiated as a separate element of price. To establish fair and reasonable profit, consideration must be given to the complexity of the work, the contractor’s risk, the contractor’s investment, the amount of subcontracting, record of past performance, and industry profit rates, as further specified in 2 CFR § 200.323(b).
- 12.1.3** *Excess or Surplus Property.* When it will reduce project costs and is feasible, use of federal excess and surplus property is encouraged over purchasing new. (See 2 CFR § 200.318(f).)
- 12.1.4** *Geographical Preferences.* Geographical preferences may not be used for federally funded procurements, unless expressly authorized by the awarding agency or as specifically allowed by state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract (See 2 CFR § 200.319(b).
- 12.1.5** *Time and Materials.* A time and materials contract may not be used for a federally funded procurement, unless the Purchasing Officer has determined that no other type of contract is suitable for the procurement, and provided the procurement complies with 2 CFR § 200.318(j). Similarly, a “cost plus” contract may not be used, as further specified in 2 CFR § 200.323.
- 12.1.6** *Intergovernmental Agreements.* Use of intergovernmental agreements is encouraged where appropriate. (See 2 CFR § 200.318(e); and see Section 5.4, *Cooperative Purchasing Agreements*, below.)
- 12.1.7** *Procurement Records.* Records must be maintained for each procurement of goods or services documenting the history of a procurement, including (1) records of the rationale for procurement method, (2) selection of contract type, (3) contractor selection or rejection, and (4) the basis for the contract price. Procurement records must be maintained by each department. (See 2 CFR § 200.318(i).)

### 12.2 FEDERAL CONTRACTOR REQUIREMENTS

- 12.2.1** *Responsible Contractors.* Contracts will only be awarded to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement, with consideration given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. (See CFR § 200.318(h).) A contractor must also be



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“responsible” as determined under California law, including Public Contract Code section 1103.

- 12.2.2** *Small and Minority Businesses.* The City will take all necessary affirmative steps, including those identified in 2 CFR § 200.321(b), to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.

### 12.3 FEDERAL METHODS OF PROCUREMENT

Depending on the type and amount of goods or services, the City will use one of the below methods for procurements subject to the Federal Procurement Requirements, consistent with 2 CFR section 200.320.

- 12.3.1** *Procurement by micro-purchases.* The City may acquire supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold in 2 CFR § 200.67. A micro-purchase contract may be awarded without soliciting competitive quotes provided the price is reasonable, unless otherwise specified under the City’s procurement procedures. To the extent practicable, the City will distribute micro-purchases equitably among qualified suppliers. (See 2 CFR § 200.320(a).)
- 12.3.2** *Procurement by small purchase procedures.* The City may use simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold in 2 CFR § 200.88. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. (See 2 CFR § 200.320(b).)
- 12.3.3** *Procurement by sealed bids (formal advertising).* The City may publicly solicit sealed bids to be opened in public and award a fixed price contract to the lowest responsible bidder, in the manner required for formal bidding as specified in Article 5 of this Policy and in compliance with 2 CFR § 200.320(c)(1).
- 12.3.4** *Procurement by competitive proposals.* The City may use this method when the conditions for use of sealed bids are not appropriate and more than one source submits an offer following a request for proposal. If the City uses this method, it must comply with the requirements of 2 CFR § 200.320(d), in addition to any other applicable City or state requirements.
- 12.3.5** *Procurement by noncompetitive proposals.* The City may solicit a proposal from only one source when: (a) the item is available only from a single source, (b) the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation, (c) the federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the City, or (d) competition is determined to be inadequate after solicitation of a number of sources. The procurement must comply with the provisions of Article 7.4, Sole Source Purchases, above, in addition to the requirements set forth in 2 CFR § 200.320(f).

### 12.4 FEDERAL CONTRACT REQUIREMENTS

- 12.4.1** *Required Contract Provisions.* Pursuant to 2 CFR § 200.326, contracts for federally-funded procurements must contain the applicable provisions described in Appendix II to Part 200 – Contract Provisions for non-Federal Entity Contracts Under Federal Awards.



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**12.4.2** *Value Engineering.* For larger federally funded construction projects, a provision for value engineering may be added to the construction contract, subject to prior authorization from the Purchasing Officer and approval as to form by the City Attorney. A value engineering provision must include a clear procedure for submission, approval, and cost-sharing of savings, consistent with Public Contract Code section 7101. (See 2 CFR § 200.318(g).)

**12.4.3** *Compliance with Federal Law, Regulations, and Executive Orders.* Contracts for federally funded procurements must acknowledge that federal financial assistance will be used to fund the contract and require the contractor to comply with all applicable federal law, regulations, executive orders, and applicable federal policies, procedures, and directives.

**12.4.4** *No Obligation by Federal Government.* Contracts for federally- funded procurements must state that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the City, contractor, or any other party.

### **ARTICLE 13. PURCHASING PERTAINING TO RECOVERED ORGANIC WASTE AND RECYCLED-CONTENT PAPER PROCUREMENT POLICY**

#### **13.1 Purpose and Findings**

**13.1.1** It is the policy of the City, applicable to all departments and divisions, to incorporate environmental considerations including recycled-content and recovered Organic Waste product use into purchasing practices and procurement. This Recovered Organic Waste Product Procurement Policy (Policy) will help the City to:

1. Protect and conserve natural resources, water, and energy;
2. Minimize the City's contribution to climate change, pollution, and solid waste disposal; and,
3. Comply with State requirements as contained in 14 CCR Division 7, Chapter 12, Article 12 (SB 1383 procurement regulations) to procure a specified amount of Recovered Organic Waste Products to support Organic Waste disposal reduction targets and markets for products made from recycled and recovered Organic Waste materials, and to purchase Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper.

**13.1.2** The procedures for the purchase of Recovered Organic Waste Products and Recycled-Content Paper Products shall comply fully with this Policy (“Policy”).

#### **13.2 Definitions**

For purposes of this Policy, the following definitions shall apply, unless otherwise apparent from the context. Certain words and phrases used in this Policy are defined as follows:

**13.2.1** “Annual Recovered Organic Waste Product Procurement Target” means the amount of Organic Waste in the form of a Recovered Organic Waste Product that the City is required to procure annually under 14 CCR Section 18993.1, as determined by CalRecycle.

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- 13.2.2** “CalRecycle” means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on Cities (and others).
- 13.2.3** “City” means the City of Pacifica.
- 13.2.4** “City Enforcement Officer” means any city employee or employee of a contracting agency, including the county, or any agent of the city, having the authority to enforce any applicable law. The Designee for Edible Food Recovery is a County Agency Enforcement Official.
- 13.2.5** “Compost” means the product resulting from the controlled biological decomposition of organic solid wastes that are source separated from the municipal solid waste stream or which are separated at a centralized facility or as otherwise defined in 14 CCR Section 17896.2(a)(4).
- 13.2.6** Compost eligible for meeting the Annual Recovered Organic Waste Product Procurement Target must be produced at a compostable material handling operation or facility permitted or authorized under 14 CCR Chapter 3.1 of Division 7 or produced at a large volume in-vessel digestion facility that composts on-site as defined and permitted under 14 CCR Chapter 3.2 of Division 7. Compost shall meet the State’s composting operations regulatory requirements. “Direct Service Provider” means a person, company, agency, district, or other entity that provides a service or services to City pursuant to a contract or other written agreement or as otherwise defined in 14 CCR Section 18982(a)(17).
- 13.2.7** “Electricity Procured from Biomass Conversion” means electricity generated from biomass facilities that convert recovered Organic Waste, such as wood and prunings from the municipal stream, into electricity. Electricity procured from a biomass conversion facility may only count toward the City’s Annual Recovered Organic Waste Product Procurement Target if the facility receives feedstock directly from certain permitted or authorized compostable material handling operations or facilities, transfer/processing operations or facilities, or landfills, as described in 14 CCR Section 18993.1(i).
- 13.2.8** “Organic Waste” means solid wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, food, yard trimmings, organic textiles and carpets, lumber, wood, Paper Products, Printing And Writing Paper, manure, biosolids, digestate, and sludges, or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5), respectively.
- 13.2.9** “Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling; or as otherwise defined in 14 CCR Section 18982(a)(51).
- 13.2.10** “Printing and Writing Papers” include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications; or as otherwise defined in 14 CCR Section 18982(a)(54).



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- 13.2.11** “Procurement of Recovered Organic Waste Products” shall mean purchase or acquisition (e.g., free delivery or free distribution from a hauler or other entity via a written agreement or contract), and end use by the City or others. The City’s Annual Recovered Organic Waste Product Procurement Target can be fulfilled directly by the City or by Direct Service Providers through written contracts or agreements for Procurement of Recovered Organic Waste Products at the City’s behest.
- 13.2.12** “Publicly-Owned Treatment Works” or “POTW” has the same meaning as in Section 403.3(r) of Title 40 of the Code of Federal Regulations.
- 13.2.13** “Recovered Organic Waste Products” means products made from California, landfill-diverted recovered Organic Waste processed at a permitted or otherwise authorized operation or facility, or as otherwise defined in 14 CCR Section 18982(a)(60). Products that can be used to meet the Annual Recovered Organic Waste Product Procurement Target shall include Compost, SB 1383 Eligible Mulch, Renewable Gas from an in-vessel digestion facility, and Electricity Procured from Biomass Conversion as described herein and provided that such products meet requirements of 14 CCR, Division 7, Chapter 12, Article 12.
- 13.2.14** “Recordkeeping Designee” means the Finance Director or their designee to track procurement and maintain records of Recovered Organic Waste Product procurement efforts both by the City and others, if applicable, as required by 14 CCR, Division 7, Chapter 12, Articles 12 and 13.
- 13.2.15** “Recyclability” means that the Paper Products and Printing and Writing Paper offered or sold to the City are eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations Section 260.12 (2013).
- 13.2.16** “Recycled-Content Paper” means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).
- 13.2.17** “Renewable Gas” means gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recover Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).
- 13.2.18** “SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants, as amended, supplemented, superseded, and replaced from time to time.
- 13.2.19** “SB 1383 Regulations” or “SB 1383 Regulatory” means or refers to, for the purposes of this policy, the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions

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regulations developed by CalRecycle and adopted in 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.

**13.2.20** “SB 1383 Eligible Mulch” means mulch eligible to meet the Annual Recovered Organic Waste Product Procurement Target, pursuant to 14 CCR Chapter 12 of Division 7. This SB 1383 Eligible Mulch shall meet the following conditions for the duration of the applicable procurement compliance year, as specified by 14 CCR Section 18993.1(f)(4):

1. Produced at one of the following facilities:
  - a. A compostable material handling operation or facility as defined in 14 CCR Section 17852(a)(12), that is permitted or authorized under 14 CCR Division 7, other than a chipping and grinding operation or facility as defined in 14 CCR Section 17852(a)(10);
  - b. A transfer/processing facility or transfer/processing operation as defined in 14 CCR Sections 17402(a)(30) and (31), respectively, that is permitted or authorized under 14 CCR Division 7; or,
  - c. A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under 27 CCR Division 2.
2. Meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14 CCR Sections 17852(a)(24.5)(A)1 through 3.
3. The City and/or its Recordkeeping Designee may only count mulch as a Recovered Organic Waste Product to meet its Annual Recovered Organic Waste Procurement Target if said mulch meets the standards specified in paragraphs 1 and 2 above.

**13.2.21** “State” means the State of California.

### **13.3 Recovered Organic Waste Product Procurement**

#### **13.3.1 Procurement Target**

1. City will annually procure for use or giveaway a quantity of Recovered Organic Waste Products that meets or exceeds its Annual Recovered Organic Waste Product Procurement Target through the implementation of this Policy.
2. To be eligible to meet the Annual Recovered Organic Waste Product Procurement Target, products that may be procured include the following (provided that each product meets the criteria included in their respective definition in this Policy:
  - a. SB 1383 Eligible Compost.
  - b. SB 1383 Eligible Mulch.
  - c. Renewable Gas (in the form of transportation fuel, electricity, or heat).



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d. Electricity Procured from Biomass Conversion.

### 13.3.2 Requirements for City Departments

1. Compost and SB 1383 Eligible Mulch procurement. The Department of Public Works shall:
  - a. Use eligible Compost and SB 1383 Eligible Mulch produced from recovered Organic Waste for landscaping, maintenance, renovation, or construction, as practicable, whenever available, and capable of meeting quality standards and criteria specified. SB 1383 Eligible Mulch used for land application must meet or exceed the physical contamination, maximum metal concentration and pathogen density standards specified in 14 CCR Section 17852(a)(24.5)(A)(1) through (3).
  - b. When the City uses eligible Compost and SB 1383 Eligible Mulch and the applications are subject to the City’s Chapter 8-7 of the Pacifica Municipal Code, comply with one of the following, whichever is more stringent, (i) Chapter 8-7 of the Pacifica Municipal Code, if more stringent than the State’s Model Water Efficient Landscape Ordinance (MWELO), or (ii) Sections 492.6 (a)(3)(B), (C), (D), and (G) of the State’s Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the CCR, as amended September 15, 2015, which requires the submittal of a landscape design plan with a “Soil Preparation, Mulch, and Amendments Section” to include the following:
    - (i) For landscape installations, Compost at a rate of a minimum of 4 cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six (6) inches into the soil. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding Compost and tilling.
    - (ii) Apply a minimum three- (3-) inch layer of mulch on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife, leave up to five percent (5%) of the landscape area without mulch. Designated insect habitat must be included in the landscape design plan as such.
    - (iii) Procure organic mulch materials made from recycled or post-consumer materials rather than inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local Fuel Modification Plan Guidelines or other applicable local ordinances.
    - (iv) For all mulch that is land applied, procure SB 1383 Eligible Mulch that meets or exceeds the physical contamination, maximum metal concentration, and pathogen density standards for land applications specified in 14 CCR Section 17852(a)(24.5)(A)(1) through (3).
  - c. Keep records, including invoices or proof of Recovered Organic Waste Product procurement (either through purchase or acquisition), and submit

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records to the Recordkeeping Designee on a schedule to be determined by Recordkeeping Designee. Records shall include:

- (i) General procurement records, including:
    - (a) General description of how and where the product was used and applied, if applicable;
    - (b) Source of product, including name, physical location, and contact information for each entity, operation, or facility from whom the Recovered Organic Waste Products were procured;
    - (c) Type of product;
    - (d) Quantity of each product; and,
    - (e) Invoice or other record demonstrating purchase or procurement.
  - (ii) For eligible Compost and SB 1383 Eligible Mulch provided to residents through giveaway events or other types of distribution methods, keep records of the Compost and SB 1383 Eligible Mulch provided to residents. Records shall be maintained and submitted to the Recordkeeping Designee in accordance with the requirements specified in this Policy.
  - (iii) For procurement of SB 1383 Eligible Mulch, maintain an updated copy of the ordinance or enforceable mechanism(s) requiring that the mulch procured by the City or Direct Service Provider meets the land application standards specified in 14 CCR Section 18993.1, as it may be amended from time to time.
- d. When Procurement of Recovered Organic Waste Products occurs through a Direct Service Provider, enter into a written contract or agreement or execute a purchase order with enforceable provisions that includes: (i) definitions and specifications for SB 1383 Eligible Mulch, eligible Compost, Renewable Gas, and/or Electricity Procured from Biomass Conversion; and, (ii) an enforcement mechanism (e.g., termination, liquidated damages) in the event the Direct Service Provider is not compliant with the requirements.

2. Renewable Gas procurement (used for fuel for transportation, electricity, or heating applications). For Renewable Gas procurement, City shall:

- a. Procure Renewable Gas made from recovered Organic Waste for transportation fuel, electricity, and heating applications to the degree that it is appropriate and available for the City and to help meet the Annual Recovered Organic Waste Product Procurement Target, which requires compliance with criteria specified in 14 CCR Section 18993.1.
- b. Keep records in the same manner indicated in Section (B)(1)(c) of this Policy for the amount of Renewable Gas procured and used by the City, including the general procurement record information and submit records to the Recordkeeping Designee on a schedule to be determined by Recordkeeping Designee, which shall be no less than annually. City shall additionally obtain



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the documentation and submit records specified in Section (B)(2)(c) of this Policy below, if applicable.

- c. If the City procures Renewable Gas from a POTW;
  - (i) Annually verify that the Renewable Gas from the POTW complies with the requirements specified in 14 CCR Section 18993.1(h), including, but not limited to the exclusion in 14 CCR Section 17896.6(a)(1) and the items listed in Section (B)(2)(c) of this Policy.
  - (ii) Annually receive a record from the POTW documenting the tons of Organic Waste received by the POTW from: (i) a compostable material handling operation or facility as defined in 14 CCR Section 17852(a)(12), other than a chipping and grinding operation or facility as defined in 14 CCR Section 17852(a)(10), that is permitted or authorized under 14 CCR Division 7; (ii) transfer/processing facility or transfer/processing operation as defined in 14 CCR Sections 17402(a)(30) and (31), respectively, that is permitted or authorized under 14 CCR Division 7; or (iii) a solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under 27 CCR Division 2.
  - (iii) Annually receive documentation from the POTW of the percentage of biosolids that the POTW produced and transported to activities that constitute landfill disposal in order to demonstrate that the POTW transported less than twenty-five percent (25%) of the biosolids it produced to activities that constitute landfill disposal. For the purposes of this Policy, landfill disposal is defined pursuant to 14 CCR Section 18983.1(a) and includes final disposition at a landfill; use of material as alternative daily cover or alternative intermediate cover at a landfill, and other dispositions not listed in 14 CCR Section 18983.1(b). Alternative daily cover or alternative intermediate cover are defined in 27 CCR Sections 20690 and 20700, respectively.
  - (iv) Annually receive documentation that the POTW receives vehicle-transported solid waste that is an anaerobically digestible material for the purpose of anaerobic co-digestion with POTW treatment plant wastewater to demonstrate that the POTW meets the requirement of 14 CCR Section 18993.1(h)(2).
  - (v) City shall submit these records to the Recordkeeping Designee on a schedule to be determined by Recordkeeping Designee, which shall be no less than annually after receipt of notification from the POTW.
- 3. Electricity Procured from Biomass Conversion. For Electricity Procured from Biomass Conversion, City shall:
  - a. Procure electricity from a biomass conversion facility that receives feedstock from a composting facility, transfer/processing facility, a solid waste landfill, and/or receives feedstock from the generator or employees on behalf of the generator of the Organic Waste and to the degree that it is available and practicable for the City and to help meet the Annual Recovered Organic Waste Product Procurement Target, which requires compliance with criteria specified in 14 CCR Section 18993.1.



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- b. Maintain records and conduct the following recordkeeping activities:
  - (i) Keep records in the same manner indicated in Section (B)(1)(c) of this Policy for the amount of Electricity Procured from Biomass Conversion facilities, including the general procurement record information specified in this Policy.
  - (ii) Receive written notification by an authorized representative of the biomass conversion facility certifying that biomass feedstock was received from a permitted solid waste facility identified in 14 CCR Section 18993.1(i).
  - (iii) Provide these records to the Recordkeeping Designee.

### 13.3.3 Requirements for Direct Service Providers

- 1. Direct Service Providers of landscaping maintenance, renovation, and construction shall:
  - a. Use eligible Compost and SB 1383 Eligible Mulch, as practicable, produced from recovered Organic Waste for all landscaping renovations, construction, or maintenance performed for the City, whenever available, and capable of meeting quality standards and criteria specified. SB 1383 Eligible Mulch used for land application shall comply with 14 CCR, Division 7, Chapter 12, Article 12 and must meet or exceed the physical contamination, maximum metal concentration and pathogen density standards specified in 14 CCR Section 17852(a)(24.5)(A)(1) through (3).
  - b. If Direct Service Provider is subject to the City’s WELO pursuant to Chapter 8-7 of the Pacifica Municipal Code, comply with one of the following, whichever is more stringent: (i) Chapter 8-7 is more stringent than the State’s MWELo, or (ii) Sections 492.6 (a)(3)(B), (C), (D), and (G) of the State’s MWELo, Title 23, Division 2, Chapter 2.7 of the CCR, as amended September 15, 2015, which requires the submittal of a landscape design plan with a “Soil Preparation, Mulch, and Amendments Section” to include the following:
    - (i) For landscape installations, Compost at a rate of a minimum of 4 cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six (6) inches into the soil. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding Compost and tilling.
    - (ii) Apply a minimum three- (3-) inch layer of mulch on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife, leave up to five percent (5%) of the landscape area without mulch. Designated insect habitat must be included in the landscape design plan as such.

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(iii) Procure organic mulch materials made from recycled or post-consumer materials rather than inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local Fuel Modification Plan Guidelines or other applicable local ordinances.

(iv) For all mulch that is land applied, procure SB 1383 Eligible Mulch that meets or exceeds the physical contamination, maximum metal concentration, and pathogen density standards for land applications specified in 14 CCR Section 17852(a)(24.5)(A)(1) through (3).

c. Keep and provide records of Procurement of Recovered Organic Waste Products (either through purchase or acquisition) to Recordkeeping Designee, on a schedule to be determined by Recordkeeping Designee. Information to be provided shall include:

(i) General description of how and where the product was used and if applicable, applied;

(ii) Source of product, including name, physical location, and contact information for each entity, operation, or facility from whom the Recovered Organic Waste Products were procured;

(iii) Type of product;

(iv) Quantity of each product; and,

(v) Invoice or other record demonstrating purchase or procurement.

2. Renewable Gas procurement by Direct Service Providers

a. Subject to force majeure events that are beyond their control (such as the interruption of third-party supplies or facility shutdowns that are not their fault), Direct Service Providers transporting solid waste, organic materials, and/or recyclable materials shall procure at least seventy-five percent (75%) of their fuel as Renewable Gas and will be required to do so in all RFPs and RFQs released by the City for such services unless they are already required to do so by permit, license, written agreement, or written contract with the City.

b. Departments releasing RFPs and RFQs for contractors that procure fuel in the course of their services to the City shall include a ten percent (10%) price preference to contractors that propose to use the amount or percentage of Renewable Gas specified in the RFP or RFQ to be eligible for said price preference. Such use, if it occurs, shall be documented in a written contract or agreement.

c. If Renewable Gas made from recovered Organic Waste is used by Direct Service Providers, Direct Service Providers shall submit information listed below on a schedule to be determined by Jurisdiction, but not less than annually to the Recordkeeping Designee.

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- (ii) Source of product including name, physical location and contact information for each entity, operation, or facility from whom the Recovered Organic Waste Products were procured;
  - (iii) Type of product;
  - (iv) Quantity provided; and,
  - (v) Invoice or other record or documentation demonstrating purchase, procurement, or transfer of material to giveaway location.
- d. Renewable Gas used by Direct Service Providers under Section (C)(2)(a) and 2(b) of this Policy shall comply with criteria specified in 14 CCR Section 18993.1.

### **13.4 Recycled-Content Paper Procurement**

#### **13.4.1 Requirements for City Departments**

1. If fitness and quality of Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper are equal to that of non-recycled items, all departments and divisions of City shall purchase Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least thirty percent (30%), by fiber weight, postconsumer fiber, whenever the total cost is the same or a lesser total cost than non-recycled items or whenever the total cost is no more than ten to twenty percent (10-20%) of the total cost for the non-recycled items, consistent with the requirements of this Policy, Public Contract Code, Sections 22150 through 22154 and Sections 12200 and 12209, as amended.
2. All Paper Products and Printing and Writing Paper shall be eligible to be labeled with an unqualified recyclable label as defined in Title 16 Code of Federal Regulations Section 260.12 (2013).
3. Provide records to the Recordkeeping Designee of all Paper Products and Printing and Writing Paper purchases on a schedule to be determined by Recordkeeping Designee (both recycled-content and non-recycled content, if any is purchased) made by a division or department or employee of the City. Records shall include a copy of the invoice or other documentation of purchase, written certifications as required in Section (B)(1)(c) and (d) of this Policy for recycled-content purchases, vendor name, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if non-Recycled-Content Paper Products and/or non-Recycled-Content Printing and Writing Paper are provided, include a description of why Recycled-Content Paper Products and/or Recycled-Content Printing and Writing Paper were not provided.

#### **13.4.2 Requirements for Vendors**

1. All vendors that provide Paper Products (including janitorial Paper Products) and Printing and Writing Paper to City shall:



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- a. Provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least thirty percent (30%), by fiber weight, postconsumer fiber, if fitness and quality are equal to that of non-recycled item, and available at equal or lesser price or available at no more than ten to twenty percent (10-20%) of the total cost for non-recycled Paper Products, consistent with the requirements of this Policy and Article 7 of Title 6 of the Pacifica Municipal Code.
  - b. Only provide Paper Products and Printing and Writing Papers that meet Federal Trade Commission Recyclability standard as defined in Title 16 Code of Federal Regulations Section 260.12 (2013).
  - c. Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the City. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.
  - d. Certify in writing, under penalty of perjury, that the Paper Products and Printing and Writing Paper offered or sold to the City is eligible to be labeled with an unqualified recyclable label as defined in Title 16 Code of Federal Regulations Section 260.12 (2013).
  - e. Provide records to the Recordkeeping Designee of all Paper Products and Printing and Writing Paper purchased from the vendor on a schedule to be determined by Recordkeeping Designee (both recycled-content and non-recycled content, if any is purchased) made by a division or department or employee of the City. Records shall include a copy of the invoice or other documentation of purchase, written certifications as required in Section (B)(1)(c) and (d) of this Policy for recycled-content purchases, purchaser name, quantity (purchased, date purchased, and recycled content (including products that contain none), and if non-Recycled-Content Paper Products and/or non- Recycled-Content Printing and Writing Paper are provided, include a description of why Recycled-Content Paper Products and/or Recycled-Content Printing and Writing Paper were not provided.
2. All vendors providing printing services to the City via a printing contract or written agreement, shall use Printing and Writing Paper that consists of at least thirty percent (30%), by fiber weight, postconsumer fiber, or as amended by Public Contract Code Section 12209.

### 13.5 Recordkeeping Responsibilities

- 13.5.1 The Recordkeeping Designee shall be responsible for obtaining records pertaining to Procurement of Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper.
- 13.5.2 The Recordkeeping Designee will do the following to track Procurement of Recovered Organic Waste Products, Recycled-Content Paper Products, and Recycled-Content Printing and Writing Paper:

## **“ATTACHMENT A”**

1. Collect and collate copies of invoices or receipts (paper or electronic) or other proof of purchase that describe the procurement of Printing and Writing Paper and Paper Products, including the volume and type of all paper purchases; and, copies of certifications and other required verifications from all departments and/or divisions procuring Paper Products and Printing and Writing Paper (whether or not they contain recycled content) and/or from the vendors providing Printing and Writing Paper and Paper Products. These records must be kept as part of City’s documentation of its compliance with 14 CCR Section 18993.3.
2. Collect and collate copies of invoices or receipts or documentation evidencing procurement from all departments and divisions procuring Recovered Organic Waste Products and invoices or similar records from vendors/contractors/others procuring Recovered Organic Waste Products on behalf of the City to develop evidence of City meeting its Annual Recovered Organic Waste Product Procurement Target. These records must be kept as part of the City’s documentation of its compliance with 14 CCR Section 18993.1.
3. Collect, collate, and maintain documentation submitted by the City, Direct Service Providers, and/or vendors, including the information reported to the Recordkeeping Designee in accordance with this Policy.
4. Compile an annual report on the City’s direct procurement, and vendor/other procurement on behalf of the City, of Recovered Organic Waste Products, Recycled-Content Paper Products, and Recycled-Content Printing and Writing Paper, consistent with the recordkeeping requirements contained in 14 CCR Section 18993.2 for the Annual Recovered Organic Waste Product Procurement Target and 14 CCR Section 18993.4 for Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper procurement. This report shall be made available to the City’s responsible entity for compiling the annual report to be submitted to CalRecycle (which will include a description of compliance on many other SB 1383 regulatory requirements) pursuant to 14 CCR Division 7, Chapter 12, Article 13. The procurement report shall also be shared with the Pacifica City Council annually as evidence of implementing this Policy.