

ORDINANCE NO. 2025-___

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MENIFEE, CALIFORNIA, REPEALING AND REPLACING
CHAPTER 3.12 AND REPEALING CHAPTER 3.30 OF THE
MENIFEE MUNICIPAL CODE TO CONSOLIDATE AND
REVISE PROCUREMENT PROCEDURES**

WHEREAS, Chapters 3.12 and 3.30 of the Menifee Municipal Code, adopted October 1, 2008, establish procedures for City of Menifee procurement of supplies, materials, and services; and

WHEREAS, in the delivery of municipal services to its residents, the City of Menifee must regularly engage in the procurement of a wide array of goods and services; and

WHEREAS, since 2008, the region has experienced overall cost increases reflected in annual Consumer Price Index (CPI) adjustments from 2008 to 2024 of 47.83% in aggregate, averaged at 2.81% per year, and in the last 5 years averaging 5.23% per year due to historical inflation levels; and

WHEREAS, since 2008, City of Menifee procurement operations have significantly increased in both budget and quantity; and

WHEREAS, the City Council of the City of Menifee desires to revise procurement procedures and regulations in a manner consistent with the increase in CPI in the region and growing procurement demand in the City, and to clarify and consolidate the procurement process; and

WHEREAS, the City Council of the City of Menifee further desires to streamline the City's procurement process by delegating increased administrative approval for certain procurements under an amount set by resolution of the City Council of the City of Menifee; and

WHEREAS, the City Council of the City of Menifee further desires to facilitate the procurement process by clarifying necessary procurement mechanisms and contract types based on the goods or services being procured, and provide general updates consistent with the City's procurement needs and best practices; and

WHEREAS, the City Council of the City of Menifee has determined that this Ordinance revising City procurement procedures is in the best interests of the citizens of the City and is important to the overall quality of life in the City; and

WHEREAS, the City Council of the City of Menifee has determined that the adoption of this Ordinance is not considered a "project" pursuant to the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (CEQA) and is otherwise exempt pursuant to the "common sense exemption" in section 15061 of the CEQA Guidelines; and

WHEREAS, the City Council of the City of Menifee desires to repeal and replace Chapter 3.12 within Title 3 of the Menifee Municipal Code, and repeal Chapter 3.30 within Title 3 of the Menifee Municipal Code to consolidate and revise the City's procurement procedures for goods and services; and

WHEREAS, on April 16, 2025, the City Council of the City of Menifee held a duly noticed public meeting at which time members of the public had the opportunity to review the documents presented to the City Council and provide oral comments to the City Council

concerning this Ordinance.

NOW, THEREFORE, the City Council of the City of Menifee, California does ordain as follows:

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

SECTION 2. Repeal and Replace of Chapter 3.12. Chapter 3.12 of Title 3 of the Menifee Municipal Code is hereby repealed in its entirety and replaced as set forth in Exhibit A, attached hereto and incorporated here in full.

SECTION 3. Repeal of Chapter 3.30. Chapter 3.30 of Title 3 of the Menifee Municipal Code is hereby repealed in its entirety.

SECTION 4. CEQA. The City Council of the City of Menifee finds that this Ordinance is exempt from CEQA pursuant to State CEQA Guidelines section 15060(c)(2) and 15061(b)(3) in that the proposed changes are not anticipated to result in a direct or reasonably foreseeable indirect physical change in the environment, nor will they have the potential of creating a significant effect on the environment.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. This Ordinance shall take effect 30 days from the date of its adoption.

SECTION 7. The City Clerk shall certify to the passage and adoption of this Ordinance, and shall cause to be published within fifteen (15) days after its passage in a newspaper of general circulation and circulated within the City in accordance with Government Code Section 36933(a) or, cause this Ordinance to be published in a manner required by law using the alternative summary and posting procedure authorized under Government Code Section 36933(c).

This ordinance was introduced and read on the 16 day of April 2025 and **PASSED, APPROVED, AND ADOPTED**, this ___ day of _____, 2025.

Attest:

Ricky Estrada, Mayor

Stephanie Roseen, City Clerk

Approved as to form:

Jeffrey T. Melching, City Attorney

EXHIBIT A

TITLE 3: REVENUE AND FINANCE

CHAPTER 3.12: PURCHASING & PROCUREMENT

Sections

- 3.12.010 ADOPTION OF CENTRALIZED PURCHASING SYSTEM
- 3.12.020 DEFINITIONS
- 3.12.030 AUTHORITY AND RESPONSIBILITY
- 3.12.040 ETHICAL STANDARDS FOR PURCHASING
- 3.12.050 DETERMINATION OF PURCHASING REQUIREMENTS
- 3.12.060 PURCHASING LIMITATIONS
- 3.12.070 COMPETITIVE INFORMAL BIDDING PROCEDURES
- 3.12.080 COMPETITIVE FORMAL BIDDING PROCEDURES
- 3.12.090 PUBLIC PROJECT BID PROCEDURE
- 3.12.100 LIST OF QUALIFIED CONTRACTORS
- 3.12.110 PUBLIC WORKS PROJECTS – PUBLIC/PRIVATE PARTNERSHIPS
- 3.12.120 BEST VALUE PURCHASING
- 3.12.130 EXEMPTION FROM BIDDING UPON DETERMINATION OF PURCHASING OFFICER OR CITY COUNCIL
- 3.12.140 PROFESSIONAL SERVICE CONTRACTS
- 3.12.150 AMENDMENTS AND CHANGE ORDERS
- 3.12.160 MEMORANDUM OF UNDERSTANDING (MOU) & MEMORANDUM OF AGREEMENT (MOA)
- 3.12.170 EMERGENCY PROCUREMENT
- 3.12.180 GRANT PURCHASES
- 3.12.190 DISPOSAL OF SURPLUS PERSONAL PROPERTY
- 3.12.200 REAL PROPERTY MATTERS
- 3.12.210 COOPERATIVE AGREEMENTS, PIGGYBACKING, AND MULTIPLE-AWARD BID PURCHASES WITH OTHER AGENCIES

§ 3.12.010 ADOPTION OF CENTRALIZED PURCHASING SYSTEM.

The following rules and regulations hereby are adopted governing the contracting for purchasing, storing, and distribution of all supplies, materials, services, and equipment required by any office, division, department, or agency, hereinafter termed any “agency,” of the city government.

The purpose of this chapter is to establish a centralized purchasing system within the Finance Department to create efficient procedures for the city to secure supplies, services and equipment at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases, to clearly define authority for the purchasing function through the use of purchase orders, contracts and other authorized procedures, and to assure the quality of purchases. Public works construction contracts and public projects are subject to compliance with California Uniform Public Construction Cost Accounting Act (CUPCCAA) (Pub. Contract Code, § 22000 et seq.) and Public Contract Code section 20160 et seq.. Public Project purchasing procedures are outlined within this chapter.

§ 3.12.020 DEFINITIONS.

- (A) The following words, terms, and phrases, when used in this policy, shall have the meanings described in this section, except where the context clearly indicates a different meaning:

CONTRACT. Any type of legally recognized agreement to provide goods, services or construction, no matter what it may be titled or described, including executed purchase orders, for the procurement or disposition of goods,

services or construction, but does not include any agreement for collective bargaining, utility extensions, subdivision improvement or any agreements whereby an owner of real property or his or her authorized representative agrees to construct improvements of a public nature on property dedicated to the city.

DEPARTMENT HEAD. The person who is designated by the City Manager as being responsible for each particular city department, including, but not limited to, City Clerk, Finance, Community Development, Community Services, Law Enforcement Services, Fire Protection Services, Information Technology, Human Resources, Risk, and Engineering / Public Works.

ENCUMBRANCE OF FUNDS. The process of reserving appropriations in the fund account that an issued purchase order can be charged against.

GOODS. Supplies, equipment, materials, and any other tangible items for sale.

GENERAL SERVICES. All services other than professional services and public projects, including but not limited to, maintenance, repair, landscaping, janitorial, clerical, and other services that do not require advanced or specialized knowledge, expertise, training or special skill, professional licensing, degree, or certification. General services do not include any services that are performed on a public project and required to be procured and awarded in compliance with the Public Contract Code. Where required by California law, general services contracts shall incorporate provisions related to the payment of prevailing wages for public works as that term is defined in Labor Code Section 1720 and similar provisions.

PROFESSIONAL SERVICES. Services that involve the exercise of professional discretion and independent judgement based on advanced or specialized knowledge, expertise or training gained by formal study or experience. Professional services include, but are not limited to, services provided by accountants, auditors, appraisers, attorneys, economists, finance advisors, insurance advisors, planning, and other specialized consultants.

PUBLIC PROJECT. A public project as defined in Public Contract Code Section 20161, including (1) the erection, improvement, painting, or repair of public buildings and works, (2) work in or about streams, bays, waterfronts, embankments, or other work for protection against overflow, (3) street or sewer work except maintenance or repair, and furnishing supplies or materials for any such project, including maintenance or repair of streets or sewers.

PURCHASE ORDER. A document issued by the city that authorizes the purchase of goods or services, and that is subject to the city's terms and conditions.

PURCHASING OFFICER. The person designated by City Council to have the authority and responsibility for the purchase of supplies, and equipment, general services, procurement of professional services, disposition of surplus personal property, and other procurement where authorized by this chapter.

REQUISITION. A document issued by city departments to request the purchase of supplies, equipment, professional, or general services and submitted to the purchasing unit of the finance department according to the regulations and procedures stated in this chapter.

SERVICES. The furnishing of labor, time or effort by an independent contractor or consultant.

- (B) The following are definitions of different purchasing methods the purchasing officer or designee may utilize based on the type of purchase:

SIMPLIFIED PROCUREMENT. A procurement process where at least three (3) informal written bids, quotes, or proposals must be obtained. City Departments shall solicit quotes from prospective vendors. The purchase order or contract for such purchases shall be awarded to the lowest responsive responsible vendor, consistent with quality, quantity, and delivery requirements.

COMPETITIVE BIDDING (FORMAL BIDDING). A procurement process where purchase of supplies and equipment shall be awarded to the lowest responsive responsible bidder pursuant to the formal bid procedure hereinafter prescribed when the estimated value of the purchase exceeds an amount set by resolution of the City Council.

COMPETITIVE BIDDING (INFORMAL BIDDING). A procurement process where purchase of supplies and equipment shall be awarded to the lowest responsive responsible bidder pursuant to the informal bid procedure hereinafter prescribed when the estimated value of the purchase exceeds an amount set by resolution of the City Council.

REQUEST FOR PROPOSAL (RFP). A procurement process for professional services by which vendors respond to a Request for Proposal (RFP) published by the city and inviting prospective vendors to respond. Contracts shall be awarded based on the demonstrated competence of the contractors, the contractor's professional qualifications necessary for the satisfactory performance of the services required, and the fairness of the cost of services to the city. Contracts shall not be awarded based solely on the basis of cost.

REQUEST FOR QUALIFICATIONS (RFQ). A procurement process to pre-qualify vendors for a subsequent Request for Proposal (RFP), a qualified short-list and/or a subsequent bidding process. Pre-qualified vendors may be listed on an eligible list and may be invited to subsequent procurement actions.

COOPERATIVE, PIGGYBACKING, AND MULTIPLE AWARDED BID PURCHASE WITH OTHER AGENCIES. A procurement process where the contract is awarded through another contract competitively awarded by another government agency or a cooperative agreement that includes other government agencies.

SOLE SOURCE, SOLE BRAND, AND EXEMPTIONS FROM COMPETITIVE BIDDING. A procurement process where sole source, sole brand, and other exceptions or limitations to the competitive bidding as set forth in this chapter are determined to be in the city's best interests.

§ 3.12.030 AUTHORITY AND RESPONSIBILITY.

- (A) The authority and responsibility for the purchase of supplies, equipment, general services, procurement of professional services and disposition of surplus supplies and equipment is vested in the City Manager and City Council. The City Manager is the purchasing officer and may designate another city employee to serve as the purchasing officer and delegate to that person the duties and responsibilities imposed by this chapter on the purchasing officer. The purchasing officer may promulgate rules and procedures necessary to carry out the responsibilities of this chapter. The purchasing officer shall have the authority to:
- (1) Purchase or contract for supplies and equipment required by any using agency in accordance with purchasing procedures prescribed by this chapter, such administrative regulations as the Purchasing Officer shall adopt for the internal management and operation of the purchasing division and such other rules and regulations as shall be prescribed by the City Council or the City Manager.
 - (2) Negotiate and recommend execution of contracts for the purchase of supplies and equipment.
 - (3) Act to procure for the city the needed quality in supplies and equipment at the least expense to the city.
 - (4) Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases.
 - (5) Prepare and recommend to the City Council rules governing the purchase of supplies and equipment for the city.
 - (6) Prepare and recommend revisions and amendments to the purchasing rules.
 - (7) Keep informed of current developments in the field of purchasing, prices, market conditions and new products.
 - (8) Prescribe and maintain such forms as are reasonably necessary for the operation of this chapter and other rules and regulations.
 - (9) Supervise the inspection of all supplies and equipment purchased to ensure conformance with specifications.
 - (10) Evaluate contract services performed to determine conformance with the specifications set forth in the contract.
 - (11) Recommend the transfer of surplus or unused supplies and equipment between departments as needed.
 - (12) Maintain an approved vendors list, vendors catalog file and records needed for the efficient operation of the purchasing division.
 - (13) Consider and encourage the purchase and use of environmentally friendly, "green" and recyclable materials and products, whenever practicable.
- (B) The head of each city department is responsible for the overall performance of the department contracts, including but not limited to, contract administration, monitoring of deliverables, and contract requirements for that department while ensuring compliance with purchasing policies and procedures set forth in this chapter.

§ 3.12.040 ETHICAL STANDARDS FOR PURCHASING.

- (A) The purpose of this section is to set forth the ethical standards of professional behavior expected of all officials and employees conducting purchasing activities on behalf of the city. The purchasing officer and all designees thereof shall adhere to the following standards of conduct when performing purchasing activities on behalf of the city:
- (1) Consider and prioritize the interests of the city in all transactions.
 - (2) Carry out the city's purchasing policy as adopted by this chapter.
 - (3) Do not engage in prejudicial or discriminatory behavior when making purchasing decisions.
 - (4) Respect obligations to others and require the same respect from others for their obligations.
 - (5) No employee, officer or agent of the City may participate in the selection, award, or administration of a contract if he or she has a real or apparent conflict. A conflict of interest includes any circumstances under which the employee, officer or agent or any member of his or her immediate family, his or her partner, or an organization that

employs or is about to employ any of those parties, has a financial interest in or a tangible personal benefit from a vendor considered for a contract.

- (6) No employee, officer or agent of the city may accept gifts, rebates, kickbacks, personal services, or in any way incur personal gain from a vendor, or potential vendor, doing business with the City. The purchasing officer and designees are specifically prohibited from furnishing services or information not available to all prospective bidders or to the public, or causing such services or information to be furnished, to any person or entity bidding on reasonably expected to bid on a contract with the city, or providing confidential information to persons to whom issuance of such information has not been authorized.
- (7) A vendor that develops or drafts specifications, requirements, statements of work, invitation for bids, or requests for proposals for a procurement must be excluded from competing for that procurement.
- (B) Each employee engaged in purchasing activities on behalf of the city is responsible for the standards prescribed herein. Violation of these standards may result in disciplinary action, termination of employment or criminal prosecution against the employee. The City Manager and department heads must ensure that all employees within their respective department who conduct purchasing activities are aware of and thoroughly understand the ethical standards of conduct in purchasing and the prohibited practices prescribed in this chapter.

§ 3.12.050 DETERMINATION OF PURCHASING REQUIREMENTS.

- (A) The adopted budget for each department for each fiscal year shall include funding for the necessary supplies, services, and equipment for that department during the fiscal year. Except in cases of emergency, the City Manager shall not issue any purchase order for supplies, services, equipment, or any other matter unless there exists an unencumbered appropriation in the department account against which the purchase is to be charged.
- (B) Each department head or designee shall ensure that sufficient documentation is submitted to the purchasing officer, with a request for purchase to demonstrate compliance with these policies and procedures and to justify the acquisition.
- (C) Departments shall submit requests for supplies, equipment, or services of estimated value greater than the amounts prescribed by City Council resolution to the purchasing officer or designee by standard requisition procedure. Except as otherwise provided in this chapter, no purchase order shall be issued unless the prior approval of the purchasing officer or designee has been obtained.
- (D) In addition to administering these policies and procedures and only to the extent permitted by the procurement procedures of this chapter, the purchasing officer and each department head shall, in awarding contracts or issuing purchase orders, first consider sources of supplies and equipment located within the city or those businesses owned by local veterans. The City Council has encouraged all residents and businesses located within the city to shop locally at businesses located in the city. In keeping with this policy, the purchasing officer shall make every attempt to purchase supplies and equipment from city businesses in accordance with this chapter. The purchasing officer shall maintain a list of city vendors offering the types of supplies and equipment used by the city and shall circulate this list to all city departments. The purchasing officer or City Council may give preference to local businesses or local veteran owned businesses when awarding any contract or issuing any purchase order when the proposal/bid meets any of the following criteria to the extent allowed by law:
 - (1) The difference between proposal/bid from local bidders or local veterans owned businesses and those outside the city is less than two and half percent (2.5%) for local businesses or five percent (5%) for local veterans owned businesses of the price the city would receive from other non-local bidders or non-local veterans.
 - (2) The local business or local owned veteran business will be able to provide goods which are equal in quality and meet all bid specifications of the city and of other competing proposers/bidders.
 - (3) A reasonable condition of the contract performance is expeditious delivery of goods and it is reasonably believed that the local business or the veteran owned business will be able to provide its goods more expeditiously than a business located outside the city.
 - (4) Any other reason that would factually justify selection of a local business or local veteran owned business based upon criteria that do not illegally discriminate against outside businesses.
 - (5) This subsection (D) shall not apply to any public project required by California law to be publicly bid and let to the lowest responsible responsive bidder.
- (E) The purchasing officer or designee may refer any procurement to the City Council for review and approval.

§ 3.12.060 PURCHASING LIMITATIONS.

For the purchase and/or lease of supplies, equipment, general, and professional services, the purchase orders and award of contracts for which there are appropriated funds in the City Council approved budget may be authorized by the City Manager based on levels prescribed by City Council resolution. Required purchase orders or contracts for purchases shall be based on the levels prescribed by the City Council resolution. The purchasing officer or designee will execute such contracts and/or

purchase orders based on the criteria of this chapter, pertinent resolution(s) and policies and subject to approval as to form by the City Attorney. Where the amount of any such contract exceeds amounts as the City Council designated by resolution, the contract shall be approved by the City Council, subject to approval as to form by the City Attorney.

§ 3.12.070 COMPETITIVE INFORMAL BIDDING PROCEDURES.

For purchases of supplies, equipment or general services with a value prescribed by City Council resolution, at least three bids must be obtained; and the applicable department shall solicit bids by written request to prospective vendors. Further, the purchase order or contract for those purchases shall be awarded to the lowest responsive responsible vendor, consistent with the quality, quantity and delivery requirements. The lowest responsive responsible bidder shall be determined by such factors as reputation, ability, references, quality of supplies and equipment, and price. Bids shall be submitted to the purchasing officer, who shall keep a record of all informal orders and bids for a period of six months after placement of the order. This record, while kept, shall be open to public inspection.

§ 3.12.080 COMPETITIVE FORMAL BIDDING PROCEDURES.

Contracts for supplies, equipment and general services of estimated value greater than the amounts prescribed by City Council resolution shall be let by the formal procedures set forth herein.

- (A) The purchasing officer shall mail notices inviting formal bids. The notices shall be mailed to all qualified vendors on the bid list or who have requested their names be added thereto, unless the products or service is proprietary.
- (B) The notices shall be mailed no later than 10 calendar days before the opening date of the bids. The notices shall describe the supplies and equipment in general terms, how to obtain more detailed information, and state the time and place for submission of bids.
- (C) The notice inviting bids shall be published at least 10 calendar days before the date of opening of the bids. Notice shall be published in a newspaper of general circulation, printed and published in the city or, if there is none, it may be posted in at least three public places in the city that have been designated by ordinance as the places for placing public notices, or it may be published in a newspaper circulated in the city.
- (D) The City Clerk shall also post a notice of pending purchases on a public bulletin board at City Hall.
- (E) Sealed bids shall be submitted to the City Clerk and shall be identified as bids on the envelope. Bids shall be opened in public by the City Clerk or designee at the time and place stated in the public notices. A tabulation of all bids shall be open for public inspection during regular business hours for a period of not less than 30 calendar days after the bid opening.
- (F) Contracts shall be awarded by the City Council to the lowest responsive responsible bidder except as otherwise provided herein. The decision of the City Council shall be final.
- (G) In its discretion, the City Council may reject any bids presented, abandon the purchase or advertise again. After rejecting the bids submitted, the City Council may either advertise again or adopt a resolution by a four-fifths majority declaring that the supplies or equipment can be furnished at a lower price in the open market and may award the contract in the open market without further compliance with this section.
- (H) If two or more bids received are the same and are the lowest, the City Council may accept the one it chooses.
- (I) If no bids are received, the purchase may be let in the open market or by the informal procedures set forth in § 3.12.050.
- (J) The City Council shall have the right to waive any defect or informality in the bidding or in the procedures set forth in this section. A waiver of any defect or informality shall not void any contract subsequently entered into.

§ 3.12.090 PUBLIC PROJECT BID PROCEDURE.

Contracts for public projects shall be awarded consistent with, and pursuant to, the procedures set forth in the CUPCCAA, and the bidding procedures in Sections 3.12.070 and 3.12.080 shall not apply. The public project procurement method is set forth below:

- (A) Open Market Purchases and Contracts/Small Procurements. The City Manager or designee may award written contracts for public works projects with a value equivalent or less to the amounts pursuant to open market purchase limit set forth in Public Contract Code section 22032(a) as the same may be legislatively adjusted from time to time. Such work may be performed by city employees, or by force account, negotiated contract, or purchase order. All requirements of State law otherwise applicable to public works projects governed by this subsection shall apply to such projects.
- (B) Informal Solicitation Contracts. The City Manager or designee may use the procedure set forth in this subsection for public project contract awards with a value equivalent to or less than the amounts pursuant to Public Contract Code section 22032(b).
 - (1) The city may maintain a list of all qualified contractors, identified according to categories of work. The criteria for

development and maintenance of the contractors list shall be as determined by the California Uniform Construction Cost Accounting Commission.

- (2) Not less than 10 calendar days before bids will be due, the City Manager or his or her designee, shall issue a bid invitation notice by mail, fax, or email to all qualified contractors on the list for the category of work being solicited or to all trade journals specified pursuant to Public Contract Code section 22036, or both, unless the product or service is proprietary. The notice shall describe the project in general terms and how to obtain more detailed information about the project and shall state the time and place for submission of bids.
 - (3) All received bids that are timely shall be evaluated by the city for responsiveness and responsibility.
 - (4) The City Council may award the contract to the lowest responsive and responsible bidder or shall reject all bids. If all bids are rejected, then the City Council may cancel the procurement, or the City Manager may re-bid the project with or without revisions.
 - (5) If all offers received are in excess of the public works project informal solicitation limit specified in Public Contract Code section 22032 as the same may be amended, then, by adoption of a resolution by four-fifths vote, and upon determining that the city's cost estimate was reasonable, the City Council may award the contract to the lowest responsive and responsible bidder in an amount up to the limits specified in Public Contract Code section 22034 as the same may be legislatively adjusted from time to time.
- (C) Formally Bid Contracts. The City Manager or designee shall use the formal solicitation procedure set forth in the CUPCCAA for award of public works project contracts that exceed the limits specified in Public Contract Code section 22032(c) as the same may be legislatively adjusted from time to time. See Public Contract Code sections 22037, 22038, and 22039.
- (D) Public Works Split. A public project may not be split into separate work orders or projects to avoid bidding requirements.
- (E) Award and Execution. The City Manager or designee is authorized to award and enter into contracts pursuant to subsection (A) and (B) of this section provided there exists an unencumbered appropriation in the fund account against which the expense is to be charged. Except as set forth in subsection (A) of this section, all public project contracts shall be memorialized by both a written contract and a purchase order. Any such purchase order may be executed by the purchasing officer or designee as applicable. All other public project contracts shall be awarded by the City Council and may be executed by the mayor or City Manager or designee.
- (F) Administration. Public project contract administration is the responsibility of the public works/engineering, community services or managing department for the specific project.
- (G) Delegation of Design Approval Authority. The City Manager, designee, or the director of public works/engineering is authorized to approve plans or designs for purposes of design immunity pursuant to Government Code section 830.6, for all public projects approved by the City Manager or designee. Nothing in this section is intended to, nor will it, preclude the City Council from separately or additionally approving plans or designs for purposes of design immunity pursuant to Government Code section 830.6.
- (H) Emergency Procurements. In cases of emergency when repair or replacements are necessary, the city may proceed in compliance with Public Contract Code section 22035, or any successor statute.
- (I) Design-Build Procurements. Except as otherwise set forth in this section, the provisions of Public Contract Code section 22160 et seq. and Public Contract Code section 21185 et seq., authorizing cities to utilize design-build procurement and progressive design-build procurement on designated public works projects, are hereby adopted and incorporated by reference as if fully set forth herein. Design-build and progressive design-build contracts may only be used for public works projects valued equivalent or in excess of the threshold limits pursuant to Public Contract Code sections 22160 et seq. and 21185 et seq. as applicable, which amounts may be legislatively adjusted from time to time. Utilization of design-build procurement must be approved by the City Manager prior to commencement of the competitive solicitation process for any authorized public works project.

§ 3.12.100 LIST OF QUALIFIED CONTRACTORS.

- (A) The City Manager or City Engineer shall develop a list of qualified contractors, eligible to submit bids on informal contracts awarded by the city pursuant to Public Contract Code section 22034 or successor provision. In developing the list, the City Manager or City Engineer shall obtain from the contractor's State License Board, and from construction trade associations in the county, names and addresses of qualified contractors located in the county and shall comply with other requirements of the Department of Industrial Relations. The list shall be organized with the license classifications of the contractor's State License Board.
- (B) The City Manager or City Engineer shall publish annually, in all those construction trade journals identified by the contractor's State License Board in accordance with Public Contract Code section 22036, notice that the city has elected to become subject to the CUPCCAA procedures, that it maintains a list of contractors qualified to submit bids on informal contracts, and of the city office to contact for all information necessary for a qualified contractor to be included on the list.

(C) Any licensed state contractor upon request may be added to the list at any time.

(D) The City Manager or City Engineer shall develop and provide to contractors applying for inclusion on the list a simplified form requesting the applicant's name, address and state contractor's license number and classification.

§ 3.12.110 PUBLIC WORKS PROJECTS- PUBLIC/PRIVATE PARTNERSHIPS.

The City Council may authorize the city to enter into agreements with private entities for use of private sector investment capital for the studying, planning, design, developing, financing, construction, maintenance, rebuilding, improvement, repair, or operation, or any combination thereof, for infrastructure projects pursuant to Chapter 14 of the Government Code, beginning with section 5956 (the "Infrastructure Financing Act") in lieu of the other procedures specified herein.

§ 3.12.120 BEST VALUE PURCHASING.

As an alternative to the competitive process set forth in Section 3.12.070 and 3.12.080 for purchase of supplies, materials, furnishings, equipment, vehicles, rolling stock, general services and other items when design, performance, aesthetics and similar factors preclude award of a contract solely on the basis of lowest responsive and responsible bid, and with the exception of the public projects, which are subject to Public Contract Code bidding requirements, the City may utilize a best-value purchasing process. "Best value" means a procurement process based on objective criteria for evaluating the bids with the resulting selection representing the best combination of price, quality, suitability and other factors as set forth in the solicitation for bids. Such a process may be utilized for the purchase of supplies, materials, furnishings, equipment, vehicles, general/maintenance services, rolling stock and other items if it meets the following criteria:

- (1) It is in the best interest of the City;
- (2) It is to the City's economic advantage; and
- (3) It was competitively awarded using a process that complies with the policies, rules and regulations adopted and approved by the purchasing officer or designee.

§ 3.12.130 EXEMPTION FROM BIDDING UPON DETERMINATION OF PURCHASING OFFICER OR CITY COUNCIL.

(A) The bidding requirements set forth in this chapter may be waived for any contracts not involving a public project, at the discretion of the purchasing officer or designee, when any of the following is applicable:

- (1) The product is proprietary.
- (2) After a reasonable attempt has been made to obtain bids, and it has been determined by the purchasing officer that three bids cannot be obtained.
- (3) The purchasing officer finds that emergency conditions require the immediate purchase of supplies or equipment. For the purpose of this section, emergency purchases are those procurements required to prevent the immediate interruption or cessation of necessary city services or to safeguard life, property or the public health and welfare.
- (4) The purchasing officer determines that due to the nature of the supplies or equipment, formal bidding is not likely to result in the lowest price.
- (5) Sufficient satisfactory bids are not received.
- (6) Supplies or equipment are procured through a cooperative purchasing program with the federal, state, county or other public agencies.
- (7) The commodity is unique, including, but not limited to, acquisition of data processing, telecommunications and word processing equipment, goods and services.
- (8) The product or service can be obtained from only one vendor (sole source).
- (9) The purchase of a specific brand name, make or model is necessary to match existing city equipment or facilitate effective maintenance and support or maintain consistency.
- (10) The purchase is from a utility provided by another government agency.
- (11) The fees assessed, services provided, or acquisitions of supplies and/or equipment originate from another government agency, this includes mutual contractual agreements, joint power authorities, and memberships with other government agencies.
- (12) The purchase of legal advertising and noticing in the local newspapers.
- (13) Executing legal services contracts, including without limitation the services of outside counsel, consultants, and other experts needed for litigation, administrative, or other legal proceedings and legal services provided by entities and law firms participating in a risk pool such as the California Intergovernmental Risk Authority (CIRA).
- (14) Paying of debt services and related administrative expenses.

- (15) The processing of land and property acquisitions, subject to approval by City Council.
 - (16) Payment of membership dues with professional organizations.
 - (17) Paying all travel- and training-related costs as these are regulated by the city's travel policy.
 - (18) When purchasing used equipment due to the lack of availability of new equipment or if the cost, functionality, or other operational needs of the used equipment is more efficient and in the best interest of the city.
 - (19) The acquisitions of information technology supplies, equipment, subscriptions, or services including but not limited to, the acquisitions of software and related services. Selection shall be based on the basis of requirements and specific evaluation criteria established by the city which result in the best value to the city. Purchases and contracts pursuant to this subsection shall require approval from the purchasing officer or designee.
- (B) The bidding requirements of this chapter may be waived by the City Council for any contracts not involving a public project when, in the opinion of the City Council, compliance with the procedures is not in the best interest of the city.
- (C) Where bidding requirements are waived pursuant to this section, the purchasing officer or City Council may award the contract based on sole-source procurement, simplified procurement, best value, or any other legal procurement method.

§ 3.12.140 PROFESSIONAL SERVICE CONTRACTS.

- (A) Contracts awarded for the professional services shall be awarded by the City Council or purchasing officer on the basis of the demonstrated competence of the consultant, and on the consultant's professional qualifications necessary for the satisfactory performance of the services required, and on the fairness and reasonableness of the cost of the services to the city, and shall not be awarded solely on the basis of cost. The competitive formal bidding requirements set forth in Section 3.12.080 are not applicable to the procurement of professional services. The professional services are classified into several categories based on their size. The dollar thresholds for these categories will be listed and prescribed by a City Council resolution.
- (B) Subject to compliance with the procedures set forth in this section, the Purchasing Officer or designee may enter into and execute contracts or purchase orders for professional services when the cost of the services is within the levels prescribed by City Council resolution. The purchasing officer or designee will execute such contracts and/or purchase orders based on the criteria of this chapter, pertinent resolution(s) and policies and subject to approval as to form by the City Attorney. Where the amount of any such contract exceeds amounts as the City Council designated by resolution, the contract shall be approved by the City Council subject to approval as to form by the City Attorney. The City Council may authorize that the contracts be executed by the City Manager.
- (C) Notwithstanding the above provisions of this section, all contracts for the performance of the annual audit of the city's financial statements shall be competitively bid by obtaining at least three proposals for providing the required services, evaluating the proposals pursuant to criteria set forth in divisions (A) and (B) above, and awarding the contract based on the best proposal.
- (D) In accordance with Resolution No. 21-1073 approved at the September 15, 2021, City Council meeting, the City Manager is authorized to execute professional services agreements and subsequent amendments between the city and the approved environmental firms to provide on-call environmental and planning consulting services for privately funded development projects for compliance with California Environmental Quality Act (CEQA) without a dollar limit. Procurement of such professional CEQA consulting services shall adhere with established policy. There is no fiscal impact on the city as all associated costs are recoverable by developers.

§ 3.12.150 AMENDMENTS AND CHANGE ORDERS.

Following the award of a contract or issuance of a purchase order, the contract or purchase order may be amended by the issuance of a contract amendment or change order, provided the change is reasonably related to the scope of the original contract. The purchasing officer or designee will maintain control relative to the scoping, estimating and negotiating of the proposed change(s) and the Chief Financial Officer (CFO) will certify the availability of funds for the proposed change in the event that the amendment or change order increases the contract cost. On a quarterly basis, a report will be submitted to the City Council outlining all contract amendments and/or change orders that have been issued to contracts governed by this chapter during the reporting period. The purchasing officer or designee shall authorize amendments or change orders if the aggregate cost is within the prescribed thresholds designated by City Council resolution. Any amendment or change order in an amount greater than those amounts prescribed by resolution shall be approved by the approval authority for the aggregate cost of the contract as-amended. Any time extension of the performance deadline up to the number of days prescribed by the City Council resolution may be approved by the purchasing officer. Amendments or change orders where the total contract amount, amendments or change orders, including the amendment or change order in consideration remain below the City Manager signature authority will be authorized to be executed by the purchasing officer. Any time extension of a performance deadline that exceeds those limits prescribed by resolution shall be approved by the City Council. If a proposed contract modification, change order or request for extra work exceeds the limitations imposed upon the purchasing officer by this section or by resolution, and any extended delay in obtaining City Council approval is reasonably determined to subject the city to liability for damages

incurred by a contractor, or to jeopardize the public health, welfare or safety, or to otherwise result in potential detriment to the city, then the purchasing officer or designee shall have authority to exceed the dollar amounts or percentage limitations specified herein, and obtain approval by ratification from the City Council. All contract modifications shall be subject to approval as to form by the City Attorney.

§ 3.12.160 MEMORANDUM OF UNDERSTANDING (MOU) & MEMORANDUM OF AGREEMENT (MOA).

All Memoranda of Understanding (MOU), Memoranda of Agreement (MOA), partnerships, and sponsorships between the City and other government agencies, nonprofit organizations, or any other professional organization, are to be presented to City Council for consideration and approval prior to execution, even if there is no fiscal impact on the City.

§ 3.12.170 EMERGENCY PROCUREMENT.

- (A) While the need for emergency purchases is recognized, the practice shall be curtailed as much as possible so that normal competitive procurement can be used. An emergency shall be deemed to exist under one or more of the following circumstances:
- (1) A great public calamity.
 - (2) An immediate need to prepare for national or local defense.
 - (3) A breakdown in machinery, facilities or essential services which requires the immediate procurement of goods, services, or construction to protect the public health welfare, safety, property or personal/confidential information.
 - (4) A department operation directly affecting the public health, welfare, safety, the property or personal /confidential information, is so severely impacted to cause that personal injury or property destruction appears to be imminent and probable unless goods, services, or construction designed to mitigate the risks thereof are procured immediately.
 - (5) A department is involved in a city project, which is of such nature that the needs for particular goods, services, or construction can only be ascertained as the project progresses and, when ascertained, must be satisfied immediately for the protection of public health, welfare, safety, property or personal/confidential information.
- (B) Emergency purchases may be initiated by a department director or his or her authorized representative by contacting the Chief Financial Officer or designee providing the nature of the emergency. If approved, the Chief Financial Officer or designee shall authorize the procurement and cause an emergency purchase order to be issued as soon as possible. A purchase requisition must be prepared and submitted by the respective department no later than the following business day.
- (C) Emergency purchases exceeding \$50,000 require approval by ratification of the City Council.
- (D) This section shall not authorize emergency purchases for public projects which are not authorized by the Public Contract Code.

§ 3.12.180 GRANT PURCHASES.

When the procurement occurs through the use of Federal or State grant funding, procurement shall adhere with the stricter of applicable requirements and procedures between the city's and or Federal or State requirements. Certain federally funded projects and or programs are subject to section 200.317 through 200.327 of Title 2 of the Code of Federal Regulations (CFR). The respective department is responsible for compliance with all aspects of grant requirements.

§ 3.12.190 DISPOSAL OF SURPLUS PERSONAL PROPERTY.

- (A) The head of any city department may declare supplies or equipment (collectively "personal property") held by the department surplus. The declaration shall be in writing and the written declaration shall be delivered to the Chief Financial Officer who shall maintain a written inventory of surplus supplies and equipment for circulation to and review by City Manager and each department. If any department has use for the personal property, the department head may request reassignment of the personal property from the City Manager. The City Manager shall have the authority to assign the personal property to the department best able to make use of the personal property. If no department head makes a request for use of the personal property after the inventory report has been circulated for one month or reasonable time determined by the City Manager, the personal property shall be deemed surplus.
- (B) The City Manager shall have the authority to dispose of surplus supplies or equipment by auction or sale or otherwise after receiving bids or proposals which, in his or her judgment, provide the best return to the city. The following are the types of sale or auctions:
- (1) Sale on the open market. The City Manager shall cause to be published at least three days before the sale, in a locally adjudicated newspaper or newspaper circulated in the city, and by posting on any city website, a notice of sale setting forth a general description of the personal property to be sold, and the day, time and location of the sale. The terms of all sales shall be cash in the amount of the full purchase price.
 - (2) Sale by sealed bid or auction. As an alternative to the sale on the open market, the City Manager may, when, in his or her judgment, it is in the best interest of the city, sell surplus personal property by means of sealed bid

or public auction. In the case of sale by sealed bid or public auction, the City Manager shall cause to be published at least three days before the sale, in a locally adjudicated newspaper, and by posting on any city website, a notice setting forth a general description of the surplus personal property to be sold, and the day, time and location of the sale. The terms of all sales shall be cash in the amount of the full purchase price.

- (a) In conducting an auction, the City Manager may contract with a professional auctioneer and allow a flat fee, hourly fee or percentage of the amount of the sale to be paid based upon that which is the common and customary method and rate for the auctioneering services.
 - (b) A receipt or other proof of disposal from the sale, the contracted auctioneer, licensed scrap dealer, individual buyer, etc. is required and is to be forwarded to the Finance Department. The city will return proceeds of the sale to the appropriate revenue fund.
 - (c) All surplus property is for sale "as is" and "where is," with no warranty, guarantee, or representation of any kind, express or implied, as to the condition, utility or usability of the property offered for sale.
- (3) Selling for Scrap. Surplus property may be sold as scrap if it is deemed that the value of the raw material exceeds the value of the property as a whole.
- (4) Negotiated Sale. Surplus property may be sold outright if it is determined that only one known buyer is available or interested in acquiring the property. Advertisement of the sale must be published in a newspaper for at least two weeks prior to the negotiated sale to ensure no other interested buyers are available.
- (C) The City Manager may, when in his or her judgment, sale or auction of surplus personal property is infeasible or will result in minimal return to the city, authorize that the surplus personal property be donated to any other governmental organization (including those outside the United States) or non-profit group or corporation exempt from federal taxes pursuant to Internal Revenue Code section 501(c)(3) located within or serving the city.
- (D) Personal property declared as surplus may be offered as a trade-in for credit toward the acquisition of new property.
- (E) When the cost of locating a buyer exceeds the estimated sales price of surplus personal property, the personal property may be recycled, destroyed, or disposed of as junk.
- (F) K-9 asset surplus may not be disposed of pursuant to this Section. Disposition of K-9 asset surplus shall be governed by an administrative policy established and approved by the City Manager and Chief of Police or their respective designees.
- (G) For the avoidance of doubt, this section applies to personal property matters only, and not the dispositions of real property.

§ 3.12.200 REAL PROPERTY MATTERS.

Leases, sales, purchases, or other grants or acquisitions of real property shall be approved by the City Council. Automatic lease renewals and/or optional renewals included within the original lease agreement can be approved by the City Manager. Temporary agreements for the use of real property for one (1) day or less may be approved by the relevant approval authority for professional services established by resolution of the City Council based on the aggregate cost of the contract.

§ 3.12.210 COOPERATIVE AGREEMENTS, PIGGYBACKING, AND MULTIPLE-AWARD BID PURCHASES WITH OTHER AGENCIES.

The city may utilize cooperative or piggyback agreements, or multiple-award bid purchases with other agencies to the extent permitted by California law. The purchasing officer shall include in the approval (or in the request from approval to the City Council), justification for the use of the cooperative, piggyback, or multiple-award structure. The approval authority shall be that set by resolution of the City Council based on the aggregate contract cost and the underlying good, service, or equipment being procured.