

City of Atwater Purchasing System Manual

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PREPARED BY:
CITY OF ATWATER

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CITY OF ATWATER
PURCHASING SYSTEM MANUAL

SECTION 1: PURPOSE

Welcome to the City of Atwater Purchasing System Manual (“Purchasing Policy” or “Policy”). The purpose of this Policy is to provide the City of Atwater (“City”) a means of assuring continuity and uniformity in its purchasing operation and to define the responsibilities for purchasing goods, supplies, equipment, materials, and services. These guidelines are not intended to address every issue, exception, or contingency that may arise in the course of purchasing activities. The basic standard that should always prevail is to exercise good judgment in the use and stewardship of City resources, including keeping within the budget authorized by the City Council and encouraging open competition.

SECTION 2: POLICY STATEMENT

Authority

The Policy contained herein was developed under the authority of Chapter 3.04 of the City of Atwater Municipal Code (“Atwater Municipal Code” or “AMC”). The City Manager is designated as the Purchasing Officer for the City and may delegate the administration of the program. The Purchasing Officer/Designee is charged with the responsibility and authority for coordinating and managing the procurement of the City’s goods, supplies, equipment, materials, and services according to this Policy.

The Policy outlined herein is to be adhered to by the Purchasing Officer/Designee and all City Departments when procuring supplies, services, and equipment. This Policy strives to define decision making with prudent review and internal control procedures and to maintain departmental responsibility and flexibility in evaluating, selecting, and purchasing goods, supplies, equipment, materials, and services.

Exclusions

Excluded from this Policy is the purchase of supplies, services, equipment, or general capital improvements which are included within the specification of a “Public Works Contract” and are subject to the regulations contained in California Labor Code §§ 1720 – 1743. Also excluded are items defined as a “Public Project” under California Public Contract Code §§ 20160 – 20174.

Generally any construction, alteration, repair, demolition, renovation, or maintenance of a public project or a public works project paid for in whole or in part out of public funds, which has an estimated value greater than five thousand dollars (\$5,000.00), shall be contracted for and let to the lowest responsible bidder by procedures established in the California Public Contract Code, which are generally consistent with the Formal Bid Procedure or Formal Contract Procedure under Atwater Municipal Code under Section 3.04.170.

As an alternative, the City may initiate a “design-build” process through the selection of a qualified consultant, pursuant to California Government Code §§ 5956 through 5956.10. Under the “design-build” process, a public works project or public project may be exempt from bidding requirements and other requirements provided that the selected consultant was chosen on the basis of competence and professional qualifications and that the work to be completed is to be paid through fee producing infrastructure. To this end, should the City of Atwater initiate a “design-build” project, the process for obtaining Professional Services outlined in Section 12 shall be adhered to.

It should also be noted that the City recognizes the requirements of the State Labor Code and Public Contract Code that require the payment of Prevailing Wages for public works projects in excess of one thousand dollars (\$1,000.00). Prevailing Wage rates are set by the California Department of Industrial Relations. The Requesting Department is responsible for completing the necessary forms provided through the California Department of Industrial Relations.

The City’s Centralized Purchasing System may only be dispensed with or modified when other State, Federal, or Intergovernmental statutes, regulations, or procedures prescribe that a specific separate purchasing process be followed or when approved by the City Council. For example such as in the case of public works projects or a public project, which are governed by State Law and some cases Federal law. Another example may be provisions for expending grant funds which may be covered by separate Federal, State, and/or Intergovernmental requirements which specify that as a condition of contract award or funding that a specific purchasing process other than the City’s is to be followed. Modifications or deviations must be pre-approved by the Purchasing Officer/City Manager and shall be determined on a case by case basis.

Waiver of all purchasing system processes may only be granted by approval of the City Council. A basis for requesting the waiver should be a unique cost savings opportunity to the City.

Determination of Value

For purposes of determining the value of a proposed purchase so that it may be categorized for processing through the City’s Centralized Purchasing System, the value of all proposed purchases or acquisitions shall be predicated upon a separate cost – price basis. In determining if supplies or equipment fall into the exempt category – “over-the-counter” classification, the Open Market Procedure, or the Formal Contract Procedure the total cost of the supplies or equipment shall not be used. Instead, the price of the supplies or equipment alone shall be the deciding factor.

Price shall be the value of the good or service alone and the directly related expenses. The price of an item should be considered as the dollar amount necessary to place the item in service or to perform under a contract. There may be instances where there are additional direct related expenses that cannot be disassociated from an acquisition. Examples may include installation or set up costs, disposal fees, warranties, or other such items. These incidental costs shall be factored into the purchase and as such shall be a determining factor in the acquisition price. Excluded from the price of an item shall be the expenses related to shipping fees, postage, or sales taxes. These may be considered as universal to all bids or quotes and

therefore do not reflect competitive differences such as variations in the quote or bid prices for installation or warranties.

The price of an item may often be different from the final or total cost to the City. The cost to be borne by the City through the financial transaction is, in reality, the entire City expenditure needed to acquire goods, supplies, equipment, materials, or services. This may include sales tax or other costs.

With regard to Consultant Services or Professional Services the value of services shall include the combined price of the services provided plus any equipment or supplies that will be provided to the City through the Consultant or Professional's activities with the City, not the total cost which may also include staff time, postage communications, or other associated costs. From time to time, the City may consider leasing or renting equipment as a basis for savings. In that instance, the total value of the good, not the estimated lease payment, shall determine which process it shall be procured through.

For complete details on the Purchasing Procedures and requirements for specific dollar amounts, please consult Section 7 – Purchasing Procedures.

Ethical Standards for Purchasing

When placing City business with the business community, it is every Employee's responsibility to follow good business and ethical practices and to adhere to the City's applicable law, policies, and procedures. This is a responsibility that should not be taken lightly as it is a duty under the law (California Public Contract Code §20163). All vendors shall be treated equally and fairly at all times by City personnel, with equal information given to each vendor who participates in a competitive situation.

City Employees must discharge their duties under the Atwater Municipal Code and this Purchasing Policy in an impartial manner to foster the integrity of the City's purchasing function and to assure fair and open competition for City business and the selection of competent, responsible vendors.

The following actions constitute a violation of the Atwater Municipal Code:

- Aiding or assisting a bidder in securing a contract to furnish labor, materials or other supplies or favoring one bidder over another; giving or withholding information from any bidder not given or withheld from all other bidders; willfully misleading any bidder in regard to the character of the materials or supplies of a quality inferior to that called for by the contract; knowingly certifying to a greater amount of labor performed or material or supplies furnished that has been performed or received.
- Accepting, directly or indirectly, any gift, rebate, money, or anything else of value whatsoever from any person or entity if the gift, rebate, money, or item of value is intended as a reward or inducement for conducting business, placing orders with, or otherwise using the Employee's position to favor the contributor. When in doubt, just say no.

It is a violation of State law for any Employee or City Officer to be a party to or have a financial interest in any City contract made by them in their official capacity (California Government Code §1090).

It is a breach of ethical purchasing standards:

- For any employee to participate directly in City procurement when the Employee knows that:
 - The Employee, or any member of the Employee's immediate family, has a financial interest pertaining to the procurement;
 - A business or organization in which the Employee or any member of the Employee's immediate family has a financial interest pertaining to the procurement; and/or
 - Any other person, business or organization with whom the Employee, or any member of the Employee's immediate family, is negotiating, or has an arrangement concerning prospective employment, is involved in the procurement
- For any person to offer, give, or agree to give any Employee, or for any Employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation or preparation of any part of a purchase request.
- For a person to be restrained, or to retain a person, to solicit or secure a City purchase order contract upon an agreement, or understanding for a commission, percentage, brokerage or contingent fee, except for bona fide selling agencies established for the purpose of securing business.
- For any Employee, who is participating directly or indirectly in the procurement process to become or be, while such an Employee, the Employee of any person contracting with the City.
- For any Employee to engage in selling supplies, equipment or services to the City.
- For any Employee of the City to act as a principal, or as an agent for anyone other than the City, in connection with any judicial or other proceeding, contract, claim, charge or controversy, other than when acting within the Employee's official responsibility.
- For any Employee or former Employee to knowingly use information for actual or anticipated personal or business gain, or for the actual or anticipated gain of any other person or business.
- For City personnel to accept gifts, rebates, money, entertainment, personal services, or in any way incur material personal gain from any vendor doing business with the City or from any potential City vendor, or if circumstances create the impression that one's vote, judgment or action could be affected, or that staff are being rewarded for the performance or nonperformance of an official duty or if the item is of a value that exceeds statutory limits. Promotional items of nominal value such as calendars, pens, balloons, etc. shall not constitute a gift if received as a non-personal item by the Employee and the item is distributed to customers or potential customers routinely by the contributor.

Conflict of Interest

Any officer of the City or any department thereof who shall aid or assist a bidder or vendor in securing a contract to furnish supplies, materials, equipment, or contractual services at a higher price than that proposed by any other bidder/vendor, or who shall favor one bidder/vendor over another by giving or withholding information, or who shall willfully mislead any bidder/vendor in regard to the character of the materials or supplies called for, or who shall knowingly accept commodities of a quality inferior to those called for by the contract, or who shall knowingly certify to a greater amount of labor performed than has actually been performed, or to the receipt of a greater amount or different kind of materials or supplies than have actually been received, shall be deemed guilty of malfeasance and the City Manager shall have the authority pursuant to the City of Atwater's Personnel System Rules and Regulations to take appropriate disciplinary action. Such actions may also result in criminal prosecution.

If at any time, it shall be found that the person to whom a contract has been awarded has in presenting any bid(s) or quote(s), colluded with any other party or parties for the purpose of preventing any other bid or quote being made, then the contract so awarded shall be null and void.

It is the intent that this Purchasing Policy, all procedures and processes discussed herein, and each transaction entered into pursuant to the Chapter 3.04 of the City of Atwater Municipal Code shall be made in accordance with the City's Conflict of Interest Code and all other Federal, State, and local laws.

Revision and Amendment

This Policy shall be reviewed and updated annually. This Policy may be amended at any time at the discretion of the City Manager with the approval of the City Council.

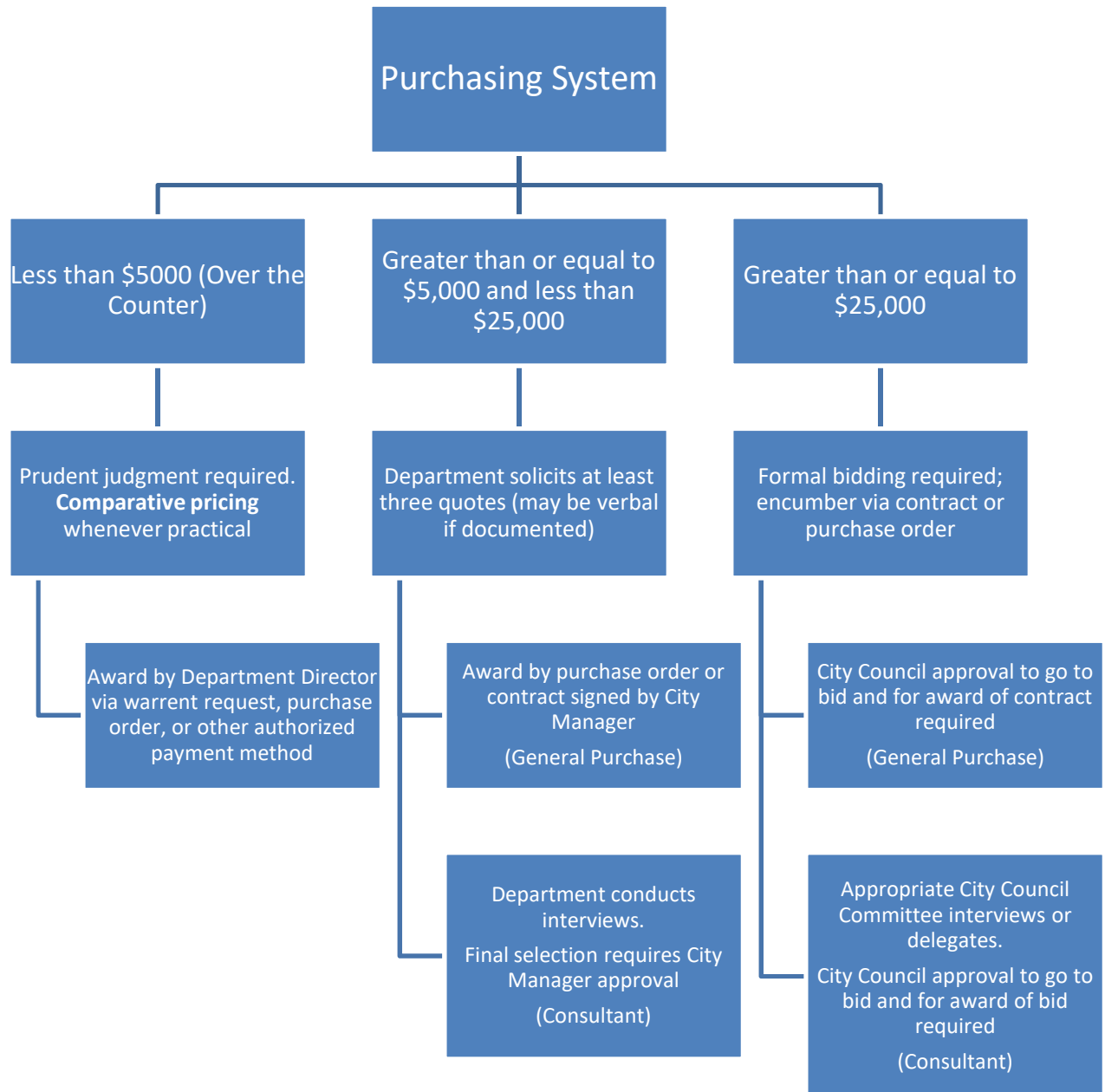
SECTION 3: UNAUTHORIZED PURCHASES

Except for urgencies or other authorized exemptions stated in these guidelines, no purchase of supplies, services, or equipment shall be made without authorization as described within the manual or in Chapter 3.04 of the Atwater Municipal Code. Under no circumstances shall a purchase be considered approved or final until approved by the City Council or City Manager as required by the appropriate purchasing classification. No representative of the City shall enter into a verbal agreement or make any arrangements until the final approval is granted.

In the event that an unauthorized purchase is made the following may apply:

- Such purchases are void and not considered an obligation of the City.
- Invoices without an authorization may be returned to the vendor unpaid.
- The person ordering the unauthorized purchase may be held personally liable for the costs of the purchase or contract.

CITY OF ATWATER PURCHASING SYSTEM



SECTION 4: RESPONSIBILITIES OF THE PURCHASING OFFICER

The Purchasing Officer/Designee is responsible for (1) the procurement of general supplies, services, and equipment; (2) the administration of the Purchasing Policy; and (3) the management of surplus City property. To perform these functions efficiently and assist departments, the Purchasing Officer/Designee shall:

- A. Be charged with the responsibility and authority for coordinating and managing the procurement of the City's general goods, supplies, equipment, materials, and services.
- B. Recommend revisions to purchasing procedures when necessary and keep informed of current developments in the field of public purchasing.
- C. Prescribe and maintain all forms and records necessary for the efficient operation of the purchasing function.
- D. Act as the City's agent in the transfer and disposal of surplus equipment and materials.
- E. Be charged with the responsibility and authority for coordinating and managing the City's Property and Inventory Control Program.

SECTION 5: RESPONSIBILITIES OF CITY DEPARTMENTS

City Departments are charged with the following responsibilities in the purchasing process:

- A. Be responsible for procurement of the City's general goods, supplies, equipment, materials, and services from the lowest responsive and responsible bidder when required by this Policy.
- B. Ensure full and open competition on all purchases as required by this Policy.
- C. Identify, evaluate, and utilize purchasing methods which best meet the needs of the City (i.e. cooperative purchases, blanket purchase orders, contractual agreements, etc.).
- D. Coordinate vendor relations, locate sources of supply, and evaluate vendor performance.
- E. Develop detailed, accurate specifications to ensure consistency with requirements and expectations.
- F. Notify bidders or vendors of purchase award when authorized by the Purchasing Officer or City Council depending on the appropriate Purchasing System Classification for approval.
- G. Make purchase award recommendations to the appropriate authority.
- H. Identify and apply the City's Local Business Preference Program.
- I. Anticipate requirements sufficiently in advance to allow adequate time to obtain goods in accordance with the best purchasing practices.
- J. Communicate and coordinate purchases with the Purchasing Officer/Designee, as necessary.
- K. Prepare requisitions in accordance with instructions so as to minimize the processing effort.

- L. Inform the Purchasing Division of any vendor relations problems, shipping problems (i.e., damaged goods, late delivery, wrong items delivered, incorrect quantity delivered, etc.) and any situations which could affect the purchasing function.
- M. Minimize urgent and sole source purchases and to provide written documentation when such purchases may be necessary.
- N. Review all bids received for compliance with specifications, and prepare written documentation regarding their findings.
- O. Refrain from “splitting” orders for the purpose of circumventing procurement requirements.
- P. Provide the Purchasing Officer/Designee at the beginning of each fiscal year an updated authorized signature list designating those individuals who are delegated the authority to make purchases per the policies and procedures as described herein.

SECTION 6: VENDOR RELATIONS

It is to the City’s advantage to promote and maintain good relations with vendors. The Purchasing Division and department staff shall conduct their dealings with vendors in a professional manner and shall promote equal opportunity and demonstrate fairness, integrity, and courtesy in all vendor relations. When feasible to do so, vendors within the City of Atwater should be utilized for goods, supplies, equipment, materials, and services. However, good vendor relations must also be balanced with fair and equitable selection, the lack of which may lead to possible conflicts of interest or the appearance of such.

Use of City Logo

Vendors requesting use of the City’s logo as a part of a response to a solicitation should submit a written request to the City Clerk and a single-use file will be made available if the request is approved.

SECTION 7: PURCHASING PROCEDURES

As previously mentioned, purchasing and the process by which a good or service is acquired is based upon its price. Purchasing dollar limits are “per order”. Chapter 3.04 of the Atwater Municipal Code specifically prohibits “splitting” an order to circumvent the specified dollar limits. A split purchase occurs when the quantity of a required item or service is known prior to the initial purchase and is divided into multiple purchases in order to avoid the requirement for multiple bids or proposals. Split purchases, found to be willful in nature, are criminal misdemeanors under California Public Contract Code § 20163 and are considered fraud, waste, and/or abuse by auditors and are violations of best practices standards. Multiple purchases with the same vendor within the same month for the same goods or services are considered a split purchase. Departments shall contact the Purchasing Division or Designee to coordinate volume bids of repetitive requirements (i.e., the frequent purchase of items such as chemicals, paper goods, etc., which annually exceed the specified limits).

Purchases of Less than \$5,000 – Over the Counter

Purchases of less than five thousand dollars (\$5,000.00) shall be exempt from the City's Purchasing Program to the extent that authority to execute the purchase is with the Using or Requesting City Department. This procedure shall be referred to as the "over the counter" process. Although purchases of less than five thousand dollars are exempt from many procedures required for higher cost items, every effort to utilize a local vendor shall be exercised. For purchases of less than \$5,000, the Department Director has the authority to award a purchase contract. Comparative pricing is not required but shall be used when practical. Prudent judgment shall be used at all times. All departments may purchase supplies, equipment, and services, of less than \$5,000 without competitive bidding, provided that an unencumbered appropriation for the item exists in the current approved budget.

Purchases Greater than or Equal to \$5,000 and Less than \$25,000 – Open Market Procedure

Except as otherwise exempted in the Policy, goods, supplies, equipment, materials, and services with an estimated value equal or in excess of five thousand dollars (\$5,000) and less than twenty-five thousand dollars (\$25,000) shall be purchased following an Open Market Procedure. The City Manager has the authority to award purchases in this range. Department staff shall not award purchase orders equal to or in excess of \$5,000 or more without the approval of the City Manager or his/her designee, except in the event of an urgency purchase.

The Requesting Department shall obtain three oral or written competitive quotations whenever possible for purchases. Getting more quotations is encouraged. In the event that three quotes cannot be obtained, documentation of the process should indicate why less than three were obtained and should be placed on file with the quotes that were obtained. The Purchasing Division may be requested to assist in this process.

Documentation requesting quotes under the Open Market Procedure may be posted at City Hall, placed in trade magazines or the newspaper, posted on the City's official website, mailed, faxed, or sent by electronic mail (e-mail) to prospective vendors. Adequate time should be allotted to permit a response, typically a minimum of ten (10) calendar days before the due date but less may be acceptable if necessary. In any event, the quote deadline should be noted. Quotes may also be solicited over the telephone through a verbal quote, provided that they are documented by the requesting department. Quotes under the Open Market Procedure may also be obtained from consulting current catalogs, Internet sites, or advertising flyers.

The Requesting Department shall submit a requisition, which includes the recommended vendor, with all supporting documentation to the City Manager or his/her Designee. Supporting documentation shall include competitive price quotes obtained, names of vendors contacted, description of the items required, and certificates of insurance as applicable. The City Manager or his/her Designee shall review the recommendation and supporting documentation and may contact additional sources for quotations.

The City Manager or his/her Designee may award the purchase to the lowest responsive and responsible vendor whose quote fulfills the intended purpose, quality, and delivery needs of the solicitation provided that an unencumbered appropriation for that item exists. In lieu of awarding the purchase, the City Manager or his/her Designee may reject quotes or may negotiate further

to obtain terms more acceptable to the City. If bids are rejected because all bids come in above budget, the staff member responsible and/or Department should confirm that the City's cost estimate was not unreasonably low or intentionally underestimated as those are the primary reasons for legal challenges to public agency bid cancellations and/or bid rejections. Any low bid 25% higher than the engineer's estimate is arguably unreasonably low or intentionally underestimated. If there is any question about the cost estimate, the safer bet would be to reject all bids and re-spec/re-bid the project. The City Manager or his/her Designee may also determine that the interest of the City is best served to require the Formal Contract Procedures for purchases within this range.

Purchases Greater than or Equal to \$25,000 – Formal Contract Procedures (Formal Bid)

Prior to initiating the bid process, approval to go out to bid must be granted by the City Council. The Requesting or Using City Department making the request shall provide specifications for the item to be purchased with as much detail as possible to the Council for their consideration. The specifications should provide as much detail as possible so that the Council can fully understand the nature of the proposed purchase. It should be noted that the format of the specifications may not necessarily be the final format that would be included in a bid package or as part of a solicitation for bids. In addition to the specifications, the City Council shall also consider the dollar amount to be expended and whether there is an unencumbered appropriation for the item in the current approved budget for the purchase.

The request for bids under the Formal Contract Procedure shall at a minimum be posted at City Hall and shall be published at least once in a newspaper of general circulation and if applicable, in appropriate trade publications. The date of publication shall be at least ten (10) days before the date of opening of the bids or the final date for accepting bids. All formal bids shall be sealed and shall be publicly opened and read at the date, time, and place indicated in the published notice. Specification packages should be made available to interested bidders, the Using or Requesting Department Director shall determine if a security deposit is necessary, this should be part of the request made to the City Council before initiating the bid process. The Requesting Department Director shall also determine if a payment is necessary for a prospective bidder to acquire a specifications package. The use of a bidders' list shall also be determined by the Requesting Department Director.

Bids received at the end of the process shall be reviewed for compliance with specifications by the Using or Requesting Department. All deviations from the specifications shall be fully documented by the Requesting Department and the impact of the deviations on the performance or suitability of the bid item shall be detailed. Depending on the findings of the Requesting Department with regard to the deviations the bid may be rejected and must be done so in writing or in a recommendation made to the City Council. Various recommendations may be made depending on the outcome of the bids, including selecting a vendor, rejecting all the bids, or deciding to modify the bids and re-advertise.

An award under the Formal Bid Process shall only be approved by the City Council and shall be issued to the lowest competitive responsible bidder.

Public Works Projects

A Public Works Project is any project per California Public Contract Code § 22002. This includes any of the following:

- (1) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.
- (2) Painting or repainting of any publicly owned, leased, or operated facility.
- (3) In the case of a publicly owned utility system, “public project” shall include only the construction, erection, improvement or repair of dams and reservoirs.

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

- (1) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
- (2) Minor repainting
- (3) Resurfacing of streets and highways at less than one inch.
- (4) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.
- (5) Work performed to keep, operate, and maintain publicly owned water, or waste disposal systems, including, but not limited to, dams and reservoirs.

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

Small Projects

Projects valued at \$45,000 or less OR the current minimum range as stated in California Public Contract Code (PCC) § 22032(a)

The work can be performed by Purchase Order, with City Employees by force account, or negotiated contract.

Informal Bidding

Projects valued at \$175,000 or less OR the current medium range as stated in PCC § 22032(b)

Notice to Bidders needs to:

- (1) Describe the project in general terms;
- (2) State where more information can be obtained; and
- (3) State the time and place where bids are to be submitted.

The Notice to Bidders shall be mailed to the list of qualified contractors and construction journals at least ten (10) calendar days prior to bid opening.

The City Council can award a contract if it is less than \$175,000 by majority vote. Under PCC § 22034, if all bids are in excess of \$175,000 up to \$187,500, the Council may

award a contract by a four-fifths vote upon finding the cost estimate to be reasonable. This case is an exception to Formal Bidding.

Formal Bidding

Projects estimated in excess of \$175,000 OR the current maximum range as stated in PCC § 22032(c) but not as in the exception listed above in Informal Bidding, codified in PCC § 22034.

Notice to Bidders must follow PCC § 22037 where:

- (1) Distinctly describe the project;
- (2) State where more information can be obtained; and
- (3) State the time and place where bids are to be submitted.

The Notice to Bidders must be published at least fourteen (14) calendar days before opening in a local newspaper. The Notice must also be mailed to construction journals at least fifteen (15) days prior to bid opening.

Rejection of Public Works Contract Bids

See Section 8.

SECTION 8: DETERMINATION OF CONTRACT OR PURCHASE AWARD

Generally, an award shall be made to the lowest responsive and qualified bidder or vendor. This shall be the case for the Open Market Procedure as well as the Formal Contract or Bidding Procedure.

In determining the lowest “responsive” bid or quote, the following elements shall be considered in addition to price:

- (1) A responsive bid or quote is one which is in substantial conformance with the requirements of the invitation to bid or quote, including specifications and the City’s contractual terms and conditions;
- (2) Vendors/bidders who substitute terms and conditions or who qualify their bids or quotes in such a manner as to nullify or limit their liability shall be considered non-responsive vendors/bidders;
- (3) Conformance with the requirements of the invitation to bid or supply a quote may also include providing proof of insurance, completing all forms, including references, and all other information as requested in the bid or solicitation document; and,
- (4) The successful vendor/bidder must demonstrate the ability to successfully fulfill a contract, including the rendering of subsequent and continuing service. Staff may request proof of a prospective vendor/bidder’s reliability. Prospective vendors/bidders may be requested to furnish proof of financial resources, a list of current or previous customers, and other pertinent data. Such action may also be taken after receipt of bids or price quotes.

A vendor/bidder may be determined to be nonresponsive if a prospective bidder fails to furnish proof of qualifications when required.

In determining the lowest “qualified” vendor/bidder, the following elements shall be considered:

- (1) That the products offered provide the quality, fitness, and capacity for the required usage;
- (2) That the vendor/bidder has the ability, capacity, and skill to perform the contract satisfactorily and within the time required; and,
- (3) That the vendor/bidder’s experience(s) regarding past purchases by the City or other public agencies demonstrates the reliability of the vendor/bidder to perform the contract.

When a purchase award bid is recommended to be awarded to other than the lowest vendor/bidder, written justification is required. The written statement, signed by the appropriate Department Director, shall be attached to the purchase requisition.

Local Business Preference

In evaluating competitive bids or quotes any local vendor/bidder having a valid City Business License and fixed business location within the incorporated City Limits may receive a five percent (5%) preference off of their bid or quote. All Contractors who submit bids or proposals to construct or provide work on any City Public Works Project, or for any other Public Works construction, or improvement, on City property, and who are seeking a local business preference, must make a good-faith effort to hire qualified individuals who are residents of the City of Atwater or Merced County in sufficient numbers so that no less than fifty percent (50%) of the Contractor’s total construction work force, including subcontractor work force, measured in labor work house, is comprised of Atwater residents. This same requirement applies to all subcontractors. This preference shall be applied only when a non-local vendor/bidder has first been determined to be the lowest responsible vendor/bidder but a local vendor/bidder may equal or improve upon the bid if the preference is applied. If upon applying this preference should the local vendor/bidder equal the lowest responsible vendor/bidder or become the lowest responsible vendor/bidder, the City may select this vendor/bidder even though the actual cost to the City would not be the lowest. In the event that a nonlocal vendor/bidder and a local vendor/bidder have the same bid or quote and it is the lowest responsible bid or quote the five percent (5%) preference need not be applied. The local business shall be selected to receive the purchase award. The local business must still demonstrate that it is a responsible vendor/bidder before being selected for the purchase award.

This shall apply to purchases under the Open Market and Formal Contract as well as professional services or consultant agreements. The Local Business Preference may not apply and may be dispensed with when prohibited by State or Federal Statutes, or regulations requiring that a bid or quote be awarded to the lowest responsible bidder or vendor, or as otherwise exempted from local preferences. The local business preference shall not apply to purchases made through the over-the-counter process since items less than five thousand dollars (\$5,000) are exempt from the purchasing system. However, the using or requesting department making a purchase under the over-the-counter process shall make every attempt possible to purchase through local businesses. Under no circumstances shall the Local

Business Preference granted in a single bid or quote exceed \$5,000. The Local Business Preference will not apply when bids or quotes are done with other public agencies through cooperative purchases.

Rejection of Bids or Quotes

The Purchasing Officer or the Requesting Department may recommend rejection of any or all bids or quotes to the City Council if it is determined to be in the best interests of the City. The City Council may also recommend rejecting any or all bids or quotes at their discretion. Reasons for rejection may include, but are not limited to, the following:

- A bid or quote is determined to be nonresponsive; or
- The number of bids or quotes received is inadequate; or
- Bids or quotes received are not reasonably uniform in price; or
- The lowest bid or quote received is deemed to be too high.

The Purchasing Officer and/or City Council may, in any given case, reject all bids or quotes with or without cause and submit the supplies, equipment, or service involved to a new bidding or price quote solicitation process. If all bids or quotes are rejected, the Purchasing Division may be authorized to re-solicit bids, negotiate a contract for the purchase, or abandon the purchase.

Rejection of Public Works Contract Bids

Per PCC § 22038, the City Council may reject any bids by furnishing a written notice to the apparent lowest bidder. The notice shall inform the bidder and be mailed at least two business days prior to the hearing at which the Council will officially reject the bid. If all bids are rejected after the first invitation, the City Council may:

- (1) Abandon the project;
- (2) Re-advertise for bids as outlined above;
- (3) Declare the project can more economically be performed by the City of Atwater employees by a four-fifths vote by force account; or
- (4) If no bids are received, the City Council may elect to perform the project by force amount or negotiated contract without adhering to PCC Article 3.

Tie Bids or Quotes

If two or more bids or quotes are received which are in all respects equal in price and meeting all specifications, the Requesting Department may accept the one deemed to be in the best interests of the City by the City Council except in the case where a local bidder/vendor and non-local bidder/vendor are tied. In that instance, the requirements of the Local Business Preference shall be followed, and the purchase award shall be made accordingly.

Change Orders

See Section 12.

SECTION 9: PROCUREMENT METHODS

Open Purchase Orders

An Open Purchase Order is an agreement whereby the City contracts with a vendor to provide equipment or supplies on an as-needed or ongoing over-the-counter basis. These items would typically be less than \$5,000 per order and therefore would be exempt from Centralized Purchasing.

Open Purchase Orders provide a mechanism whereby items that are uneconomical to stock may be purchased in a manner that allows timely access to necessary materials.

On an annual basis, the Requesting Department shall review and close their existing Open Purchase Orders and if necessary, request any new Open Purchase Orders prior to the beginning of the new fiscal year. Requests for Open Purchase Orders may also be submitted to the Purchasing Division by a Requesting Department on an as-needed basis. The Purchasing Division shall review Open Purchase Order requests based on the following criteria:

1. Geographic location
2. Responsiveness and capabilities
3. Average dollar value and type of items to be purchased
4. Frequency of need

All Open Purchase Orders shall include the following information:

- a. A general description of the equipment or supplies that may be charged.
- b. The period of time the order will remain open, not to exceed one year.
- c. The maximum total amount that may be charged on the purchase order.
- d. The maximum amount which may be charged each time the employee implementing a purchase enters the vendor's place of business, or if unspecified, \$250 per transaction and/or \$750 per month.
- e. Items excluded from the purchase, if applicable.
- f. The phone number of the Requesting Department for questions.
- g. Identification of the department(s) and employee(s) who may charge against the order.
- h. The requirement that the employee shows City identification.
- i. The requirement that employees print and sign their names when picking up goods.
- j. The account number(s) to be charged.

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

City Departments shall develop a list of authorized employees that may purchase through the Open Purchase Order and keep it on file with the vendor or business.

Contract Purchase Orders

Contract Purchase Orders are the preferred method of acquiring goods or services which may be common to several City Departments. Entering into a contract purchase order is generally done to acquire goods or services which may be used repetitively and would ordinarily fall into Centralized Purchasing – Open Market Procedure category. In some instances, based on the value of the items, the contract purchase order may be applicable to items solicited under the Formal Market Procedure.

Establishing Contract Purchase Orders provides a means of obtaining volume pricing based upon the combined needs of all City Departments. They reduce the administrative costs associated with seeking redundant competitive quotes or bids and processing a Purchase Order each time an order is placed, and they allow City Departments to order as needed, reducing the requirement to maintain large inventories of stock. When soliciting quotes or bids and with the intent of entering into a Contract Purchase Order, the specifications in the Open Market quote or Formal Contract Bid shall specify that the City is seeking to enter into a contract purchase order. The Requesting Department should seek to involve local bidders or vendors as much as possible and the local business preference may apply. The Requesting Department should also seek to avoid “splitting” an order for the purposes of following a less stringent Centralized Purchasing Process – most likely attempting to avoid going to bid under the Formal Contract Procedure. For example, if a Requesting Department has specified in an approved budget that they need ten items costing \$1,200 each, there may be options for when and how they are solicited. If all ten are needed at one time, the dollar amount would require that a Formal Contract Procedure is followed to obtain bids. If, however, there is an expectation that not all will be purchased or they will only be purchased as needed, then the Open Market Procedure would apply, and the Requesting Department may enter into a Contract Purchase Order to obtain the items when needed.

If a Contract Purchase Order exists, departments shall order all of their requirements from the successful vendor. No other sources shall be used without prior approval of the Purchasing Officer. Departments shall submit, in writing to the Purchasing Division, any performance problem encountered immediately following the occurrence so that corrective action may be taken.

Contract Purchase Orders are annual and may include options for renewal of specific products, product types, or services at agreed upon prices or pricing structure and for a specified period of time.

Cooperative Purchases

The City may participate in purchases and contracts established by other political jurisdictions, provided the cooperative agreement is established following a competitive bid process similar to the City’s Formal Contract Procedure. The City Manager or his/her Designee may authorize the award of cooperative purchase agreements up to \$25,000. City Council approval is required for the award of any cooperative purchase greater than or equal to \$25,000. This process is often called “piggybacking”.

Sole Source Purchases

Under some circumstances, City bidding requirements may be dispensed with when the services or goods are only available from one source either because:

- The brand or trade name article, goods, or product or proprietary service is the only one which will properly meet the needs of the City; or
- The item or service is unique and available only from a sole source; or
- The item or service is designed to match others already in use or necessary to be compatible with others already in use.

Commodities and services that can be obtained from only one vendor are exempt from competitive bidding. All sole source purchases shall be supported by written documentation signed by the appropriate Department Director and forwarded to the Purchasing Division. Final determination of whether or not an item is a valid sole source purchase will be made by the City Manager, with a recommendation to the City Council should the purchase require it. When asked to approve a sole source contract or purchase order, the City Manager will consider the following:

- Whether there are other vendors within a reasonable distance that can provide the necessary service or product; and
- Whether other vendors can be utilized for the servicing and/or maintenance of the product.

Urgency Purchases

Urgency purchases may be made without competitive bidding when time is of the essence, and shall be made only for the following reasons:

1. To preserve or protect life, health, or property; or
2. Upon natural disaster; or
3. To forestall a shutdown of essential public services.

Since urgency purchases do not normally provide the City an opportunity to obtain competitive quotes or properly encumber funds committed. Sound judgment shall be used in keeping such orders to an absolute minimum. In addition, the following requirements shall apply:

1. The Purchasing Division shall be contacted as soon as possible for an advance purchase order number, which may be given verbally, to cover the urgent transaction. If unable to contact the Purchasing Division, place the order and contact the Purchasing Division the next workday.
2. A completed purchase requisition shall be submitted to the Purchasing Division within two working days, or as soon as the information is available. All purchase requisitions for urgent purchases shall be signed by the appropriate Department Director.
3. Documentation explaining the circumstances and nature of the urgency purchase shall be submitted by the appropriate Department Director as follows:
 - a. Purchases less than \$5,000: Use standard purchasing procedures.

- b. Purchases greater or equal to \$5,000 and less than \$25,000: Report to the City Manager by procession requisition within one week.
 - c. Purchases greater or equal to \$25,000: Report to the City Manager within two working days and report to the City Council at its next scheduled meeting for ratification.
4. If the urgency purchase causes any total departmental budget to exceed the approved budget, it shall be the responsibility of the department requesting the purchase to obtain subsequent City Council approval for an additional appropriation or to make a transfer to cover the purchase.

Purchase Order Exemptions

Certain purchases are not readily adaptable to the open market and formal bidding process. These purchases are generally for items where the competitive bid process or obtaining quotes is not applicable or where a check is required to accompany the order. Following is a list of allowable exceptions:

Advertisements and Notices	Medical Payments (Physicians, lab)
Courier/Delivery/Messenger	Membership Dues
Department Purchases under \$5,000	Payments to Other Governmental Units
Emergency Fuel Purchases	Petty Cash Replenishment
Insurance Claims and Premiums	Property Rentals
Utility Payments	Trade circulars or books
Real-property/easement acquisition	Travel Expense/Advances
Subscriptions	

Exemptions are limited to those items listed above. It shall be the responsibility of the Requesting Department to ensure that an unencumbered appropriation for the exempt item exists in the current approved budget. Departments may submit written requests for additional exemptions to the Purchasing Officer. If warranted, additional exemptions will be added to this list.

If a vendor requires a Purchase Order to process an order, the department shall submit a purchase order requisition to the Purchasing Division to initiate a Purchase Order.

In an instance where a vendor does not accept Purchase Orders and payment is required before a good or service is rendered, a request may be made for a check to be issued. The preferred method of issuing a check shall be through the warrants process. However, in some instances, a "prewritten check" may be prepared and issued by the Finance Department. A check or prewritten check shall only be prepared if Department Director approval accompanies the request and there are sufficient funds available in the designated account to make the purchase.

In some instances, the use of "petty cash" may be acceptable in making a purchase. Cash will only be issued to an employee or agent of the City when an appropriate request has been made for purchases of goods or services in an amount that is less than twenty-five dollars (\$25). Department Director approval is required when the request is submitted to the Finance

Department. Any unused funds shall be returned along with a copy of the receipt or an original receipt.

It shall be acceptable with Department Director approval for a City Employee or Agent of the City to make a purchase using his/her own funds by way of cash, check, credit or debit card to acquire goods or services on behalf of the City for which the individual will be reimbursed. Upon filing the request for payment and either an original or copy of the receipt the individual may be reimbursed through a check made payable to the employee or agent. A prewritten check made payable to the individual may also be requested. Cash may be given as a reimbursement to the individual if the amount is less than twenty-five dollars (\$25). Each City Department shall determine when it is appropriate for a City Employee or Agent to purchase an item on behalf of the City. This process should not be used as a common practice, and in general, Department Director approval should be granted prior to the Employee or Agent initiating the purchase on behalf of the City. Additional policies on reimbursement are included in Section 15 of this Policy.

SECTION 10: CREDIT CARD USAGE

Under certain circumstances, the use of a City-issued credit card may be the most appropriate method for certain purchases. The use of a City bank credit card should not be used as a shortcut of the Accounts Payable cycle. In other words, their use should be the last resort. The following policies and procedures are established to ensure internal control and timely payment of charges. City bank, gasoline, and telephone credit cards will be signed out on an as-needed basis to the staff at the sole discretion of the City Manager, in accordance with internal control procedures. Failure to comply with established procedures may result in discontinuance of use by the employee/department.

Because of Internal Revenue Service (IRS) tax reporting requirements, except for Urgency Purchases, a City credit card may not be used to purchase services provided by vendors who are doing business as partnerships or sole proprietors. Examples of this include, but are not limited to:

- 1.) Labor Charges for auto repair
- 2.) Plumbers
- 3.) Construction contractors

City credit cards may be available to City Employees for the conduct of official City business, including, but not limited to the following purposes:

- 1.) Gasoline purchases
- 2.) Telephone charges
- 3.) Authorized travel expenses and hotel charges which shall subsequently be documented on the travel reconciliation report.

- 4.) Cost of meals when required in the conduct of official business, except when an employee is traveling on a per diem basis.
- 5.) Other circumstances where the use of a credit card best meets the City's purchasing needs as determined by the Purchasing Officer or appointed designee.

Only the City Manager, City Department Directors, and designated Senior Staff members are authorized to carry a City credit card at all times. Gas and telephone credit cards may be assigned to specific individuals to carry at all times. City bank, gasoline, and telephone credit cards may be signed out by an employee authorized to purchase items. Once the purchase is complete, the credit card shall be returned. The following items shall be adhered to when making a purchase using a City credit card:

- 1.) All purchases and payments made by City credit cards must be properly budgeted or otherwise approved by Council action before the purchase or payment is made.
- 2.) All purchase and payments made by City credit card must result in a receipt or other sales acknowledgment. These must be signed legibly by the purchaser and approved by the appropriate Department Director.
- 3.) Signed receipts and sales acknowledgments must be forwarded to the Purchasing Division as soon as possible.

A City credit card may only be used to obtain a cash advance in extreme circumstances such as an emergency where the credit card cannot be used to pay for a purchase that must be made immediately. Any unused cash advanced shall be returned to the City along with the receipt. Such cash advance shall be followed with a written report to the City Manager which includes the name of the person receiving the advance, the amount of the advance, the location and date of the advance, and why the cardholder deemed it necessary to obtain the cash advance. The report shall be forwarded to the City Manager within five (5) workdays of the advance. All receipts must be turned in when the credit card is turned in.

No personal items shall be charged on any City credit card. Under no circumstances shall a single personal charge be made on a City credit card.

Procedures

The following are the procedures and responsibilities for **issuing** the City credit card.

- 1.) The Department Director designates a Cardholder. He/she must request the process by providing information on the Cardholder to the Purchasing Division.
- 2.) The Purchasing Division prepares the authorization forms and submits them to the City Manager.
- 3.) The City Manager reviews the forms and either approves or disapproves. Approved forms are then sent to the City's bank.

- 4.) The bank processes and issues the card to the City Manager.
- 5.) The Cardholder reads the conditions of the Credit Card Agreement, signs it, and submits it to the Purchasing Division.
- 6.) The City Manager issues the card to the Cardholder.
 - a. If the Cardholder is a Permanent Cardholder, the process ends here.
 - b. If the Cardholder is a Temporary Cardholder, the card must be returned to the City Manager no more than five (5) days after the appropriate purchases have been made.

The following are the procedures and responsibilities for the **use** of the credit card.

- 1.) The Cardholder verifies funds are available in the account for which the transaction should be paid. The Cardholder shall indicate the account number on the transaction slip.

If for some reason a transaction slip or receipt is not available or lost, a memorandum from the individual attesting to the exact expense may be approved by the Department Director.

- 2.) The Department Director forwards approved transaction slips to the Purchasing Division.
- 3.) The Purchasing Division reconciles monthly statements to the approved transaction slips and checks all account numbers and account balances. This includes matching approved transaction slips to the proper account and fund and verification of sufficient funds in the account.

If funds are not available, the Purchasing Division notifies the Department Director and retains the statement until funding arrangements are made.

If, for some reason, a transaction slip or receipt is not available or lost, a memorandum from the individual attesting to the exact expense may be approved by the Department Director.

- 4.) The Purchasing Division submits a monthly statement for payment.

SECTION 11: SPECIFICATIONS

It is the responsibility of each department to provide detailed, accurate specifications when requisitioning supplies, equipment, and services. Accurate specifications are essential for effective bidding. Specifications shall be developed prior to initiating a request for proposals when soliciting Professional or Consultant Services, before acquiring a good or service through the Open Market Procedure, as well as before initiating the Formal Contract Procedure. Additionally, specifications shall be reviewed and approved by the City Council as part of the

authorization necessary to go to bids under the Formal Contract Procedure. This authority may be delegated if the nature of the specifications warrants such an action.

Sole Source Specifications

Sole source specifications shall be avoided whenever possible, as they minimize or eliminate competition. The appropriate authority (City Manager if total purchase is less than \$25,000; City Council if total purchase is greater than or equal to \$25,000) may waive bidding requirements if sufficient written justification for a sole source purchase exists. An example of sole source is where equipment or supplies are required in order to be compatible with existing equipment or to perform a complex or unique function. Written documentation signed by the appropriate Department Director shall accompany the requisition for any sole source request.

Standardization

Standardization of specifications for items common to several divisions and/or departments can facilitate the purchasing process. The Purchasing Division and departments shall work together to establish standard specifications for such items.

Brand Name, or Equal, Specifications

In purchasing equipment or supplies needed to be compatible with existing equipment, or to perform complex or unique functions, the Purchasing Officer may limit bidding to a specific product type or brand name product.

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 rule applies.

Using 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 reserves the right to determine and approve any product submitted as an "or equal".

Vendor Assistance in Writing Specifications

There may be occasions when vendor assistance is required to develop a specification. Such specifications shall be written in general terms and the vendor shall be informed that the information they provide may be used to develop specifications for a competitive bid process. The vendor shall be allowed to submit a bid, but will not be given any preference over the other bids.

SECTION 12: PROFESSIONAL SERVICES – CONSULTANT SELECTION

Professional services are defined as those provided by a person or firm engaged in a profession based on a generally recognized special knowledge or skill, including, but not limited to, the professions of accountant, attorney, artist, architect, engineer, environmental consultant, dentist, physician, training or educational consultant, or surveyor, and whose services are considered distinct and unique to such a degree that bidding of such services should not be feasible. (AMC 3.04.300.)

California Government Code § 4525 (the “Mini-Brooks Act”) defines professional services for the purpose of a competitive selection process that does not have to be awarded based on a low bid for Public Works Project related services as 1. Architects, 2. Landscape Architects, 3. Engineers, 4. Environmental Consultants (services performed in connection with project development and permit processing in order to comply with federal and state environmental laws), 5. Land Surveyors and 6. Construction Managers (construction management services must be provided by a licensed architect, registered engineer, or licensed general contractor).

Contracts for professional services should be awarded on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required at a fair and reasonable price to the public agency, as well as any other specific selection criteria set forth in the Request for Proposals (RFP). The RFP shall state the relative importance of price and other factors and sub-factors if any. A statement in the RFP of the specific weighting to be used for each factor and sub-factor is recommended so that all bidders will have sufficient guidance to prepare their proposals. (ABA Model Procurement Code § 3-203). For such contracts, the price can be considered but may not be the sole determining factor. (California League of Cities, Municipal Law Handbook.)

No person, company, or subsidiary thereof who has been awarded a consulting services contract with the City for preparation of a request for proposal or call for bids or specifications may submit a bid for, or be awarded a contract for the provision of services, procurement of goods or supplies, or any other related action that is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract. The purpose of this prohibition is to avoid a conflict of interest or bias situation in which a contractor could draft specifications favoring its own products or capabilities. In this way, the City can be assured of getting unbiased advice as to the content of specifications it contracts with third parties to prepare and can avoid allegations of favoritism in the award of contracts.

California Government Code § 1090 prohibits City officers and Employees from having a financial interest in any contract “made” by them or by any board or body of which they are members. Virtually all board members, officers, Employees, and consultants of a public entity are considered public officials under Government Code § 1090. So in a case where a consultant is developing a scope of work for a future project, the creation of that scope of work is considered part of the “making” of the contract and defined by § 1090. As such, the consultant would be prohibited from submitting a proposal and/or being awarded a contract for the work. The League of Cities Municipal Law Handbook states the following on the subject:

“Caution must be exercised whenever a consultant advises an agency during the process of formulating a contract or a proposal for a contract and then wishes to be awarded the contract or to respond to the call for proposals. The mere status of the consultant as an independent contractor will not insulate the eventual contract from the application of Govt. Code § 1090.” (2017 edition of the Municipal Law Handbook, Pg. 179.)

Contracts entered into in violation of Government Code § 1090 are VOID and payment by the agency is prohibited. Willful violation of § 1090 by a public official or employee is a felony with a maximum fine of \$1000 or imprisonment and the official is “forever disqualified from holding any office in this state.” (California Government Code § 1097.) Consultants found to have violated Section 1090 are not subject to criminal prosecution, but are subject to civil and administrative penalties and even if the consultant does thousands of dollars worth of work under the contract, the City would be prohibited from paying him.

Selection of Consultants or Vendors for Professional Services (General)

The following criteria shall be used to determine approval authority for Professional Consultant Service Contracts:

- | | |
|--|------------------------------|
| • Contracts under \$5,000 | Department Director Approval |
| • Contracts above \$5,000 and under \$25,000 | City Manager Approval |
| • Contracts above \$25,000 | City Council Approval |

The appropriate Department Director, with the approval of the City Manager, shall prepare a scope of work or services consistent with budget and project authorization of the City Council. The Request for Proposal (RFP) shall outline the City requirements and project description as well as the due date for submittal. The list of solicited firms will be drawn from firms who, in the opinion of the Department Director, can perform the work. A Request for Qualifications (RFQ) may first be necessary if the required services are particularly specialized or if the qualifications of the available consultants are unknown. The list of solicited firms may be limited to between three and five due to time constraints or specialties involved.

The initial review of proposals shall be conducted by the involved Department Director(s), who shall make a recommendation to the City Manager regarding which consultants should be invited to interviews.

Interviews (Contracts less than \$25,000) will be conducted by the appropriate department staff members.

Formal interviews (for contracts above \$25,000) will be delegated by the City Council to a standing City Council Committee or appropriate Commission or formal Advisory Group which most closely deals with the subject matter of the proposal.

Qualifications should be the determining factor in the selection of a professional consultant. Staff shall then negotiate the final fee based upon the agreed scope of work.

Prior to approval of a contract, the Department Director of the Requesting or Using Department shall conduct appropriate background and reference checks and ensure that adequate bonding or security, if required, is posted.

Consultants shall comply with all regulations and laws dealing with conflict of interest disclosure and reporting. Consultants shall not be engaged if a conflict of interest exists.

Selection of Consultants or Vendors for Professional Services for Capital Improvement Projects

In general Capital Improvement Projects are most likely to fall within the category of a Public Project or Public Works Project as defined in and subject to the regulations contained in California Labor Code §§ 1720 – 1743, or California Public Contract Code §§ 20160 – 20174. These are excluded from the Purchasing System of the City. The exception is any project that is to be implemented following the “design-build” process through the selection of a qualified consultant, pursuant to California Government Code §§ 5956 – 5956.10.

Under the “design-build” process, a public project or public works project may be exempt from bidding requirements and other requirements provided that the work to be completed is to be paid through fee producing infrastructure. To this end, the following procedures shall be followed when selecting a consultant to perform “design-build” Capital Improvement Projects.

1. After the City Council adopts the next year’s Capital Improvement Plan (CIP), the City Manager shall develop a list of projects recommended for 1.) appropriate Council Committee review and interview of consultants, or 2.) staff to determine the selection of consultants or vendors.
2. The City Manager may delegate the responsibility to determine the appropriate Committee, Commission, or advisory group to a Department Director who will likely oversee the construction or implementation of the particular Capital Improvement.
3. Consultant or vendor selection shall be from a list of qualified professionals prepared by the appropriate Department Director responsible for the project.
4. If the project is to be reviewed by a City Council Committee or Commission or formal Advisory Group, a formal presentation and interview process will be arranged by the appropriate Department Director who reports to the particular Committee or Commission. The City Manager may also assign staff as appropriate in this process. If the project is to be reviewed by City staff, the City Manager will determine the RFP review process and who should be involved.

Selection of Consultants for Professional Services for Continuing Services

The following shall apply to the selection of professional services which are needed on a continuous or project by project basis.

Professional firms providing engineering, plan checking, land surveying, transit, planning, environmental, economic development, auditing, landscape architecture or other services may be retained on a continuing basis to provide professional services. The Department Director, with the approval of the City Manager, may contract on a project by project basis or on a retainer basis for additional work/services without going through the RFP and selection process. At least every three years, these arrangements shall be reviewed and every effort shall be made to receive proposals from at least three consultants to perform the same services. This is to ensure the City is receiving the best value and there is no stoppage in the provision of these services.

Beginning each fiscal year, the Purchasing Division shall make a written request to each Department Director to submit to the City Manager a list of consultants currently under contract by their department, setting forth name of firms, type of services, cost of contracts, length of contracts, and date entered into, and the number of years retained by the City.

Exclusions:

1. The process of selecting environmental impact report consultants for non-City projects shall be conducted by the Director of Planning and Redevelopment due to time restraints and application processing requirements. The final consultant selection and fee shall be reviewed and approved by the City Manager.
2. City Council shall also review and approve each bond issue in concept with approval for the selection of certain professional consultants, as needed, to be selected by the appropriate Department Director as approved by the City Manager.

Change Orders

Purchase Orders represent a contract between the City and the vendor/consultant. Any substantial change to a Purchase Order shall be documented as a change order. Change Orders shall be reviewed by the Department Director and shall be approved by the City Manager. A purchase order may not be increased by more than 10% or \$2,500, whichever is less, without a change order, except for taxes, shipping, and handling as discussed below.

Taxes, shipping, and handling may cause the purchase order to exceed the authorized purchase order amount. These items do not require a Change Order, even if they exceed 10% or \$2,500 or the original purchase order amount.

The Requisition Form shall be used to change a quantity, description, size, color, vendor name or address, unit price, delivery location, terms and conditions, and to delete or add to the order. It shall also be used to terminate a purchase order and to correct errors in the original purchase order.

The Change Order process shall follow the procedure outlined below:

1. Following the initial request for a change order, the Requesting or Affected Department Director evaluates the request and communicates the findings.
2. The Requesting Department then ensures necessary research is conducted and prepares specific instructions for contract revision.
3. All affected Departments are contacted. The instructions are sent to the City Manager for approval. If they are not approved, the instructions are revised. If they are, an initial requisition form is prepared with source data.
4. The requisition form is reviewed by both the Contractor or Vendor and the affected Departments. Any issues or insufficient information is rectified here.
5. Final revisions are prepared to the requisition form. The revised requisition form is sent to the affected Departments and the City Manager for approval. If the form is accepted, it is then sent to the Contractor or Vendor for secondary approval. If all revisions are approved, the final requisition form is released to all affected parties and the form is processed by the Purchasing Division. The contract is thus considered amended.
6. Change Orders of more than ten percent (10%) or \$2,500 shall require City Manager approval for consideration by the City Council.

SECTION 13: SURPLUS PROPERTY

The Purchasing Officer or his/her Designee is responsible for the transfer and disposition of surplus City property. "Surplus property" is used generically to describe any City property that is no longer needed or useable by a Using or Holding Department of the City. Surplus property procedures shall be carried out in accordance with the Atwater Municipal Code.

Each department shall review its equipment, material, and inventory at least once per fiscal year and report any surplus property to the Purchasing Officer. A surplus property form shall be completed and submitted for each surplus property item. Form A will be used for general surplus property. Form B will be used for surplus property that cannot be sold as described below.

The Purchasing Officer or his/her Designee has the authority to transfer surplus property between Departments or sell, trade in, exchange, or in some cases, destroy surplus property that is free of liens and encumbrances. All sales of surplus property of a value of \$5,000 or less may be made by the Purchasing Officer on the open market. Property of value greater than \$5,000 shall be sold by either acceptance of sealed bids in line with the rest of this Policy or by public auction. In the case of a public auction, the Purchasing Officer or his/her Designee may contract a licensed auctioneer in the name of the City.

The proceeds of any sale of surplus property shall go to the City's general fund, except when established accounting procedures require the deposit go to a special fund.

Transfer of Property to Other Agencies

The City Manager may transfer or convey the surplus property to another public agency or a quasi-public agency by sale, exchange, loan, or gift. Gifts to any agency cannot exceed the value of one hundred dollars (\$100) during any twelve-month cycle. A “quasi-public agency” for the sake of this Policy is a tax-exempt nonprofit corporation which is currently engaged in a public project financed in whole or in part by public funds pursuant to contract or grant agreement with a governmental agency, and the assets of which corporation upon dissolution will not be distributable to or for any private person or purpose.

The City Manager may also choose to transfer or convey the surplus property to civic, charitable, or educational institutions and agencies with the approval of the City Council.

Surplus Property Prohibited from Resale, Exchange, Loan, Gift, or other Conveyance

The following types of property, once deemed surplus, shall not be sold, exchanged, loaned, gifted, or otherwise conveyed to the public or other agencies unless mandated by California or United States law. They shall be properly destroyed, discarded, or eliminated as necessary. These types include the following:

- (1) Hazardous Waste
- (2) Chemicals
- (3) Damaged items that present a potential risk
- (4) Medical supplies
- (5) Regulated or controlled substances
- (6) Other materials, goods, or items that if sold present a liability to the City.

Property with Confidential Information

All property involving confidential information or equipment shall not be sold, exchanged, loaned, gifted, or otherwise conveyed to the public or other agencies unless mandated by California or United States law (e.g., subpoena, court order, etc.). Such property will be controlled by the appropriate City, state, and federal record policies.

Retired Police Dogs

Retired Police Dogs of the Atwater Police Department’s K-9 Unit present a financial liability to the City. These police dogs shall be returned to the original vendor or given to the dog’s handler or former handler without compensation.

Service Firearms

Peace officers may purchase their issued service firearm upon request. Specific criteria must be met for a peace officer to qualify. Please refer to Atwater Police Department policy.

Property of No Value

If the City Manager finds any surplus property to have no intrinsic value, is not usable, or is inappropriate for other uses; the City Manager has the authority to destroy the item.

SECTION 14: PROPERTY/INVENTORY CONTROL

Property or Inventory Control shall entail making and maintaining an inventory of all property owned by the City. The property will be categorized as personal (moveable) and real (not movable). Special control shall be exercised over personal property because it is moveable and thus capable of being misused, lost, or stolen.

The benefits of a property or inventory control system are numerous:

- (1) It prevents the acquisition of duplicate items,
- (2) It allows for equipment replacement schedules to be implemented,
- (3) Accountability is fixed so losses due to theft or negligence are more easily defined,
- (4) Surpluses and shortages within departments are more easily identified,
- (5) Transfer of equipment between departments is facilitated, and
- (6) Records provide an accurate basis for insurance claims.

All property with a value of one thousand dollars (\$1,000) or more and with an expected usage of five years or more shall be subject to the personal property control system.

To install a personal property control system, a physical inventory must first be conducted. A records system of the inventory must then be established in order to provide a continual update of all property.

The Purchasing Division shall cause to be taken an inventory and establish a records system. The Purchasing Division shall be responsible for the creation of an Inventory Control Policy.

SECTION 15: TRAVEL, REIMBURSEMENT, AND EMPLOYEE EXPENDITURES

For a purchase to qualify as a reimbursable purchase, the employee must write the purpose of the purchase and for whom and submit the request with a receipt or receipts to the Finance Department.

Travel

Travel conducted on behalf of the City will follow the policy and procedures outlined in the City of Atwater Travel Policy. Relevant purchasing information from that policy has been reproduced below.

Elected and appointed officials and public employees authorized to travel on official City business shall be reimbursed for actual and necessary expenses incurred for mileage, transportation, lodging and meals in addition to any regular City compensation to which they are entitled; provided, however, that the maximum amount(s) that shall be reimbursed are as follows:

1.) Transportation

Private Conveyance – See **Private Conveyance** below

Airplane Travel – Equal to or less than rates through the Enhanced Local Government Airfare Program of the California League of Cities, the California State Association of Counties, or the State of California.
Upgrade cost will not be reimbursed.

Carrier Services – Actual cost for taxis, buses, “Ubers”, trains, and other public Carriers

Vehicle Rental – Equal to or less than rates set by the State of California.

Vehicle Parking – Actual cost

Payment for service received (tips) in conjunction with travel such as taxi or shuttle service is recognized as a legitimate and reasonable expense, and can be included in the addition to the amounts herein but shall not exceed fifteen percent (15%) of the price of the travel service.

2.) Lodging

In the case that an overnight stay is reasonably necessary, the City will pay the cost of the hotel. If the event is held at a hotel, the employee shall stay at that hotel if possible. The actual cost is not to exceed \$150 per day for a single occupancy room rate. Room rates exceeding \$150 per day must be approved by the City Manager.

When the individual travels to attend a conference, seminar, or similar event, the maximum allowable reimbursement shall be the conference facility group room rate plus applicable taxes.

Except where necessary and where approved in advance by the Council, when possible, at a publicly noticed meeting, Public Officials will not be reimbursed for hotel expenditures incurred for events occurring within a fifty (50) mile radius of Atwater City Hall except where the event begins before 8:00 a.m. or ends after 10:00 p.m.

3.) Meals

Maximum Amount per Day	\$54.00
Individual Meals	
Breakfast	\$11.00
Lunch	\$15.00
Dinner	\$28.00

Payment for service received (tips) in conjunction with meals is recognized as a legitimate and reasonable expense, and can be added to the above amounts but shall not exceed fifteen percent (15%) of the price of the meal.

In line with the City of Atwater's Drug and Alcohol-Free Workplace Policy, alcoholic beverages are never an eligible expense.

Private Conveyance

Employees are encouraged to use City-vehicles for all travel. If this is not a viable option, conveyance by private vehicle may be allowed by the City Manager.

Employees using private means for authorized travel shall be reimbursed at the then-current IRS mileage rate. Mileage shall be measured from Atwater City Hall or the Public Official's home address, whichever is less; unless the Public Official is required to be at City Hall prior to leaving, in which case the City Hall address shall be used to measure miles. When a personal conveyance is used to carpool employees, the City Hall address shall be used.

Employees who regularly use their own vehicle for travel shall have public liability and property damage commercial insurance valued at a minimum of \$100,000/\$300,000 for bodily injury coverage and \$50,000 for property damage coverage. Employees who incidentally use their own vehicle for travel shall have public liability and property damage commercial insurance valued at a minimum of \$15,000/\$30,000 for bodily injury coverage and \$10,000 for property damage coverage.

Advance of Money

Individuals traveling on City business that involves an overnight stay may request a cash advance for the estimated travel and meal costs, excluding personal vehicle mileage. An approved written claim for cash advance shall be submitted to the Finance Department sufficiently early for the Finance Department to include the advance with regular check processing immediately prior to when the Public Official must leave. Advances cannot be made out of petty cash. Cash advances for travel and meal requests will be allowed only if adequate appropriations exist in the appropriate budget, and if the request has been signed by the Department Director and/or City Manager.

Claims for Travel Expenses

All reimbursement requests must be filed with the employee's Department Director within ten (10) days of the event. The employee shall complete a Statement of Expenses Form which must include:

- 1.) Date of departure at the commencement of travel, and date of return on completion of travel.
- 2.) Date of arrival at and departure from each city or location at which City business is performed.
- 3.) Receipts for all expenditures for lodging and all other expenditures, including meals, in sufficient detail, so as to establish the allowability of each element of the expense

claimed. If for some reason a transaction slip or receipt is not available or lost, a memorandum from the individual attesting to the exact expense may be approved by the Department Director.

- 4.) If the employee received a cash advance, the unused portion will be returned with the Statement of Expenses Form. However, this portion and the form must be returned to the Finance Department within two (2) business days of the employee's return.
- 5.) If unusual or unanticipated circumstances arise related to elected official travel, the City Council can approve exceptions to this policy.

City Credit Card or Purchase Card Use

Use of a City credit card or purchase card shall be permissible for the reimbursable expenses listed herein. The credit card or purchase card may not be used at any time for personal expenses, even if the Public Official reimburses the City. Use of the credit card or purchase card for personal expenses will be considered a violation of policy and will result in appropriate disciplinary action up to termination of employment.

Unallowable Expenses

Unauthorized expenditures, which shall never be reimbursed, include but are not limited to:

- 1.) Alcoholic beverages
- 2.) Political contributions
- 3.) Expenses of a spouse, child, pet or other companions
- 4.) Personal entertainment
- 5.) Theft, loss or damage to personal property
- 6.) Non-mileage personal automobile expenses including, but not limited to, repairs, personal insurance, gasoline, and traffic citations
- 7.) Barber, beauty, tailor, laundry & other similar personal services
- 8.) Airline or other trip insurance
- 9.) Personal postage, telephone calls, or reading materials

Expenses to be reimbursed by another agency, company, or group will not be considered for reimbursement.

Violations of this policy shall be handled as a violation of the City of Atwater Fraud Prevention and Control Policy. Violations may result in any or all of the following:

- 1.) Loss of all reimbursement privileges
- 2.) Demand for restitution to the City
- 3.) Disciplinary action up to termination of employment
- 4.) Any other applicable state and federal penalties, including criminal prosecution

For further information regarding travel, please refer to the City of Atwater Travel Policy or the Director of Human Resources.

Miscellaneous

Beverage Supplies

The City will reimburse for non-alcoholic beverage supplies if you supply beverages to the public during a City-related function or event.

In line with the City's Drug and Alcohol-Free Workplace Policy, alcoholic beverages are never reimbursable.

First Aid Supplies

Purchase of legitimate first-aid kit supplies for each City office is an allowable expense. Pain medication is not an allowable expense.

Refreshments for Staff Meetings

Reimbursement for the cost of minimal refreshments served at Employee-only staff meetings is considered an appropriate expenditure if approved by the Department Director or City Manager.

Interview Panels

Reimbursement may be received for the purchase of refreshments or lunch for participants of selection panels engaged in official City recruitment activities as approved by the Department Director or the City Manager. The title of the job recruitment and the persons serving on the panel must be documented on the receipt.

Sympathy Gifts

Departmental gives of flowers or other gifts sent in the event of a serious illness or death are considered PERSONAL expressions of sympathy and **will not** be reimbursed or paid for by the City. However, such gifts sent from the City at large may be paid for by the City out of the appropriate operating account as directed or approved by the City Manager.

Birthday Cakes and Gifts

Departmental gifts of flowers, cakes or other gifts in celebration of a staff member birthday are considered to be PERSONAL celebrations and **will not** be reimbursed or paid for by the City.

Staff Meal Reimbursements

Non-training or travel related meals involving staff can be reimbursed if the following conditions are met.

Staff meets with City Council member(s), Board and Commission member(s), or another non-Employee individual(s) subject to prior Department Director approval only when the meeting is business related.

On a very occasional basis, and only with Department Director approval, reimbursement can be made for a meal function that involves staff members only.

Meals will NOT be reimbursed if the public official or employee must stay in the evening to attend a meeting, i.e. Planning Commission meeting, City Council meeting, or any other special session.

Employee Recognition Programs

Departmental Directors may design some type of Employee recognition program for which the City will reimburse expenses within reasonable and budgetary limits.

Employee recognition awards determined to be taxable will be paid through the payroll system.

Reimbursement for Civic, Service, Professional Organizations or Professional Fees

Civil Service Organizations

The City will not reimburse any costs associated with Employee memberships in civic service organizations.

Professional Organizations

Membership in professional organizations that are directly related to an Employee's job may be reimbursed.

Professional Registrations, License or Certification

Costs for individual professional registrations, licenses, or certifications that are required for employment or provide a direct benefit to the City and enhance job performance are reimbursable.

Reimbursement for Personal Credit Card Use

Employees who regularly travel and/or purchase equipment, supplies, or services for the City are strongly encouraged to utilize the City credit cards rather than personal credit cards. If a personal credit card is used, all City purchasing policies must still be observed including spending limits and obtaining bids. The usage of a personal credit card should only be considered as an absolute last resort.

Please refer to Section 10 of this Purchasing Manual for more information.

Employees who excessively use a personal credit card for City purchases may be subject to a loss of reimbursement privileges.

Petty Cash

Reimbursement for purchases of \$25 or less may be handled through petty cash with appropriate documentation and approval of the Finance Director.

SECTION 16: DEFINITIONS

AGREEMENT	An understanding or arrangement between two or more parties. Also, see “ <i>Contract</i> ” and “ <i>Purchase Order</i> ”
APPROPRIATION	City Council authorization to expend public funds for a specific purpose.
AS IS	A term indicating that goods offered for sale in existing condition are without <i>Warranty</i> or <i>Guarantee</i> .
AWARD	The acceptance of a <i>Bid</i> , <i>Quote</i> , or <i>Proposal</i> .
BID	The executed document submitted by a <i>Bidder</i> in <i>response</i> to a <i>Notice Inviting Bids (NIB)</i> , a <i>Proposal</i> , or a <i>Request for Quotations</i> .
BIDDER	A person or legal entity who submits a <i>bid</i> in <i>response</i> to a solicitation. Proposer. See <i>Bid</i> or <i>Proposal</i> .
OPEN PURCHASE ORDER	An <i>Agreement</i> of no more than one year between the <i>City</i> and a <i>Vendor</i> allowing authorized <i>City employees</i> to charge repetitive <i>Purchases</i> of supplies, equipment, or services at pre-arranged prices, dollar limits, and/or other terms and conditions.
BRAND NAME	A trade name which serves to identify a product or particular manufacturer.
CHANGE ORDER	Written modification or addition to a <i>Purchase Order</i> or <i>Contract/Agreement</i> authorized by the appropriate authority.
CITY	<i>City</i> shall mean the City of Atwater, and other such districts, authorities, or agencies as may be governed by the members of the City of Atwater <i>City Council</i> .
CITY ATTORNEY	Shall mean and include the <i>City Attorney</i> of the City of Atwater.
CITY COUNCIL	Shall mean and include the <i>City Council</i> of the City of Atwater and the Board of Directors of the Housing and Non-Housing Successor Agency to the Atwater Redevelopment Agency. It shall also mean the governing boards of such other districts, authorities, or agencies as may be governed by the <i>City Council</i> of the City of Atwater.
CITY MANAGER	Shall mean and include the <i>City Manager</i> of the City of Atwater.
CITY CLERK	Shall mean and include the <i>City Clerk</i> of the City of Atwater.

COLLUSION WITH BIDDER OR VENDOR	Any secret agreement to purposefully be fraudulent or deceitful for purposes of influencing the outcome of a bid process or quote process. Collusion may occur between an agent, employee, or a representative of the City with a prospective <i>bidder</i> or <i>vendor</i> or, in some cases, one or more bidders or vendors may collude to manipulate a <i>purchase award</i> .
COMPETITIVE BIDDING	The submission of prices by individuals or firms competing for a <i>Contract</i> , privilege, or right to supply merchandise or services
CONFLICT OF INTEREST	The City's <i>Conflict of Interest</i> Code applies to each and every transaction entered into pursuant to the provisions of the Purchasing System and this manual. The Conflict of Interest Code adopted by the City of Atwater has adopted California Administrative Code § 18730 which contains a standard model and is adopted by reference by the City.
CONTRACT	A verbal or written, legally binding mutual promise between two parties, e.g., an accepted <i>Purchase Order</i> .
CONTRACT PURCHASE ORDER	A <i>Purchase Order</i> (usually issued for one year) which outlines unit prices to be charged by the <i>Vendor</i> for the term of the <i>Purchase Order</i> . This type of <i>Purchase Order</i> is generally used for such things as electrical, plumbing, and other goods and services which are anticipated to be needed periodically throughout the year. The <i>bids</i> are usually expressed at hourly rates plus parts expressed at specific <i>discount</i> below list price.
CONTRACT TRACKING FORM	A form used to communicate to the Purchasing Officer that a <i>Contract</i> has been awarded and that certain dollar values, representing the amount expected to be spent during the current and future fiscal years, are to be encumbered. This form precedes the issuance of an <i>Encumbrance Order</i> .
DESIGNEE	A duly authorized and appointed representative of an employee that holds a superior position to the person appointed to represent him or her.
DISCOUNT	An allowance or deduction from a normal or list price extended by a seller to a buyer to make the unit price more competitive.
DISPOSE OF	To transfer or part with, to sell; to get rid of; to throw out
EMERGENCY PURCHASE	See <i>Urgency Purchase</i>

EMPLOYEE	A person who is hired to provide services to the City of Atwater in exchange for a salary or wage and who does not provide these services as part of an independent business.
ENCUMBRANCE	Committed budgeted funds prior to receiving supplies, equipment, or services; funds are shown as an encumbrance until supplies, equipment, or services are received, at which time funds are actually expended.
ENCUMBRANCE ORDER	Direction provided to the Purchasing Division using a <i>Contract Tracking Form</i> to encumber contracts without the issuance of a <i>Purchase Order</i> .
EQUIPMENT	Personal property necessary to conduct the City's business, including, but not limited to, furnishings, machinery, vehicles, rolling stock, and other property used to conduct the City's business.
FORMAL BID	A <i>bid</i> which must be submitted in a sealed envelope and in conformance with a prescribed format, to be opened and announced at a specified time at a public opening.
GENERAL SERVICES	Services such as janitorial, uniform cleaning, maintenance, and other services for which the performance of such activities do not require any unique skill, special background, or training.
GUARANTEE	A pledge or assurance that something is as represented and will be replaced or repaired if it fails to meet the stated <i>Specifications</i> .
INFORMAL BID	Written or verbal <i>Quotations</i> for supplies, equipment, and services which pursuant to this Policy are not required to meet the formal bidding requirements. <i>Informal Bids</i> include unsealed written quotes, verbal quotes, and quotes received via fax.
LOWEST (RESPONSIVE AND) RESPONSIBLE BIDDER	The <i>bidder</i> submitting the lowest price and capable of performing the proposed <i>Contract</i> . See also <i>Responsive Bidder</i> and <i>Responsible Bidder</i>
LOCAL BIDDER / VENDOR	Any individual, partnership, or corporation which regularly maintains a place of business within the incorporated City Limits of the City of Atwater and has obtained a business license issued by the City of Atwater.
MALFEASANCE	An act which is, in itself, unlawful or unauthorized; acting in a manner wholly beyond one's jurisdiction.

MISFEASANCE	Performance of a lawful action (an action in one's jurisdiction) in an illegal or improper manner.
NON-FEASANCE	Failure to act when one has the affirmative duty or authority to do so.
NON LOCAL BIDDER/VENDOR	Any individual, partnership, or corporation which does not have a place of business within the incorporated City Limits of the City of Atwater.
NON-RESPONSIVE BID	A <i>bid</i> that does not conform to the essential requirements of the <i>Notice Inviting Bids</i> . Also called a non-conforming bid, or unresponsive bid.
NOTICE INVITING BIDS (NIB)	A formal notice published in the newspaper or elsewhere or sent directly to potential <i>bidders</i> , notifying them that the City is accepting bids for a specific purpose.
PROFESSIONAL SERVICES	Any work performed by an auditor, attorney, doctor, architect, engineer, land surveyor, construction project manager, appraiser, expert, or consultant, for example.
PROPOSAL	The executed document submitted by an offer or in response to a <i>Request for Proposals</i> (and the basis for subsequent negotiation).
PUBLIC CONTRACT CODE	Shall mean the <i>Public Contract Code</i> of the State of California.
PUBLIC PROJECT (Definition is from the California Public Contract Code)	<ul style="list-style-type: none"> a) A project for the erection, improvement, painting, or repair of public buildings and works. b) Work in or about streams, bays, waterfronts, embankments, or other work for the protection against overflow. c) Street or sewer work except for maintenance or repair. d) Furnishing supplies or materials for any such project, including maintenance or repair of streets or sewers.
PUBLICLY OWNED, LEASED, or OPERATED FACILITY	Any plant, building, structure, ground facility, utility system, real property, streets, and highways or other capital improvements for which the project is to be undertaken by the City.
PURCHASE	Renting, leasing, licensing, trading, or in any other way acquiring <i>Equipment</i> or <i>supplies</i> or <i>materials</i> or <i>services</i> is determined to be a purchase on behalf of the City of Atwater.
PURCHASE OFFICER	The <i>City Manager</i> or his/her designated representative.
PURCHASING DIVISION	The Finance Department of the City of Atwater

**QUALIFIED BIDDER
OR VENDOR**

A “qualified” bidder is a bidder that demonstrates the following characteristics:

- (1) Can provide product quality, fitness, and capacity for the required usage.
- (2) Has the ability, capacity, and skill to perform the contract or provide the service required.
- (3) Has demonstrated character, integrity, reputation, judgment, experience, and efficiency, particularly with reference to past purchases by the City or other public agencies.
- (4) Has the ability to perform within the time required.
- (5) Has shown quality of performance and/or of products provided in previous contracts or services with the city or other public agencies
- (6) Note: Previously documented incidents of unsatisfactory performance and/or unsatisfactory delivery, materials, or services may also result in a determination of unqualified.

QUOTATION

A statement of price, terms of sale, and description of goods or services offered by a prospective seller to a prospective *Purchaser*, usually for *Purchases* below the amount requiring formal bidding.

**REQUEST FOR
PROPOSAL (RFP)**

All documents, whether attached or incorporated by reference, for soliciting competitive *Proposals*. The *RFP* procedure permits negotiation of *Proposals* and prices as distinguished from *Competitive Bidding* and a *Notice Inviting Bids*. The procedure allows changes to be made after *Proposals* are opened and contemplates that the nature of the *Proposals* and/or prices offered will be negotiated prior to the *Award*.

**REQUEST FOR
QUOTATION (RFQ)**

The document generally used for seeking competition on small *Purchases* or on any *Purchase* that does not require competitive *Sealed Bidding*. Can be used for obtaining price and delivery information for *Sole Source* and emergencies. Also, see *Quotation*.

**RESPONSIBLE
BIDDER/VENDOR**

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

**RESPONSIVE
BIDDER**

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

SEALED BID	A <i>bid</i> which has been submitted in a sealed envelope to prevent its contents from being revealed or known before the deadline for the submission of all <i>Bids</i> ; required for <i>Formal Bids</i> .
SOLE SOURCE	An <i>award</i> for a commodity or service to the only reasonably known capable supplier due to the unique nature of the requirement, the supplier, or market conditions
SPECIFICATIONS	A description of what the <i>Purchaser</i> seeks to buy or accomplish and consequently, what a <i>Bidder</i> must be responsive to in order to be considered for <i>Award</i> of a <i>Contract</i> . A <i>Specification</i> may be a description of the physical or functional characteristics; or the nature of a supply or service. It may include a description of any requirements for inspecting, testing, or preparing a supply or service item for delivery.
SPLIT	<p>To divide a <i>Purchase</i> into two or more parts in order to avoid the requirements of the Purchasing Policy. This action is prohibited by this Policy.</p> <p><u>Example 1:</u> If a department knows it will use \$26,000 of a particular supply in one fiscal year and they place two orders six months apart to keep each order below the \$25,000 limit, the action is considered <i>Splitting</i> and is not allowed under this Policy.</p> <p><u>Example 2:</u> If a department hires ABC Engineering to prepare a fee study for \$8,000 and also hires the same company to oversee a capital improvement project for \$18,000, the action is not considered splitting.</p>
SURPLUS PROPERTY	Any city property that is no longer needed or usable by the holding department.
SUPPLIES	Office <i>supplies</i> , janitorial <i>supplies</i> , materials, goods, tools, or other commodities used in the general conduct of the City's business, excepting <i>supplies</i> or materials for a <i>Public Work</i> which is regulated under the <i>Public Contract Code</i> § 20160, et seq.
URGENCY PURCHASE	<p>A purchase which may be done without competitive bidding or obtaining quotes when time is of the essence and is made only for the following reasons:</p> <ul style="list-style-type: none"> (1) To preserve or protect life, health, or property; or (2) Upon natural disaster; or (3) To forestall a shutdown of essential public services.

**USING or
REQUESTING
DEPARTMENT**

An established department or division of the City of Atwater which shall utilize the goods, services, equipment, or other purchases which are to be obtained using the Centralized Purchasing System as established by the Atwater Municipal Code, Chapter 3.04

VENDOR

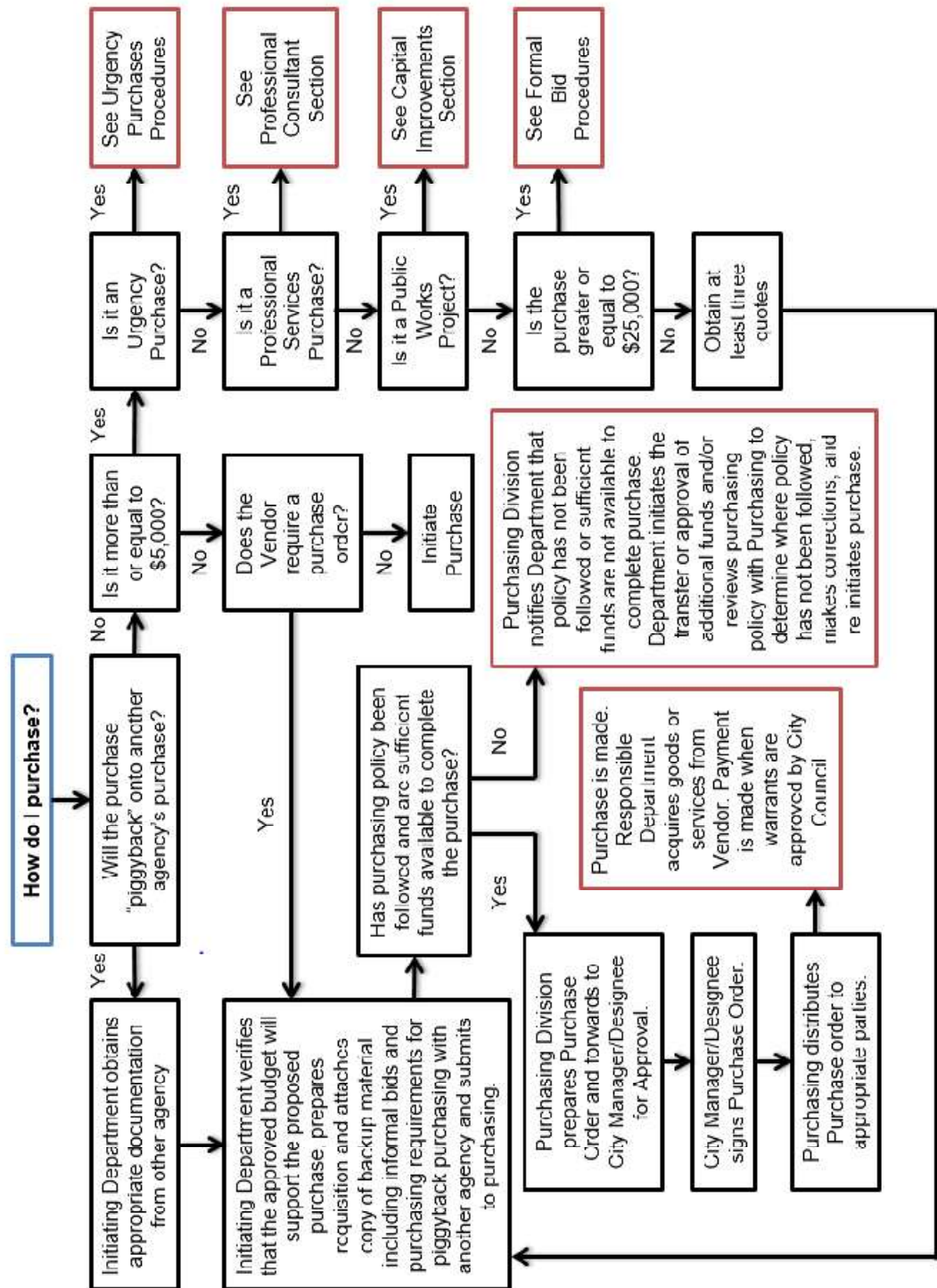
A supplier of goods or services.

WARRANTY

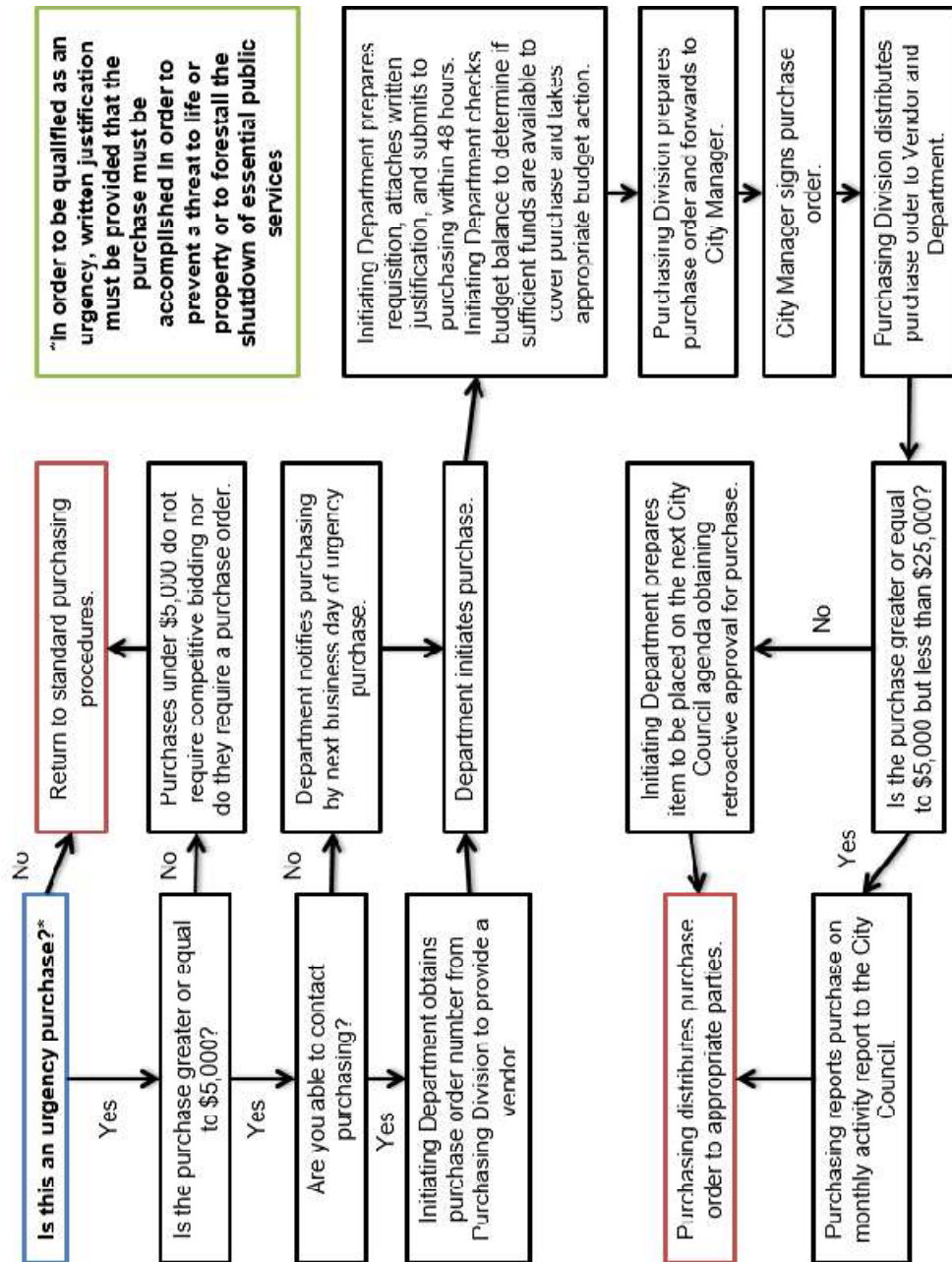
The representation that something is true. Not to be confused with “*Guarantee*”. A representation of utility, condition, and durability made by a *Bidder* or *Vendor* of a product offered.

APPENDIX I: PROCEDURE FLOW CHARTS

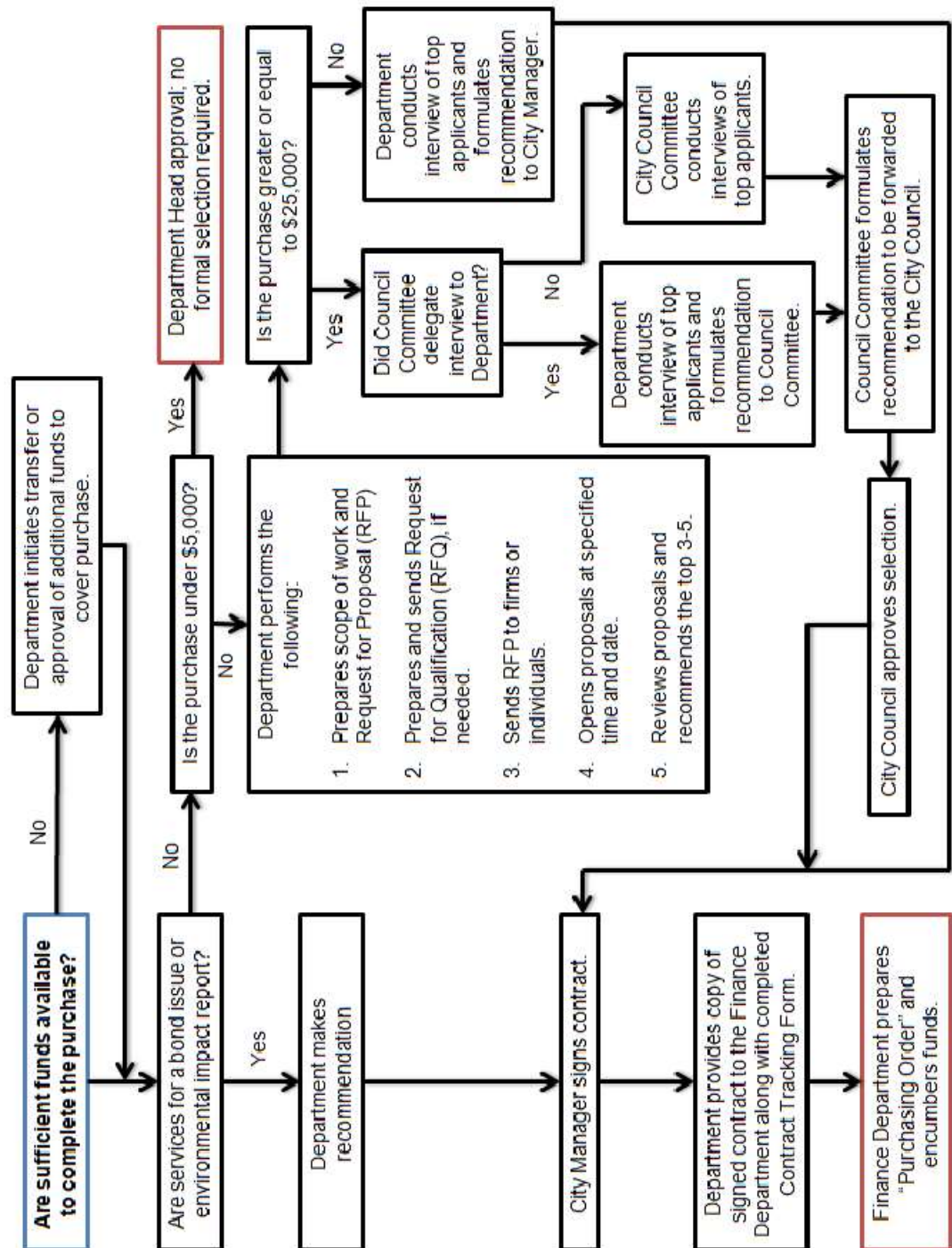
THE PURCHASING PROCESS



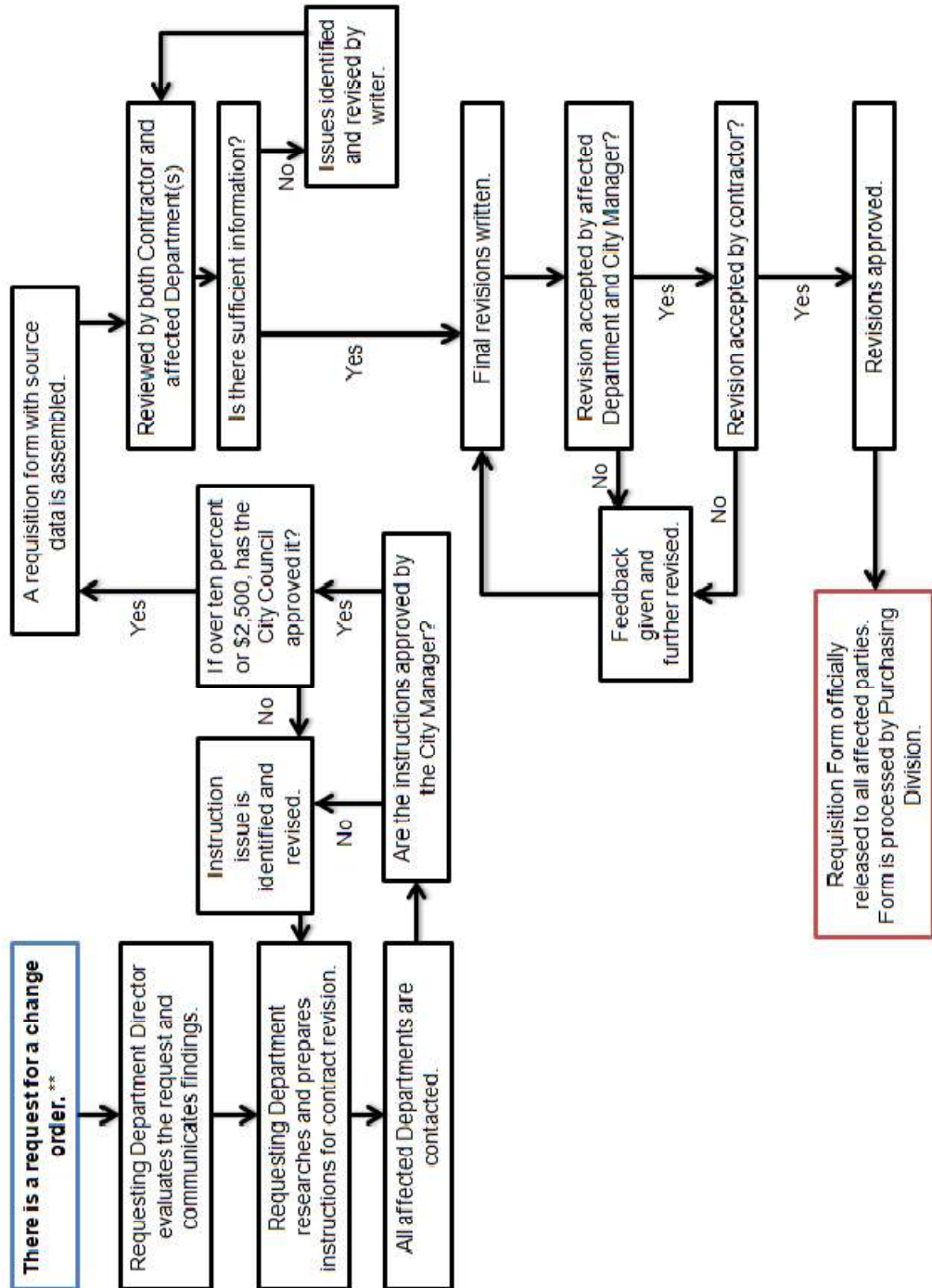
URGENCY PURCHASING PROCEDURES FLOWCHART



SELECTION OF CONSULTANT AND PROFESSIONAL SERVICES



CHANGE ORDER AND REQUISITION FORM PROCESS



APPENDIX II: APPLICABLE STATE LEGISLATION

STATE OF CALIFORNIA GOVERNMENT CODE

TITLE V, DIVISION 2, PART 1, CHAPTER 5, ARTICLE 7. PURCHASES OF SUPPLIES AND EQUIPMENT BY LOCAL AGENCIES [54201-54205]

http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?division=2.&chapter=5.&part=1.&lawCode=GOV&title=5.&article=7.

STATE OF CALIFORNIA PUBLIC CONTRACT CODE

DIVISION 2, PART 3, CHAPTER 1, ARTICLE 4. CITIES [20160-20174]

http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?division=2.&chapter=1.&part=3.&lawCode=PCC&article=4.

STATE OF CALIFORNIA PUBLIC CONTRACT CODE

DIVISION 2, PART 3, CHAPTER 2, ARTICLE 3. PUBLIC PROJECTS: ALTERNATIVE PROCEDURE [22030-22045]

http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?division=2.&chapter=2.&part=3.&lawCode=PCC&article=3.

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