

RESOLUTION NO. 41-2019

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA
AMENDING ADMINISTRATIVE POLICY NO. 76, "PURCHASING POLICY" TO
ADD ARTICLE 12, "FEDERAL PROCUREMENT" AND TO INCREASE THE
AUTHORIZED SPENDING LIMIT FOR SUPERVISORY PERSONNEL AND
FINDING ADOPTION OF RESOLUTION EXEMPT FROM THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

WHEREAS, Government Code sections 54201 et seq. governs purchasing by local governmental bodies and requires that every local agency adopt policies and procedures to govern their purchases of supplies and equipment; and

WHEREAS, the City of Pacifica first adopted Administrative Policy No. 76 (Purchasing Policy) on November 27, 2014, which sets forth the purchasing procedures for goods and services purchased by the City; and

WHEREAS, in order to comply with the federal Uniform Guidance policies, the City's Purchasing Policy must contain general federal requirements relating to procurement and contract requirements; and

WHEREAS, the City Council now desires to accept and adopt the amended Administrative Policy No. 76, attached hereto and hereinafter incorporated by reference, which adds an Article 12, "Federal Procurement", increases the dollar threshold for encumbering funds and the solicitation of bids, and increasing the spending limit for Supervisory Personnel from \$2,500 to \$5,000 to provide more expediency for smaller expenditures.

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 amend 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 it can be seen with certainty that there is no possibility that this action will have a significant effect on the environment.
3. The City Council of the City of Pacifica hereby adopts the amendments 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~~.
3. This resolution shall take effect immediately upon its adoption.

• • • • •

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica,

California, held on the 14th day of October 2019, by the following vote:

AYES, Councilmembers: Vaterlaus, Martin, O'Neill, Beckmeyer, Bier.

NOES, Councilmembers: None.

ABSENT, Councilmembers: None.

ABSTAIN, Councilmembers: None.

CITY OF PACIFICA

By: 
Mayor Sue Vaterlaus

ATTEST:


Sarah Coffey, City Clerk

APPROVED AS TO FORM:

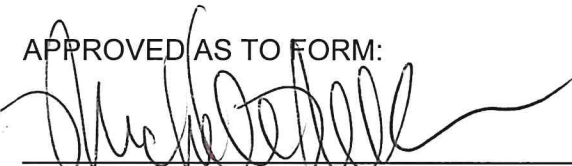

Michelle Marchetta Kenyon, City Attorney

EXHIBIT A

CITY OF PACIFICA ADMINISTRATIVE POLICY	No. 76
PURCHASING POLICY	DATE ISSUED: Effective 11/27/2014 10/14/2019

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 Council Resolution, then state law, the Municipal Code, or City Council Resolution shall take precedence. **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.

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.

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 Polices 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 ~~\$2,500~~ **\$5,000**.

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.

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:

Purchase Value	Approval Authority	Requirements
Up to \$2,500 <u>\$5,000</u>	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 ~~\$2,500~~ \$5,000, but telephone quotes shall be solicited prior to completing Purchase Orders if practical.

3.3.3 Purchases between ~~\$2,500~~ \$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, 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 ⁵ 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 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 ¹Title 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:

- a. "Emergency purchase" shall mean purchases made under circumstances of a Federal, State or City declared disaster or where circumstances pose

¹ Title 3, Chapter 15: Bidding Procedures for Public Projects

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.

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 ~~\$2,500~~ **\$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.

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 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 are 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.

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.

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 the¹³ 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 “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.

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.