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CITY OF SAN PABLO PURCHASING AND PAYABLES (AP) GUIDELINES

This group of policies and procedures provide guidance upon the acquisition of services, supplies and capital items and the settlement of obligations for purchases made on account.



CITY OF SAN PABLO

City of New Directions

San Pablo



2014

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AP 1: PURCHASING

1. PURPOSE

These Purchasing Procedures implement the City's purchasing ordinance, San Pablo Municipal Code ("SPMC") Chapter 3.16, as authorized by Section 3.16.020 A, and ensure that City procurements which are subject to federal funding, in whole or in part, comply with all applicable Federal Procurement Requirements, as defined below, and as further specified in Section 22, Federal Procurement. (See 2 CFR § 200.317.) These procedures define in more detail the policies and procedures for the procurement and disposition of goods and services for the City. Procurement of public works contracts must be made in compliance with the Uniform Public Construction Cost Accounting Act, as set forth in Chapter 3.16 of the Municipal Code, the State Public Contract Code, Sections 22000 through 22045 (as may be amended from time to time), and these Purchasing Procedures. The dollar thresholds set forth in the Public Contract Code shall take precedence over the dollar thresholds set forth in the Municipal Code.

2. POLICY

The City Manager directs and supervises the acquisition of all goods and services under the authority of SPMC §2.04.230.¹ The City Manager has assigned the responsibility for administering purchasing policies and procedures to individual departments through the Finance Director (SPMC § 3.16.020). This decentralized system of purchasing (SPMC §3.16.030) provides the departments with the ability to contact vendors directly.

It is the City's policy to utilize best management practices for the purchase of goods and general services at the lowest possible cost commensurate with quality needed, to do so in the most efficient manner possible, to exercise positive financial control over purchases, to clearly define authority for the purchasing function, and to assure the quality of purchases.

3. DEFINITIONS

Best value – The best value to the City based on all factors, including: cost; contractor's ability, capacity or skill; ability to perform within the time required; character, integrity, reputation, judgment, experience and efficiency; quality of contractor's performance on previous purchases or contracts, if applicable; and the ability of the contractor to provide future maintenance, repair, parts and services, if necessary.

Bid – A written offer, more formal than a quote, to furnish supplies, equipment, vehicles, services, etc., in conformity with the specifications, delivery terms, and conditions required at a lump sum or guaranteed maximum cost. As required by this policy, the initiating Department will sometimes prepare a Notice Inviting Bids, which is formal notification, through posting and advertisement, that the City is soliciting goods or services (see SPMC §3.16.080 A.1.). This gives widespread exposure to the City's needs, expands the vendor base, and fulfills the legal responsibility of giving a fair opportunity to all vendors for supplying the City's needs. The notice must include a general description of the goods or general services to be purchased; state where bid forms and specifications may be secured; and state the final time and place for submitting bids. For purchases greater than \$25,000, the notice must be published at least 10 days before the bid opening date, or sooner if required by law. The Purchasing Officer, or a designee, will publicly open and declare the content of bids received at the time and place specified in the notice. The bid results will be made available to all interested parties as soon as possible following the bid reading.

¹ Section 2.14.230 outlines the powers and duties of the City Manager: "The City Manager shall be responsible for the purchase of all supplies for all of the departments or divisions of the City. No expenditures shall be submitted or recommended to the City Council except on report and approval of the City Manager".

Bid security – Financial security provided to guarantee that a bidder will enter into a contract with the city if a bid is awarded. Bid security may be in the form of cash, cashier's check, certified check, or surety bond, in an amount of at least 10% of the aggregate amount of the bid.

Community Services Department Instructors & Service Providers – Private contractors providing instruction, coaching, classes, services and/or programming to residents in support of Community Services goals and objectives and receiving less than \$25,000 in compensation from the City per fiscal year. Such vendors may be held to lower insurance requirements and are exempt from business license requirements.

DIR - the California Department of Industrial Relations.

Federal Procurement Requirements – The post federal award procurement requirements set forth in 2 CFR §§ 200.317 – 200.326, as may be amended from time to time, which apply to federally funded procurements, and any additional federal requirements that apply to a particular federally funded procurement.

On-call Contract – Arrangement under which the City establishes contracts for goods or services under specified prices, terms, and conditions in anticipation of a potential need. Using an on-call contract provides flexibility to the contracting department to utilize contract services on an as-needed basis. Generally, on-call contracts do not encumber budgeted funds until a work order is placed with the contractor.

Professional services or consultant services – The services of an attorney, architect, accountant, engineer, financial consultant, planning or environmental consultant, investment advisor, bank or trustee officer, or other professional.

Public works project – A public works project shall be defined as construction, reconstruction, erection, alteration, renovation, improvement, demolition or repair work involving any publicly owned, leased, or operated facility; or painting or repainting of any publicly owned, leased or operated facility. A public works project does not include maintenance work such as: (1) routine, recurring, and usual work for the preservation or protection of any publicly owned or operated facility for its intended purposes; (2) minor repainting; (3) resurfacing of streets and highways at less than one-inch thickness; or (4) landscape maintenance, including mowing, watering, trimming, pruning, planting, replacing plants, and servicing of irrigation and sprinkler systems. (Public Contract Code § 22002).

Purchase order (PO) – A document generated by the Finance Department to formalize a purchase transaction with a vendor or to assure the proper set-aside of funds for a purchase. The purchase order should contain sufficient information to fill the order in an accurate and timely fashion. If no other written agreement is executed for a procurement, the vendor's acceptance of a purchase order constitutes a contract.

Quote – A verbal or written promise from the vendor/contractor guaranteeing the cost of specific goods, supplies, or services.

Request for proposal (RFP) – All documents used for soliciting competitive proposals. The RFP defines, in detail, the terms, conditions, and specifications of goods or services required by the City. An RFP is primarily intended for large, complex projects where cost and performance are equally important.

Request for qualifications (RFQ) – A request seeking a written statement of the professional qualifications and experience of a proposed contractor, vendor or professional.

Simplified Acquisition Threshold – The dollar amount below which the City, as a non-Federal entity, may purchase property or services subject to the Federal Procurement Requirements using small purchase methods, as set forth in 2 CFR section 200.88, as it may be amended from time to time.

Supplies – Manufactured goods kept in the ordinary course of business for regular use or consumption (e.g., pencils, light bulbs, street signs, etc.).

4. TYPES OF PURCHASING TRANSACTIONS

There are many types of purchasing transactions in the City. For additional information on the purchase of public works contracts, franchise agreements and labor contracts, the reader should refer to other appropriate authorities, including, as applicable, the Purchasing System chapter in the Municipal Code (see SPMC §3.16), state, and federal law.

Goods

Goods include tangible goods, supplies, equipment, vehicles, materials, printing and insurance. If goods and services are combined in one contract (e.g., for purchase and installation of goods), the requirements for a general services contract apply, including prevailing wage requirements, if applicable.

Services

General services. (See SPMC §3.16.110.)

Professional services contracts. (See SPMC § 3.16.110.)

5. STANDARDS OF CONDUCT AND GENERAL PURCHASING GUIDELINES

5.1 FAIR COMPETITION AND STANDARDS OF BEHAVIOR

All purchasing functions shall be conducted impartially to assure fair and open competition for City business by responsible vendors. (See 2 CFR § 200.319.) In addition, City employees should conduct themselves--and the purchasing process--in a professional manner that will promote equal opportunity and foster public confidence in the procurement process. City employees will treat all vendors equally and fairly, with equal information given to each vendor who participates in the procurement process. City employees will ensure that all prequalified lists of persons, firms, or products used in acquiring goods or services are current and include enough qualified sources to ensure maximum open and free competition. City employees may not place unreasonable restrictions on competition, including any of the following restrictions:

- (A) Placing unreasonable requirements on vendors to qualify for the procurement;
- (B) Requiring unnecessary experience and excessive bonding;
- (C) Noncompetitive pricing practices between vendors or affiliates;
- (D) Noncompetitive contracts to consultants that are on retainer contracts;
- (E) Organizational conflicts of interest;
- (F) Non-compliance with sole source restrictions, and “or equal” requirements, including

Public Contract Code section 3400;

(G) Precluding potential bidders from qualifying during the solicitation period; and

(H) Any arbitrary action in the procurement process.

5.2 CONFLICTS OF INTEREST

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 of interest.

(A) 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 which 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. No officer, employee, or agent of the City may solicit or accept gratuities, favors, or anything of monetary value from vendors or parties to subcontracts. Disciplinary actions, up to and including termination for cause, will apply to any violation of these conflict of interest standards, in accordance with City policy, and/or, as applicable, a collective bargaining agreement, employment contract, or contract for services. (See 2 CFR § 200.318(c)(1).)

(B) City employees may not accept gifts, rebates, kickbacks, personal services, or in any way incur personal gain from a vendor, or potential vendor, doing business with the City or otherwise violate laws pertaining to conflicts of interest, political contributions, or unlawful activities.

(C) A City employee may not participate in the vendor selection process if the employee has (1) a financial relationship with the person or firm seeking a contract, as set forth in Government Code section 87100 et seq., or (2) a real or apparent conflict of interest under California Government Code section 1090, or pursuant to the Federal Procurement Requirements.

(D) A vendor that develops or drafts specifications, requirements, statement of work, invitation for bids, request for qualifications, or request for proposals for a procurement must be excluded from competing for that procurement. (See 2 CFR § 200.319(a).)

5.3 ECONOMICAL APPROACH

All procurements must be undertaken in a manner that will avoid acquisition of unnecessary or duplicative items, which may include consideration of consolidating or breaking out procurements, lease alternatives, and other appropriate analysis to determine the most economical approach, subject to the limits of applicable law, including prohibitions against bid-splitting. (See 2 CFR 200.318(d).)

5.4 OVERSIGHT

Each department must maintain oversight over its procurements to ensure that vendors perform in accordance with the terms, conditions, and specifications of the contracts or purchase orders, as further specified in AP 3, Monitoring and Oversight of Receipt of Goods or Services. (See 2 CFR § 200.318(b).)

5.5 LOCAL PREFERENCE

Purchasing goods and services from local vendors is desired because it stimulates the local

economy and recognizes that our local vendors are valued members of our community. For the purchase of goods or services, excluding public works contracts or procurements subject to the Federal Procurement Requirements, if factors such as quality, previous performance, and availability are equal among vendors, a vendor whose business is located in City of San Pablo shall be awarded a contract if their quote or bid is within 5% of the low bid (SPMC §3.16.100.C). Additionally, the City Council adopted a local economic opportunity policy pursuant to Resolution 2018-023. Staff shall follow the policy and attached administrative procedures (see Exhibit A).

5.6 MULTI-YEAR CONTRACTS

A contract for supplies or services may be entered into for any period of time deemed to be in the best interest of the City, provided that the term of the contract and renewal provisions are included in the original solicitation process, as well as the ability on the part of the City to terminate the contract. Adequate funds must be available to fulfill the first fiscal year's obligation at the time of contract execution. Subsequent years' appropriations are subject to authorization by the City Council. (Cal. Const. Art. XVI, §18).

5.7 BUSINESS LICENSE

Any person or company providing services or delivering goods within the City limits must have a City business license, unless otherwise set forth in the bid solicitation. The department making the purchase or contracting for the service is responsible for checking that the vendor or contractor has a business license. Community Services Department instructors and service providers as defined are able to obtain a minimal-cost business license (see Section 21.9 entitled "Community Services Department Instructors & Service Providers").

5.8 INSURANCE AND INDEMNITY

Insurance and indemnity may be required in connection with a purchase or contract which: (1) involves service performed on city property, or to city facilities, or right of way; (2) is a professional services contract; or (3) whenever there is an inherent risk of personal injury or property damage in the activity involved. When insurance and indemnity are required, the contractor / consultant / vendor should hold the city harmless, agree to defend the city against law suits, and maintain insurance for property damage, general liability and workers' compensation (if the vendor employs any employees) in the form and amounts determined by the City Attorney in conjunction with the Municipal Pooling Authority, the city's pooled self-insurance agency. See the Insurance section of the City's Master Agreements for further information. Indemnity requirements for public works contracts must comply with Civil Code section 2782, and indemnity requirements for architectural, landscape architectural, engineering, and land surveying services must comply with Civil Code sections 2782 and 2782.8.

5.9 RECORD KEEPING.

Each department is responsible for maintaining its own purchasing records. Records must be maintained for each procurement of goods or services and document the history of the procurement, including (1) records of the rationale for procurement method, (2) selection of contract type, (3) contractor selection or rejection, and (4) the basis for the contract price. (See 2 CFR § 200.318(i).) At the conclusion of a contract, the original contract and any bids, specifications, and other pertinent data shall be retained by the department for the period specified in the City's approved Retention Schedule, typically at least three years. These are public records, available for public inspection upon request.

5.10 DISPUTE RESOLUTION

Any and all protests, disputes, claims, and the like, arising from a procurement will be addressed promptly in accordance with good administrative practice and sound business judgment, and in compliance with all applicable legal or contractual requirements. (See 2 CFR § 200.318(k).)

5.11 SPECIFICATIONS AND REQUIREMENTS

All procurement solicitations should incorporate a clear and accurate description of the technical requirements or functions of the goods or services to be procured. However, such descriptions should not be drafted to unduly restrict competition among qualified vendors. (See 2 CFR § 200.319(c).)

5.12 PREVAILING WAGES

Public works or maintenance projects (excluding routine janitorial services) over \$1,000, are subject to prevailing wage requirements set forth in the California Labor Code, beginning at section 1720. This includes any construction, alteration, demolition, installation, repair work, carpet-laying, certain tree-removal work, maintenance, and certain hauling and delivery of ready-mix concrete. For procurements subject to prevailing wage requirements, the procurement solicitation and contract documents must include information on prevailing wage requirements and compliance as specified in the Labor Code.

(A) DIR Registration

For each contract subject to prevailing wage requirements, the City may not accept a bid from or award a contract to any contractor or subcontractor that is not registered with the Division of Industrial Relations, as required under Labor Code section 1771.1. Contracts for construction, alteration, demolition, installation, or repair work for \$25,000 or less and maintenance contracts of \$15,000 or less are exempt from this requirement.

(B) DIR Notification

For contracts subject to DIR registration requirements, Department Directors must ensure that a PWC-100 form is filed online with the DIR within 30 days after the contract is awarded, but no later than the first day that workers are employed on the project. City personnel are encouraged to file the PWC-100 as soon as possible following award to avoid the penalties that may be imposed for late filing.

5.13 LEGAL COMPLIANCE AND INTERPRETATION

All City procurements must be made in compliance with these purchasing procedures and currently applicable state and federal laws and regulations. To the extent that any provision in these purchasing procedures conflicts or is inconsistent with any state or federal law or regulation, the more restrictive of any such provisions will control.

6. PURCHASING AUTHORITY

Contracting authority (see SPMC §2.04.230). The City Manager, or his or her designee, is authorized to enter into and sign on behalf of the City the following contracts in an amount up to and including \$50,000 (SPMC §3.16.020.A):

Goods and services contracts - A purchase or contract for goods or services if funds are available within existing budget resources.

Professional services contracts - A purchase or contract for professional services if funds are available within existing budget resources.

For these contracts, the City Manager also has authority to enter into change orders or amendments which do not exceed 15% of the original contract price, provided the increase in contract price does not exceed \$50,000.

All other purchases and any unbudgeted purchases of goods or services or change orders that total more than \$50,000 require City Council approval. Purchase of goods and services from any one vendor that are expected to total over \$50,000 over the course of a fiscal year (e.g. gasoline, vehicle repair and maintenance, etc.) should receive City Council approval at the beginning of the fiscal year.

Contracts for public works projects are governed by a separate set of rules under the Public Contract Code, including section 22000 et seq. Departments may request expenditure authority from the City Manager for change orders or amendments for projects previously approved by City Council, but any such change exceeding \$50,000 must receive separate Council approval.

At the discretion of the City Manager, any contract may be submitted to the City Council for its approval.

AP 2: PURCHASING PAYMENT PROCEDURES

7. PAYMENT OF INVOICES

Attach the original invoice and packing slips, if provided, to substantiate the payment and the receipt of the goods or services. Finance will not pay vendors using forms for “estimates” or “quotes.”

Stamp the invoice and obtain appropriate signatures for approval, depending on the amount.

Approval limits are as follows:

- AIE employees, Police Support Services Manager and Police Lieutenants: up to \$2,500
- Division Managers, the Recreation Supervisor and Police Captains: up to \$5,000
- Executive Management and the City Attorney: up to \$10,000
- Assistant City Manager: up to \$25,000
- City Manager: up to \$50,000

Purchases over \$50,000 require City Manager approval plus City Council Resolution (budget adoption resolution for budgeted items or separate resolution for unbudgeted items). Submit these documents to Finance at the time of the payment request.

Invoices and requests for payment are due by 12 noon on Wednesdays. Checks are generally cut once per week on Thursdays and mailed the following Monday.

7.1. REQUEST FOR PAYMENT WITHOUT AN INVOICE

If you wish to have a check cut without having received an invoice (e.g. paying for an anticipated, known cost such as registering for a conference or hand-carrying a check to the County for a permit fee), prepare a Request for Payment Form. Sign the request as the preparer.

A sample copy of the form is included in the forms section of this manual.

If the request is for a partial payment on a purchase order, include the purchase order number in the “PO Number” field on the form.

8. PURCHASE ORDERS

Purchase orders (PO’s) represent a commitment related to unperformed contracts for goods or services between a city department and a vendor. When a PO is issued, Finance staff enters the information into the accounting system and creates an “encumbrance” against the line-item budget identified in the PO. The use of encumbrance accounting is a critical element of budgetary control in governmental accounting systems and serves three distinct purposes:

- Provides a written record of the contract between the City of San Pablo and a vendor (which may be in addition to other contract documents).
- Decreases the available budget by an amount equal to the purchase order. This procedure lessens the chance of overspending a line-item budget.
- At the end of the fiscal year, the unexpended portion of valid encumbrances are rolled over and added to the next fiscal year’s line item budget so that sufficient funding is available to meet the prior fiscal year’s contractual obligations. Finance Division staff will reach out to departments with open encumbrances to confirm balances and determine which encumbrances are still valid. Encumbrances without any activity for a period of one year will be released at the end of the fiscal year.

Written quotations are not sufficient to encumber funds for carryover into the next fiscal year. An executed contract must be secured.

8.1. CIRCUMSTANCES UNDER WHICH A PURCHASE ORDER IS REQUIRED

Departments may request a purchase order from Finance for any obligation at any time. However, purchase order requests must be prepared under the following circumstances and when the obligation exceeds \$10,000 in any single fiscal year and payment will be made in more than one installment:

- Professional services contracts
- Purchases of goods, supplies and equipment
- Monthly maintenance contracts that exceed \$10,000 in any fiscal year
- Public works construction contracts
- Any contractual obligation over \$10,000 that is made in the last quarter of the fiscal year (April – June).
- Any contractual obligation or expenditure related to an approved on-call contract.

8.2. REQUESTING A PURCHASE ORDER

Preparing purchase orders is the responsibility of the Finance Department. Before staff can generate a PO, a Purchase Order Request form must be submitted. This form provides the relevant information needed to prepare the PO. A sample copy of the Purchase Order Request Form and an actual Purchase Order form are included in the forms section of this manual.

8.3. **PROCESSING PAYMENTS AGAINST A PURCHASE ORDER**

When an invoice is received against a PO, the PO number shall be indicated on the invoice. This action will ensure that the invoice payment will be deducted from the outstanding encumbrance associated with the PO. Failure to do so will unnecessarily encumber funds and reduce available budget. Although Finance Department staff track the amount of remaining funding available in the purchase order, the processing department is responsible for ensuring that actual expenditures are properly recorded against the PO and that remaining encumbrances are appropriate.

8.4. **WHEN A PURCHASE ORDER IS NOT REQUIRED**

A PO is not to be used after receipt of goods or services. A PO should be requested when a contract is executed or goods or services are ordered.

Departments may request PO's for any purchase for budgetary control purposes, but PO's are only required when the purchase meets the conditions stated above (see Circumstances under which a Purchase Order is Required).

Purchases over \$10,000 that are made during the months of July through March and will be paid in a single installment.

9. **SPECIAL SITUATIONS**

If a PO request is for a project that was not included in the adopted Operating Budget or Capital Improvements Project budget but was later approved by City Council, attach a copy of the City Council Resolution or executed contract showing approval of the expenditures and the name of the contractor. Please be sure to indicate the account that should be encumbered.

If funding needs to be transferred from one or more accounts, please prepare a budget adjustment form to indicate the account where expenditures were originally budgeted. Finance will enter the budget adjustment into the financial system to transfer the funds at the same time the purchase order is prepared.

10. **URGENT/EMERGENCY PAYMENT (MANUAL CHECK)**

The issuance of manually prepared checks is discouraged and should be done only when the specific circumstances necessitate expediting payment. When requesting urgent/emergency payment, the requesting department should personally deliver the request to the Finance Director with the required approval signatures. In addition:

- Complete a Request for Payment Form, noting on the request "HAND CHECK."
- Note the date and time the check is needed.
- Note whether the check should be mailed or held for pickup.

11. **OPEN ACCOUNTS**

Open accounts are created by the Finance Department and are entered into with vendors that are expected to supply products or services to the City on an ongoing and/or regular basis where the total volume or total dollar amount cannot be reasonably estimated.

When an employee purchases an item on an open account, he/she should sign the receipt (legibly) and show a City photo identification card. Examples of open accounts include recurring purchases from a single vendor such as paper and office supplies, building materials or gasoline.

12. CREDIT CARD PURCHASES

City credit cards are issued by the Finance Department only with the express authorization of the City Manager to facilitate certain purchases and shall be used for City business only. No cash withdrawals are allowed.

Accounts payable checks should always be the first option when making a purchase. Some purchases, however, may be difficult to make with a check, such as airline tickets or other online purchases. City credit cards should specifically NOT be used to pay for either general, large dollar amount or professional services to the City (e.g. maintenance agreements, rentals, large purchases, etc.). Due to past occasions of abuse in other public agencies, use of City credit cards should be limited to small online purchases, conference registrations, payments associated with travel, and other expenses that cannot be readily procured by a City check. An exception to this policy would be purchases made during a general safety emergency in which emergency rules would apply (see Exceptions section below).

Use of City credit cards for personal purchases shall be grounds for discipline, up to and including termination. A crime under Penal Code section 424 occurs when a City credit card is used to make a personal purchase or to pay for a personal item or when advanced funds that are not used or not promptly returned. Restitution to the City is not a defense to the crime of misappropriation of public funds. (People v. Omar Bradley (Aug.1, 2012) 2012 DJDAR 10597). Violation of Section 424 may be punished by imprisonment in state prison and will disqualify the violator from holding any public office in the State of California.

City credit cards are issued by the Finance Department as a means of facilitating financial transactions involving City business. Therefore, this transaction authority is not to be confused with expenditure authority. Those employees making a transaction still need to have the appropriate individual(s) approve the transaction (see the Approval Limits as established under AP 2, Section 7). Moreover, each credit card has both a single item/daily limit (generally \$2,000) and a monthly limit. In general, the monthly limits mirror the Section 7 approval limits with some exceptions:

- Clerical & Line Staff / AIE Employees / Police Support Services Manager / Police Lieutenants: \$2,500
- Division Managers / Recreation Supervisor / Police Captains: \$5,000
- Executive Management, including City Manager and Assistant City Manager: \$10,000
- Department Credit Card: \$7,500 to \$15,000

For control purposes, transaction limits are generally set at a level to be sufficient for most monthly billings, but may not be so high as to cover every monthly billing. Transaction limits can be temporarily increased if need be by contacting the Finance Department to handle extraordinary expenditures.

12.1. PROCESSING CREDIT CARD PAYMENTS

Retain receipt for every purchase made with your City credit card and hold onto the original receipt until the billing statement arrives at the end of the month. Ensure that the item purchased is properly clarified with a budget code and purchase description on the receipt.

Whenever meals are charged, write on the receipt the names of those attending and the business purpose of the meal.

Monthly statement worksheet is posted online after the 22nd of each month in the citywide folder N:\Citywide\CalCard Monthly Transactions. Departments are responsible for completing their own section of the worksheet by providing account code information and description for each transaction. After completion, each department must obtain Department review and approval for payment.

Forward the completed worksheet with the original receipts to the Finance Department for payment no later than the 10th of the subsequent month.

13. ACCOUNTING FOR AND DISBURSING PETTY CASH

Petty cash is available to City staff as a reimbursement if personal funds have been used. A petty cash fund is maintained in the Finance, Recreation and Police departments. Petty cash may be used to make minor purchases of up to \$50 when no other purchasing option is available. The petty cash account should be used for reimbursements of \$20 or less.

For reimbursement of personal funds already spent:

- Complete the petty cash form including the date, amount, account code, and description. (A copy of this form appears in the forms section of this manual).
- Attach the receipt to the form.
- Write the name of the person being reimbursed on the "Received By" line.
- If someone other than that person collects the funds, they must initial the form.
- Have an authorized signer for that department approve the reimbursement.

For a large cash advance (several hundred dollars), please plan ahead and request a check in the weekly A/P check run.

14. INSURANCE REQUIREMENTS

Insurance may be required in connection with a purchase or contract which involves service performed on City property, city facilities, or right of way; is a professional services contract; or whenever there is an inherent risk of personal injury or property damage in the activity involved. When insurance and indemnity are required, the contractor should hold the City harmless, agree to defend the City against potential claims, and maintain insurance for commercial general liability, automobile liability and workers' compensation (if there are any employees) in the form and amounts determined by the City Attorney. Required coverages and amounts are incorporated into the City's standard master agreements. It is the responsibility of the department staff preparing the contract to obtain insurance certificates from the contractor evidencing the required insurance, and to attach such certificates to the original contract to be filed with the City Clerk.

If using a vendor-provided agreement or contract, standard insurance and indemnification may still be required and should be incorporated into the contract. These standards may be lessened in particular cases upon a determination by the Assistant City Manager, City Attorney, and City's joint risk pool Municipal Pooling Authority that the risk is manageable and acceptable.

14.1 VERIFICATION OF COVERAGE.

Contractor / Consultant shall furnish the City with endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that Insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before work commences. However, failure to do so shall not operate as a waiver of these insurance requirements. As an alternative to the City's forms, the Contractor / Consultant's insurer may provide complete copies of all required insurance policies, including endorsements effecting the coverage required by the specifications. If the project extends beyond the expiration of the current coverage period show on the certificate of insurance, the contractor must submit a new certificate of insurance to City.

15. CONTRACTS AND AGREEMENTS

15.1 GENERAL SERVICES CONTRACTS.

The following provisions apply to general services agreements for goods or services. City procurements which are subject to federal funding, in whole or in part, must also comply with the applicable Federal Procurement Requirements. (See 2 CFR § 200.317.) Splitting of the purchase of goods or services into smaller orders for purposes of evading the competitive bidding provisions is not permitted. Contracts already appropriated in the budget do not need City Council approval. If funds have not been appropriated in the budget for this particular purpose, City Council approval must be obtained if such contract exceeds the City Manager's expenditure authority (see AP-2, Purchasing Payment Procedures above).

15.2 GENERAL SERVICES CONTRACTS LESS THAN OR EQUAL TO \$25,000 (SEE SPMC §3.16.090)

1. Obtain verbal or written quotes for services (preferably three).
2. Select quotation representing the best value and considering any local preference.
3. Prepare City contract form and PO request form. If using a vendor's contract form, attach standard insurance requirements, and submit to the City Attorney for approval.
4. If work is to be performed on City property or involves unusual risk, consult with City Attorney.
5. Obtain appropriate insurance certificates from vendor, if required.
6. Have vendor sign two agreements (one for the vendor and one for the City) and obtain business license.
7. Complete a Contract Routing Form and submit to the City Attorney for approval.
8. The City Manager or his/her designee is authorized to sign contracts for goods or services if funds are available.
9. Request a purchase order to encumber contract funding, if appropriate.

15.3 GENERAL SERVICES CONTRACTS GREATER THAN \$25,000 (SEE SPMC § 3.16.080)

1. Prepare notice inviting bids including a general description of the articles or general services to be purchased; where bid forms and specifications may be secured; and final time and place for submitting bids.
2. As pertaining to construction projects, publish notice 10 days before the bid opening date by posting on the City's website, and if appropriate, by inviting known individual

vendors to bid as well as sending invitations to a bidder's list.

3. Open sealed bids at a public place and time as specified in the bid documents and prepare a tabulation of all bids received.
4. Department director awards contract to lowest responsible bidder, taking local preference into account.
5. Prepare a City contract form and purchase order.
6. If using vendor's contract form, attach standard insurance requirements, and consult with City Attorney.
7. If work is to be performed on City property or involves unusual risk, consult with City Attorney.
8. Obtain appropriate insurance certificates from vendor.
9. Have vendor sign two copies of agreement (one for City and one for vendor) and obtain business license.
10. Complete a Contract Routing Form and submit to the City Attorney for approval.
11. The City Manager or his/her designee, is authorized to sign contracts for goods or services.
12. Request a purchase order to encumber contract funding, if appropriate.
13. If funds have been appropriated, but the amount of the contract exceeds \$50,000 cumulatively spent on any particular vendor in any one fiscal year, then City Council approval must still be obtained at the point in time when the \$50,000 threshold is crossed. If in doubt, check with Finance staff to determine the total amount spent year-to-date.

15.4 PROFESSIONAL SERVICES AGREEMENTS. (SEE SPMC § 3.16-110 A.)

The following provisions apply to contracts with professionals for services by architects, accountants, attorneys, engineers, planners, environmental consultants, technicians, and similar services. City procurements which are subject to federal funding, in whole or in part, must also comply with the applicable Federal Procurement Requirements. (See 2 CFR § 200.317.) Such contracts need not be competitively bid, but must 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 City. Price may be considered, and fee information solicited, but need not be the sole determining factor. Architectural, landscape architectural, environmental, engineering, land surveying, and construction management services are subject to the provisions of Article XXII of the California Constitution and Government Code section 4529.10 et seq. Those provisions require a fair, competitive selection process that prohibits City employees from participating in the selection process when they have a financial or business relationship with any private entity seeking the contract. The procurement procedure must require compliance with all laws regarding political contributions, conflict of interest, or unlawful activities. (See AP 1, Section 5.8, Insurance and Indemnity, above.)

15.5 PROFESSIONAL SERVICES AGREEMENTS LESS THAN OR EQUAL TO \$25,000

1. Obtain quotes for services (preferably three) or prepare requests for proposals (RFP) and/or requests for qualifications (RFQ) for large or complex projects.

2. Select quotation based on demonstrated competence and qualifications, and then considering price, which may be the sole determining factor.
3. Prepare Master Consultant Agreement. If using a consultant's agreement form, attach standard insurance requirements, and consult with City Attorney.
4. If work is to be performed on City property or involves unusual risk, consult with City Attorney.
5. Obtain appropriate insurance certificates from consultant, if required.
6. Have consultant sign two agreements (one for the consultant and one for the City) and obtain business license.
7. Complete Contract Routing Form and submit packet to City Attorney for approval.
8. The City Manager, or his/her designee, is authorized to sign professional services agreements up to \$50,000.
9. Request a purchase order to encumber contract funding, if appropriate.

15.6 PROFESSIONAL SERVICES AGREEMENTS OVER \$25,000

1. Obtain quotes for services (preferably three) or prepare requests for proposals (RFP) and/or requests for qualifications (RFQ) for large or complex projects.
2. Select quotation based on demonstrated competence and qualifications, and then considering price, which may be the sole determining factor.
3. Prepare Master Consultant Agreement. If using a consultant's agreement form, attach standard insurance requirements, and consult with City Attorney.
4. If work is to be performed on City property or involves unusual risk, consult with City Attorney.
5. Obtain appropriate insurance certificates from consultant, if required.
6. Have consultant sign two agreements (one for the consultant and one for the City) and obtain business license.
7. Complete Contract Routing Form and submit entire packet to City Attorney for approval.
8. Submit agreement to City Council for approval if over \$50,000.
9. Request a purchase order to encumber contract funding.

15.7 PUBLIC WORKS CONTRACTS

Procurement of a public works contract, which, for purposes of this Section means an agreement for the erection, construction, alteration, repair or improvement of any public structure, building, road, or other public improvement of any kind, must be made in compliance with the applicable requirements of Chapter 3.16 of the Municipal Code and in compliance with the applicable requirements of Section 5.12, Prevailing Wages, above. The indemnity provision in any contract for public works services must comply with Civil Code Section 2782, and the contract documents must include all provisions required by law, approved as to form by the City Attorney. A payment bond must be required for all public works contracts in excess of \$25,000, in compliance with Civil Code section 9550 et seq., and approved as to form by the City Attorney.

15.8 **EXCEPTIONS (SEE SPMC §3.16.110)**

The department may dispense with quotation or bidding procedures for purchasing goods or general services in any of the following circumstances:

- Emergency. In an emergency as defined in SPMC §3.16.110 D. Any emergency procurement that may be eligible for Federal Emergency Management Agency (FEMA) funding or reimbursement must comply, to the extent practicable under the circumstances, with the Federal Procurement Requirements. (See also, Section 22.3(E), Noncompetitive Proposals, below.)
- Specialized Services Combined with Equipment/Products. (SPMC §3.16.110B). Examples include hardware, software or communications equipment combined with training and servicing.
- Sole or limited source (SPMC § 3.16.110 C). Occasionally, required goods are unique, of a proprietary nature, or of specific design or construction. In these cases, quotation or bidding procedures could be meaningless. The department shall keep a written record of the basis for this determination.
- Cooperative purchasing. (SPMC § 3.16.110 E) If such purchases are based on an agreement or cooperative purchasing program entered into by any of the following, regardless of whether the City is a named party to the agreement or an actual participant in such a program: (a) any public agency situated within the state, if the underlying purchase was made using quotation or bid procedure substantially similar to the city's; or (b) the California Multiple Award Schedules (CMAS), or other similar procurement schedules (e.g. NJPA, etc.).
- Leases and Lease/Purchases, and Used Equipment. (SPMC § 3.16.110 F and G) Used items, or items obtained by lease or lease purchase, are exempt from the bidding requirements.

The affected department seeking application of an exemption shall state in writing the basis for a determination that this section applies.

15.9 **COMMUNITY SERVICES INSTRUCTORS & SERVICE PROVIDERS**

In recognition of benefit to the community as opposed to risk to the City, all Community Services Department Instructors and Service Providers that offer programs and services either through or on behalf of the City of San Pablo are exempt from the business license requirements of this procedure.

Additionally, such contractors may be eligible for reduced insurance coverage requirements or exempt from insurance coverage altogether depending on the type and cost of class provided. Generally, classes that are offered for free as a community benefit are not required to obtain individual insurance. When insurance coverage is required, the minimums are generally set at \$1 million each for general liability, auto liability and employer liability. Ultimately, the service agreements are completed through an interview process and individual negotiation conducted by the Community Services Department.

Type	Free Classes	All Others
Fingerprints	Yes	Yes
Insurance - General Liability	No	Yes
Insurance - Auto	No	Yes
Insurance - Employer's Liability	No	Yes
* Business License	No	No

Should the contractor decide to pursue another revenue generating venture within City limits and outside of their existing contract with the City of San Pablo, such will be required to apply for a business license and pay all standard Development Services fees.

Community Services staff shall comply with the Local Preference section of this policy as well as the local economic opportunity policy when hiring Community Services instructors and service providers.

16. FEDERAL PROCUREMENT

Any procurement made pursuant to a federal award or subject to reimbursement, in whole or in part, with federal funds must comply with the City’s purchasing procedures, including the Standards of Conduct and General Purchasing Guidelines set forth above in Section 5, state law, and the applicable Federal Procurement Requirements, including 2 CFR § 200.322 (“Procurement of recovered materials”), 2 CFR § 200.323 (“Contract cost and price”), 2 CFR § 200.324 (“Federal awarding agency or pass-through entity review”), 2 CFR § 200.325 (“Bonding requirements”), and 2 CFR § 200.326 (“Contract provisions”). In the event of any conflict between City, state, or federal requirements, the most stringent requirement must be used. (See 2 CFR § 200.318.) City employees must comply with funding agency requests for review of technical specifications or procurement documents as provided in 2 CFR § 200.324.

16.1 GENERAL FEDERAL REQUIREMENTS AND RECOMMENDATIONS

(A) Required Contract Provisions

Pursuant to 2 CFR § 200.326, contracts for federally-funded procurements must contain the applicable provisions described in Appendix II to Part 200, Contract Provisions for non-Federal Entity Contracts Under Federal Awards. Sample Federal Provisions are attached as Exhibit B to these procedures. Contracts over \$10,000 must address City’s termination for cause and for convenience, including the manner for effectuating termination and the basis for any final payment to the terminated vendor. In addition, contracts for federally-funded procurements that exceed the Simplified Acquisition Threshold must address administrative, contractual, or legal remedies for vendor violation or breach of contract terms, and provide for sanctions and penalties, as appropriate.

(B) Department of Homeland Security Standard Terms and Conditions

Federally-funded procurements, including procurements eligible for FEMA funding, may be subject to the currently applicable Department of Homeland Security Standard Terms and Conditions, which can be accessed at <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

(C) Solid Waste Disposal Act

Federally-funded procurements must comply with the Solid Waste Disposal Act, as further specified in 2 CFR § 200.322.

(D) Cost/Price Analysis

For federally-funded procurements in excess of the currently applicable Simplified Acquisition Threshold, including contract modifications, a cost or price analysis must be performed, and must include making independent estimates before receiving bids or proposals. (See 2 CFR § 200.323.) Costs or prices based on estimated costs for federally-funded contracts are allowable only as provided in 2 CFR § 200.323.

(E) Profit Negotiation

For a federal contract awarded without price competition, profit must be negotiated as a separate element of price. To establish fair and reasonable profit, consideration must be given to the complexity of the work, the contractor's risk, the contractor's investment, the amount of subcontracting, record of past performance, and industry profit rates, as further specified in 2 CFR § 200.323(b).

(F) Excess or Surplus Property

When it will reduce project costs and is feasible, use of federal excess and surplus property is encouraged over purchasing new. (See 2 CFR § 200.318(f).)

(G) Value Engineering

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

(H) Geographical Preferences

Notwithstanding the provisions of Section 5.5, Local Preference, above, geographical preferences may not be used for federally-funded procurements, unless expressly authorized by the awarding agency. (See 2 CFR § 200.319(b).)

(I) Time and Materials

A time and materials contract may not be used for a federally-funded procurement, unless the Finance Director has determined that no other type of contract is suitable for the procurement, and provided the procurement complies with 2 CFR § 200.318(j). Similarly, a "cost plus" contract may not be used, as further specified in 2 CFR § 200.323.

(J) Intergovernmental Agreements

Use of intergovernmental agreements is encouraged where appropriate. (See 2 CFR § 200.318(e); and see SPMC § 3.16.110 E, Cooperative Purchasing.)

(K) Monitoring and Oversight

Procurements are subject to the requirements for monitoring and oversight in AP 3, Monitoring and Oversight of Receipt of Goods or Services. (See 2 CFR § 200.318(b).)

16.2 FEDERAL CONTRACTOR REQUIREMENTS

(A) Responsible Contractors

Contracts will only be awarded to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement, with consideration given to such matters as contractor integrity, compliance with public policy,

record of past performance, and financial and technical resources. (See CFR § 200.318(h).) A contractor must also be “responsible” as determined under California law, including Public Contract Code section 1103.

(B) Small and Minority Businesses

The City will take all necessary affirmative steps, including those identified in 2 CFR § 200.321(b), to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible for contracts subject to the Federal Procurement Requirements. The bid documents or RFP must require the vendor to take all necessary affirmative steps pursuant to 2 CFR § 200.321(b), when procuring subcontractors, to ensure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible. (See Section 13, Small and Minority Businesses, in Exhibit B, Sample Federal Contract Provisions.)

16.3 FEDERAL METHODS OF PROCUREMENT

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

(A) Micro-Purchases

The City may acquire supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold in 2 CFR § 200.67. A micro-purchase contract may be awarded without soliciting competitive quotes provided the price is reasonable, unless otherwise specified under the City’s procurement procedures. To the extent practicable, the City will distribute micro-purchases equitably among qualified suppliers. (See 2 CFR § 200.320(a).)

(B) Small Purchase Procedures

The City may use simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold in 2 CFR § 200.88. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. (See 2 CFR § 200.320(b).)

(C) Sealed Bids (Formal Advertising)

The City may publicly solicit sealed bids to be opened in public and award a fixed price contract to the lowest responsible bidder, in the manner required for formal bidding as specified in Chapter 3.16 of the San Pablo Municipal Code, and in compliance with 2 CFR § 200.320(c)(1).

(D) Competitive Proposals

The City may use this method when the conditions for use of sealed bids is not appropriate and more than one source submits an offer following a request for proposal. If the City uses this method, it must comply with the requirements of 2 CFR § 200.320(d), in addition to any other applicable City or state requirements, including, the requirements for procuring professional services set forth in Sections 21.4-21.6, above.

(E) Noncompetitive Proposals

The City may solicit a proposal from only one source when: (a) the item is available only from a single source, (b) the public exigency or emergency for the requirement will not

permit a delay resulting from competitive solicitation, (c) the federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the City, or (d) competition is determined to be inadequate after solicitation of a number of sources. The procurement must comply with the provisions of SPMC § 3.16.110, in addition to the requirements set forth in 2 CFR § 200.320(f).

AP 3: MONITORING AND OVERSIGHT OF RECEIPT OF GOODS OR SERVICES

17. INSPECTIONS AND TESTING

The ordering department shall inspect and/or test all goods upon receipt (or services upon completion), to assure conformance with the specifications set forth in the order. If a product is determined to be unusable, or not what was ordered, the department shall reject it and return it to the vendor as the vendor directs, and at the vendor's expense for credit or replacement.

18. ACCEPTANCE

When goods have been received or a project has been completed to the satisfaction of the ordering department and the specifications, the packing slip and/or other completion documentation shall be signed-off by the employee receiving or inspecting. Information to be noted on the documents must include, at a minimum, the employee's signature and a legible rendering of their name and the date of receipt/completion. The employee signing must note on the receiving documents any deviation from the exact ordering specifications.

AP 4: PURCHASING QUICK REFERENCE GUIDE

ISSUING PURCHASE ORDERS

P.O. Requirements	
<p>A purchase order is REQUIRED when the purchase exceeds \$10,000 and the purchase is:</p>	<ol style="list-style-type: none"> 1. Professional services contract 2. Purchases of goods, supplies or equipment 3. Monthly maintenance contracts that exceed \$10,000 in any fiscal year 4. Public Works construction contracts <p><i>A purchase order is NOT to be used after receipt of goods and services. The P.O. should be requested when a contract is signed or goods are ordered.</i></p> <p><i>P.O.'s are not required for purchases made from July through March and paid in a single installment.</i></p>

SIGNING AUTHORITY LIMITS AND EXCEPTIONS

Signing Authority Limits		Exceptions to Purchasing Policy
<p>Signing Authority Limits & Exceptions</p>	<ul style="list-style-type: none"> • AIE employees, Police Support Services Manager and Police Lieutenants up to \$2,500 • Division Managers, Recreation Supervisor and Police Captains up to \$5,000 • Executive Management and the City Attorney up to \$10,000 • Assistant City Manager up to \$25,000 • City Manager up to \$50,000 • City Council for purchases over \$50,000 	<ol style="list-style-type: none"> 1. Emergencies (e.g. natural disaster). 2. Specialized Services & Equipment (e.g. IT systems-hardware/software etc.), which may include training, consulting, installing, maintaining or servicing. 3. Sole Source (e.g. proprietary systems—no one else does it). 4. Cooperative Purchasing (e.g. piggybacking). 5. Leases or Lease Purchases. 6. Used items.

SUPPLIES, SERVICES OR EQUIPMENT

\$5K or Under	From \$5k to \$25K - INFORMAL	Over \$25K - FORMAL
<ol style="list-style-type: none"> 1. Bids are encouraged, but not required. 2. Open market process. 3. Buy local if possible. 	<ol style="list-style-type: none"> 1. Verbal or written bids, preferably 3. 2. Invite bids “by reasonable method.” 3. Consider local preference (within 5%). 4. Lowest responsible bidder, considering local preference (if not lowest monetary bidder, City must justify). 4. Prepare contract & PO Request Form. 5. Obtain appropriate insurance certificates and copy of business license from vendor. 6. Executive Management can approve up to \$10,000 & Assistant City Manager up to \$25,000 if funding is available in budget. 7. Consult with City Attorney if problems awarding to low bidder. 	<ol style="list-style-type: none"> 1. Award purchase by written contract only. 2. Formal bid process with 10 days’ published notice. 3. Open sealed bids. 4. Consider local preference within 5%. 5. Lowest responsible bidder, considering local preference (if not lowest monetary bidder, City must justify). 6. Prepare contract & PO Request Form. 7. Obtain appropriate insurance certificates and get a copy of business license. 8. Verify insurance acceptability & coverage. 9. City Manager approves up to \$50,000 if funding is available in budget. 10. Over \$50,000, contract must be awarded by Council. 11. Consult with City Attorney if problems awarding to low bidder.

PROFESSIONAL SERVICES (CONSULTANTS)

Process	\$25K or Under	Over \$25K
<p>Professional Services Agreements</p>	<ul style="list-style-type: none"> • Need not be competitively bid, but price may be a determining factor, in addition to qualifications. (See Section 21.4, above.) • Obtain written quotes (preferably 3) OR use an RFP process. May also request RFQ’s for large/complex projects. • Use Master Consultant Agreement—unless otherwise approved by City Attorney—and Routing Form (N:\RESOURCES\City Forms\Contracts). • Obtain insurance certificates and copy of Business License Tax. • Submit packet to City Attorney for review and approval. 	<ul style="list-style-type: none"> • If funding is available City Manager can authorize up to \$50,000. Submit to City Council for approval over \$50,000.

PUBLIC WORKS CONTRACTS

[Notes: (1) In emergency situations, consult city attorney and comply with PCC sec. 22050; (2) the thresholds for informal and formal bidding are expected to increase in 2018 or 2019.]

\$45K or Under	Over \$45k up to \$175K - INFORMAL	Over \$175K – FORMAL
<p>Work may be performed by:</p> <ul style="list-style-type: none"> • City workers by force account or • Negotiated contract or • Purchase Order. 	<ol style="list-style-type: none"> 1. Mail a notice to appropriate contractors and construction trade journals, inviting informal bids. 2. Provide at least 10 days before bids due. 3. If all bids received are in excess of \$175,000, City Council may award bid with 4/5 vote to lowest responsible bidder up to \$187,500. 4. City Manager can approve all projects up to \$50,000. 5. Consult with City Attorney if problems awarding to low bidder. 	<ol style="list-style-type: none"> 1. Public notice 14 days before bid opening. 2. Notice appropriate trade journals 30 days before bid opening. 3. City can: <ul style="list-style-type: none"> • Award bid to apparent low bidder (lowest responsible bidder). • Reject bid with 2 days’ notice to vendor. • Reject all bids and re-notice the project, change scope of work, rewrite job specs, have City workers do the job, etc. • Consult with City Attorney if problems awarding to low bidder.

USE OF CREDIT CARDS

Credit Card Limits	Use a Credit Card	Do NOT use a Credit Card
<p>Single-item/daily limit: \$2,000. Monthly limits *:</p> <ul style="list-style-type: none"> • Clerical & Line Staff / AIE Employees / Police Support Services Manager / Police Lieutenants: \$2,500 • Division Managers / Recreation Supervisor / Police Captains: \$5,000 • Executive Management: \$10,000 • Department Credit Card: \$7,500 to \$15,000 	<ul style="list-style-type: none"> • City business ONLY! NEVER charge any personal items even if you plan on reimbursing the City 	<ul style="list-style-type: none"> • NO CASH WITHDRAWALS. • No large dollar amounts or professional services expenses (e.g. maintenance agreements, rentals, etc.). • Use invoices FIRST.
	<ul style="list-style-type: none"> • Retain and submit ORIGINAL receipts • When meals are charged, write names of those eating and the business purpose of the meal • Forward documentation to Finance by the 10th of the month 	

** Exceptions may be granted with Dept. Head and Finance approval*

CONTRACTS, AGREEMENTS, MOU’S WITH OTHER PUBLIC AGENCIES OR NON-PROFITS

Must go to City Council for approval, regardless of dollar amounts, unless under \$25,000 and normal process is waived by the City Manager and City Attorney.

APPENDIX A

SAN PABLO ECONOMIC OPPORTUNITY POLICY

I. Purpose. The San Pablo Local Economic Opportunity Policy, adopted by the San Pablo City Council on February 20, 2018, sets forth local employment and contracting requirements for various types of City-supported projects and contracts. The purpose of the Policy is to maximize economic opportunities for targeted local residents and businesses. These Implementation Procedures provide additional detail for application of the Policy on City projects and contracts.

The Policy establishes a flexible approach, tailored for various types of publicly-supported projects and contracts. The Policy builds connections between contractors, employers and the San Pablo Economic Development Corporation, to refer local workers and businesses for available opportunities.

II. Definitions.

- a. "City" means the City of San Pablo.
- b. "EDC" means the San Pablo Economic Development Corporation.
- c. "Local Business" means an entity operating a place of business in San Pablo, with a current business license.
- d. "Small Local Business" is a Local Business that has fewer than 50 employees or less than \$2,000,000 in annual gross receipts.
- e. "Local Resident" means an individual having an adjusted household income of less than the Area Median Income for Contra Costa County, and domiciled in the City of San Pablo as of the relevant hiring date, with "domiciled" as defined by Section 349(b) of the California Election Code.
- f. "Policy" means the San Pablo Local Economic Opportunity Policy.
- g. "Procedures" means these Implementation Procedures for the Policy.

III. Local Employment Requirements.

a. Local Employment Requirements for City Construction Contracts.

i. Hiring Goals for Large Construction Contracts. This subsection applies to City-awarded contracts under which construction will be performed, having an estimated value of at least \$3,000,000. For all such contracts, the City shall establish hiring and apprentice utilization goals for Local Residents, with percentage goals dependent on type of project, construction trades involved, and other relevant factors. For each such contract, department head shall recommend appropriate goals to the City Manager, who shall establish such goals for inclusion in bid specifications. Contractors awarded such construction contracts are required to either satisfy such goals or demonstrate good faith efforts to do so, through utilization of existing contractor workforces and through hiring from other sources. Goals shall be measured in project work hours. Goals are applicable in aggregate to the prime contractor and all subcontractors of any tier working under the prime contract in question.

ii. Outreach Requirements for All Construction Contracts. For all City-awarded contracts under which construction will be performed, the prime contractor and all subcontractors shall contact the EDC at least ten business days prior to hiring, describing number, duties and qualifications needed for

available positions, and shall consider any workers referred by the EDC within three business days. See Exhibit 3 for template language for public works specifications; this template may be adapted by staff in implementation.

b. Local Employment Requirements for City Consulting and Services Contracts.

i. Hiring Goals for Large Service Contracts. This subsection applies to City-awarded contracts for performance of services (not including construction or consulting), having an estimated value of at least \$1,000,000. For all such contracts, the City shall establish goals for employment of Local Residents, with percentage goals dependent on type of project, services involved, and other relevant factors. For each such contract, department head shall recommend appropriate goals to the City Manager, who shall establish such goals for inclusion in contract documents. Contractors awarded such service contracts are required to either satisfy such goals or demonstrate good faith efforts to do so, through utilization of existing contractor workforces and through hiring from other sources. Goals shall be measured in project work hours performed under the contract. Goals are applicable in aggregate to the contractor awarded the contract by the City, and to subcontractors of any tier working under the contract in question.

c. Outreach Requirements for All Service and Consulting Contracts. For all City-awarded contracts under which services (including consulting) will be performed, the contractor and any subcontractors shall contact the EDC at least ten business days prior to hiring, describing number, duties and qualifications needed for available positions, and shall consider any workers referred by the EDC within three business days. See Exhibit 4 for template language for maintenance and trade services agreements; this template may be adapted by staff in implementation.

IV. Local Contracting Requirements.

a. Local Contracting Requirements for Construction Prime Contract Awards. City staff shall notify the EDC of all construction contracts that the City intends to award with an estimated value of over \$5,000. The EDC shall notify Local Businesses of bidding opportunities, and provide technical assistance to Local Businesses during the bidding process.

b. Local Contracting Requirements for Subcontracts under City-awarded Contracts. Bidders for advertised Construction Contracts shall contact the EDC at least two weeks prior to bid submission, providing notice and details regarding subcontracting opportunities. City consultants and service contractors shall contact the EDC at least two weeks prior to any subcontract award, providing notice and details regarding subcontracting opportunities. The EDC shall notify Local Businesses of subcontracting opportunities, and provide technical assistance to Local Businesses during the subcontracting bidding process.

c. Local Contracting Requirements for Small Contracts Awarded by the City. When awarding construction, services, or consulting contracts with an estimated value of under \$5,000 and where the award process is informal, City staff shall attempt to maximize and encourage award of such contracts to Small Local Businesses. See SPMC § 3.16.090 as to non-construction informal bid requirements.

d. Local Contracting Requirements for Service Contracts and Consultant Contracts. Pursuant to SPMC §3.16.100, when awarding a service, supply, or consulting contract utilizing a lowest-responsible-bidder award process, City staff shall implement a 5% bid preference in evaluating bids submitted by Small Local Businesses. The total amount of preference granted in a single bid shall not exceed five thousand dollars. See Exhibit 2 for template language for consultant service agreements; this template may be adapted by staff in implementation.

e. Exceptions. Local Contracting Requirements set forth in this Section IV shall not apply with Sole Source Contracts, Emergencies, Cooperative Purchasing or Used Items as described in San Pablo Municipal Code section 3.16.110

V. Grants, Leases and Land Sales.

a. Competitive Proposals. When the City is soliciting competitive proposals for award of grants or for initiation of negotiation of terms of a lease of sale of City property, the City shall in appropriate cases require respondents to detail:

- i. proposed approach to maximize employment of Local Residents by respondent and any subcontractors;
- ii. proposed approach to maximize utilization of Small Local Business by respondent and by any of respondent's contractors, in contract and subcontract awards related to fulfillment of grant terms or operations on the property in question.

See Exhibit 1 for template language inviting competitive proposals, which may be adapted in implementation.

b. Local Employment and Contracting Goals and Outreach. In appropriate cases, the City shall negotiate into terms of grants, leases, and land sales:

- i. hiring and apprentice utilization goals for Local Residents, with percentage goals dependent on type of project, construction trades involved, and other appropriate factors;
- ii. requirements to attempt to award contracts to Small Local Businesses, at the contract and subcontract level; and
- iii. requirements for outreach to EDC by respondents, contractors, and subcontractors of all tiers, requiring employment and contracting opportunities.

VI. Nondiscrimination. Employers and contractors on projects and contracts to which terms of the Policy are applicable shall not discriminate against Local Residents or Local Businesses on the basis of their local status, or on any other basis prohibited by law, in any terms and conditions of hiring, employment, or operations.

VII. Implementation.

a. Inclusion in Relevant Contracts. When awarding contracts described above, City staff shall include relevant provisions of the Policy and these Procedures as material contract terms.

b. Enforcement. City may enforce terms of relevant contracts, including terms of the Policy and these Procedures, through withholding or collection of specified liquidated damages amounts, injunctive relief actions, termination of contracts, debarment from future City contract awards, and any other remedies at law or equity.

c. Source of Authority. Provisions of this Policy and these Procedures shall be imposed and implemented by the City in use of its spending powers and authority over City operations and public and business activities, and in furtherance of the City's proprietary interests and policy goals. The Policy is not an exercise of regulatory authority, and shall not be implemented through mechanisms that are solely regulatory in nature.

d. Compliance Records. Each employer covered by the Policy shall make available to the City upon request records sufficient to determine compliance with the Policy. The City shall keep all documentation provided pursuant to this section confidential, subject to applicable law.

e. Exemptions. Employment goals under Section III shall not apply to positions filled by residents of states other than the State of California.

f. Contact Person. At least two weeks prior to hiring or contracting processes covered by this Policy, each covered employer or contractor shall provide to the City and the EDC contact information for a contact person for purposes of implementation of the Policy.

g. Applicable Law and Compliance with Law. The Policy and these Procedures shall be governed by and construed in accordance with the laws of the State of California and the United States, and shall be enforced only to the extent that they are consistent with those laws. This Policy and these Procedures shall be reasonably interpreted so as to comply with any conflicting law, where possible. The Policy shall not be implemented where it is conflict with requirements of federal, state, or local public funding sources for the project or contract in question.

**EXHIBIT 1
TEMPLATE RFP LANGUAGE**

Consultant Selection

A review committee will review all proposals received by the City. Proposers may be asked to present before a formal selection Committee. Proposals will be evaluated on the basis of the experience and performance capability of the team and cost proposals. All proposers must be a licensed _____ and will be evaluated on the basis of the following criteria:

[The following is an example of possible evaluation criteria that may be revised to fit the services being evaluated]

Criteria

Experience doing: _____	20%
Experience doing: _____	20%
Local subcontractor/subconsultant approach	5%
Local employment approach	5%
Proposed project methodologies to include processes and tools	20%
References	10%
Cost proposal*	20%

*Total dollar amount of the preference for a local consultant as defined in the San Pablo Municipal Code is 5% or \$5,000, whichever is less.

Submittal Requirements

Three printed copies and one electronic copy of a comprehensive proposal shall be submitted to the City Manager's Office for consideration. A comprehensive proposal shall include all of the required elements below.

1. About the Consultant -- Provide information about your company and the team you will use to complete this work if selected. Include, at a minimum:

- Company background
- Primary point of contact
- Indicate any subcontractors or subconsultants that you intend to use
- List key staff you intend to assign and provide background information
- Indicate professional licenses of key staff members

2. Experience -- Provide information about your experience. Include, at a minimum:

- Experience doing: _____
- Experience doing: _____
- Experience doing: _____
- Experience doing: _____

3. References -- Provide at least three professional references the City can contact.

4. Project Methodologies and Processes -- Describe the methodologies and procedures you propose for each of the scope areas described in this RFP. Include, at a minimum:

- A description of your understanding of the scope item
- A proposed timeline
- Key risks regarding each scope item with proposed avoidance or mitigation measures
- A description of your proposed approach to providing employment, training, and contracting opportunities to City residents and businesses, to the extent you propose steps in addition to outreach requirements set forth in the attached Form of Consulting Contract.

5. Cost Proposal -- The cost proposal should include unit costing as appropriate for proposer's methodologies and processes for each of the scope items. Unit costing may be by work unit, in time and materials, or in some other format as appropriate for the proposer. Proposers should estimate the number of units required for each unit type for each scope item.

EXHIBIT 2
TEMPLATE LANGUAGE FOR CONSULTANT SERVICES AGREEMENT

(20) Employment Practices.

A. **Employment of Local Residents.** Pursuant to the San Pablo Economic Opportunity Policy, the Consultant and any subcontractors shall contact the San Pablo Economic Development Corporation (“EDC” at info@sanpabloedc.org or 510-215-3200) at least ten business days prior to hiring or staffing for fulfillment of the Contract, describing number, duties and qualifications needed for available positions, and shall fairly consider for employment any workers referred by the EDC within three business days. “Local Resident” means an individual having an adjusted household income of less than the Area Median Income for Contra Costa County, and domiciled in the City of San Pablo as of the relevant hiring date, with “domiciled” as defined by Section 349(b) of the California Election Code. Discrimination against Local Residents on the basis of their local status is prohibited.

B. **Compliance With Law.** Consultant represents that it is an Equal Opportunity Employer and shall comply with applicable regulations governing equal opportunity employment. Consultant shall not discriminate in the employment of any person because of race, color, national origin, ancestry, physical or mental disability, medical condition, marital status, sex, age, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment and Housing Act. Consultant shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) in performing its obligations under this Agreement. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this Agreement. In performing work and providing services under this Agreement, Consultant shall, at its sole cost and expense, comply with all applicable laws of the United States and the State of California; the Ordinances of the City of San Pablo; and the rules, regulations, orders and directories of their respective administrative agencies and the officers thereof.

(XX) Local Subcontracting – Outreach. Consultant shall contact the San Pablo Economic Development Corporation (the “EDC” at info@sanpabloedc.org or 510-215-3200) at least two weeks prior to any subcontract award, providing notice and details regarding subcontracting opportunity. The EDC shall notify qualified local businesses of subcontracting opportunities, and provide technical assistance to qualified local businesses during the subcontracting bidding process.

EXHIBIT 3
TEMPLATE LANGUAGE FOR PUBLIC WORKS SPECIFICATIONS

Add section 7 to the “Notice Inviting Bid”:

- 9. Outreach to Local Businesses.** At least fourteen days prior to bid submission, bidder shall contact the San Pablo Economic Development Corporation (“EDC” at info@sanpabloedc.org or 510-215-3200) and provide notice and details regarding subcontracting opportunities. The EDC will notify local businesses of subcontracting opportunities, and provide technical assistance to local businesses during the subcontracting bidding process.

Add section 7 to “Instructions to Bidders”

- 7. Outreach to Local Businesses.** At least fourteen days prior to bid submission, bidder shall contact the San Pablo Economic Development Corporation (“EDC” at info@sanpabloedc.org or 510-215-3200) and provide notice and details regarding subcontracting opportunities. The EDC will notify local businesses of subcontracting opportunities, and provide technical assistance to local businesses during the subcontracting bidding process.

Revise Bid Proposal form to include section 3.5 below:

- 3. Bidder’s Warranties.** By signing and submitting this Bid Proposal, Bidder warrants the following:
- 3.1 Examination of Contract Documents.** Bidder has thoroughly examined the Contract Documents and represents that, to the best of Bidder’s knowledge, there are no errors, omissions, or discrepancies in the Contract Documents, subject to the limitations of Public Contract Code section 1104.
- 3.2 Examination of Worksite.** Bidder has had the opportunity to examine the Worksite and local conditions at the Project location.
- 3.3 Bidder is Qualified.** Bidder is fully qualified to perform the Work.
- 3.4 Responsibility for Bid.** Bidder has carefully reviewed this Bid Proposal and is solely responsible for any errors or omissions contained in its completed Bid.
- 3.5 Outreach to Local Businesses.** At least fourteen days prior to bid submission, bidder contacted the San Pablo Economic Development Corporation (“EDC”) to provide notice and details regarding subcontracting opportunities.

Add to the “Special Conditions”

__ Employment of Local Residents. Pursuant to the San Pablo Economic Opportunity Policy, the Contractor and any subcontractors shall contact the San Pablo Economic Development Corporation (“EDC” at info@sanpabloedc.org or 510-215-3200) at least ten business days prior to hiring or staffing for fulfillment of the Contract, describing number, duties and qualifications needed for available positions, and shall fairly consider for employment any workers referred by the EDC within three business days. “Local Resident” means an individual having an adjusted household income of less than the Area Median Income for Contra Costa County, and domiciled in the City of San Pablo as of the relevant hiring date, with “domiciled” as defined by Section 349(b) of the California Election Code. Discrimination against Local Residents on the basis of their local status is prohibited.

The following provision may be used to establish goals for hiring and training of local residents, pursuant to the San Pablo Economic Opportunity Policy. Such goals may be established for Projects with an estimated value of at least \$3,000,000. Goals shall be established based on type of project, construction trades involved, and other factors deemed relevant by City staff. For contracts over \$3,000,000, department heads shall recommend appropriate goals to the City Manager, who shall determine goals for application to the Project in question.

__ Local Employment.

___1 Goals. Pursuant to the San Pablo Economic Opportunity Policy, the Project is subject to the following percentage goals for utilization of Local Residents:

- [X%] of overall Project work hours
- [X%] of hours worked by apprentices

Such goals apply to total Project work hours performed by the Contractor and all subcontractors in the aggregate.

___2 Good Faith Compliance. The Contractor may comply with the above percentage goals by either (i) demonstrating that the goals were satisfied for project work hours in the aggregate (taking into account all work performed by Contractor and all subcontractors); or (ii) demonstrating that for all hires and staffing, the Contractor and each subcontractor took the following steps to attempt to retain Local Residents, prior to staffing with other workers:

- (i) assign to employment on the Project existing crew members who are Local Residents;
- (ii) (if a union signatory contractor) request referral from hiring hall of Local Residents, utilizing name calls and any other mechanisms available within the applicable collective bargaining agreement;
- (iii) at least ten business days prior to staffing, contacting the San Pablo Economic Development Corporation for referral of qualified Local Residents, and considering in good faith any applicants referred by EDC within three business days.

___3 Definition. "Local Resident" means an individual having an adjusted household income of less than the Area Median Income for Contra Costa County, and domiciled in the City of San Pablo as of the relevant hiring date, with "domiciled" as defined by Section 349(b) of the California Election Code.

___4 Contact. At least two weeks prior to commencement of work on the Project, Contractor shall provide to the City and the EDC (info@sanpabloedc.org or 510-215-3200) contact information for a contact person for purposes of implementation of this Section.

___5 Compliance Records. The Contractor and each subcontractor shall make available to the City upon request records sufficient to determine compliance with provisions of this Section. The City shall keep all documentation provided pursuant to this section confidential, subject to applicable law.

___6 Exemption. Percentage goals in this Section shall not apply to Project work hours performed by residents of states other than the State of California.

EXHIBIT 4
TEMPLATE LANGUAGE FOR MAINTENANCE AND TRADE SERVICES AGREEMENT

Add Section 10 to the Agreement as follows:

(10) Employment Practices.

A. **Employment of Local Residents.** Pursuant to the San Pablo Economic Opportunity Policy, the Contractor and any subcontractors shall contact the San Pablo Economic Development Corporation (“EDC” at info@sanpabloedc.org or 510-215-3200) at least ten business days prior to hiring or staffing for fulfillment of the Contract, describing number, duties and qualifications needed for available positions, and shall fairly consider for employment any workers referred by the EDC within three business days. “Local Resident” means an individual having an adjusted household income of less than the Area Median Income for Contra Costa County, and domiciled in the City of San Pablo as of the relevant hiring date, with “domiciled” as defined by Section 349(b) of the California Election Code. Discrimination against Local Residents on the basis of their local status is prohibited.

[ALTERNATE PARAGRAPH A for contracts for which percentage goals are appropriate. Pursuant to the San Pablo Economic Opportunity Policy, such goals may be established for services contracts with an estimated value of at least \$1,000,000. Goals shall be established based on type of project, construction trades involved, and other factors deemed relevant by City staff. For contracts over \$3,000,000, department heads shall recommend appropriate goals to the City Manager, who shall determine goals for application to the Project in question:

- A. **Local Employment.** Pursuant to the San Pablo Economic Opportunity Policy, this Agreement is subject to the following percentage goals for utilization of Local Residents: [X%] of work hours performed in [specify type or category of jobs to which goals should apply] jobs. Such goals apply to work hours performed by the Contractor and by any subcontractors, in the aggregate. The Contractor may comply with the above percentage goal by either demonstrating that the goals were satisfied for all work hours in specified job categories; or demonstrating that for all hires and staffing in specified job categories, Consultant and any subcontractors took the following steps to attempt to retain Local Residents, prior to staffing with other workers: (i) assigning to the project existing staff who are Local Residents; and (ii) at least ten business days prior to additional staffing, contacting the San Pablo Economic Development Corporation (“EDC” at info@sanpabloedc.org or 510-215-3200) for referral of qualified Local Residents, and considering in good faith any applicants referred by EDC within three business days. “Local Resident” means an individual having an adjusted household income of less than the Area Median Income for Contra Costa County, and domiciled in the City of San Pablo as of the relevant hiring date, with “domiciled” as defined by Section 349(b) of the California Election Code. Contractor shall make available to the City upon request records sufficient to determine compliance with provisions of this Section. The City shall keep all documentation provided pursuant to this section confidential, subject to applicable law. Percentage goals in this paragraph shall not apply to work hours performed by residents of states other than the State of California. Discrimination against Local Residents on the basis of their local status is prohibited.]
- B. **Compliance With Law.** Contractor represents that it is an Equal Opportunity Employer and shall comply with applicable regulations governing equal opportunity employment. Contractor shall not discriminate in the employment of any person because of race, color, national origin, ancestry, physical or mental disability, medical condition, marital status, sex, age, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment and Housing Act. Contractor shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) in performing its obligations under this Agreement. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this Agreement. In performing work and providing services under this Agreement, Contractor shall, at its sole cost and expense, comply with all applicable laws of the United States and the State of California; the Ordinances of the City of San Pablo; and the rules, regulations, orders and directories of their respective administrative agencies and the officers thereof.

(XX) Local Subcontracting – Outreach. Contractor shall contact the San Pablo Economic Development Corporation (the “EDC” at info@sanpabloedc.org or 510-215-3200) at least two weeks prior to any subcontract award, providing notice and details regarding subcontracting opportunity. The EDC shall notify qualified local businesses of subcontracting opportunities, and provide technical assistance to qualified local businesses during the subcontracting bidding process.

APPENDIX B

SAMPLE FEDERAL CONTRACT PROVISIONS

For contracts subject to federal funding, in whole or in part, including contracts that may be subject to emergency funds from FEMA, the following provisions should be copied and pasted into the contract or contract documents. Consult the representative for the funding agency and/or the City Attorney's Office regarding applicability and use of these contract provisions.

Federally Funded Projects. This Project is funded in whole or in part by federal funds and subject to the following federal requirements under the terms of the funding agreement(s) between City and the federal agency or agencies providing federal funds, which are fully incorporated by this reference and made part of the Contract Documents. Copies of any funding agreement between City and a funding agency will be made available upon request.

1. Equal Opportunity. If this is a public works contract, during the performance of this Contract, the Contractor agrees as follows:

(A) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(B) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(C) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision will not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(D) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the labor union or workers' representatives of the Contractor's commitments under this

section, and will post copies of the notice in conspicuous places available to employees and applicants for employment.

(E) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the United States Secretary of Labor.

(F) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the United States Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the United States Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(G) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the United States Secretary of Labor, or as otherwise provided by law.

(H) The Contractor will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (H) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the United States Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the City or funding agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided*, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the City or funding agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

2. Davis-Bacon Act. If this is a public works contract, contractor will pay wages to laborers and mechanics, not less than once a week, and at a rate not less than the current federal prevailing wages specified in the Davis-Bacon Act Wage Determination attached hereto and incorporated herein. By entering into this Contract, Contractor accepts the attached Wage Determination. *<The current Davis-Bacon Act Wage Determination, which may be accessed at <https://www.wdol.gov/dba.aspx> must be printed and included with the Contract Documents.>*

3. Copeland "Anti-Kickback" Act. If this is a public works contract, contractor will comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. Part 3 as may be applicable, which are incorporated by reference into this Contract. Contractor and subcontractors must insert this requirement into subcontracts of any tier. Contractor is responsible for compliance with these requirements by each subcontractor of any tier.

4. Contract Work Hours and Safety Standards Act. In addition to the California state law requirements, Contractor and each subcontractor must comply with the requirements of the federal Contract Work Hours and Safety Standards Act, as set forth in 40 U.S.C. 3701-3708, as supplemented by the regulations set forth in 29 C.F.R. Part 5, as may be amended from time to time, which are fully incorporated herein, including:

(A) No Contractor or subcontractor will require or permit any laborer or mechanic performing Work for the Project to work in excess of 40 hours in a work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours during that work week.

(B) If Contractor or a subcontractor violates this requirement, the Contractor and any responsible subcontractor will be liable for the unpaid wages. In addition, the Contractor and subcontractor will be liable to the United States for liquidated damages. The liquidated damages will be computed with respect to each individual worker as specified under federal law.

(C) Contractor and subcontractors must insert this requirement into subcontracts of any tier. Contractor is responsible for compliance with these requirements by each Subcontractor of any tier.

5. Rights to Inventions. If the federal funding for this Contract meets the definition of “funding agreement” under 37 CFR section 401.2(a) and constitutes an agreement between the City and a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency, will apply to this Contract and are fully incorporated into the Contract Documents by this reference.

6. Clean Air Act. If the Contract is for an amount in excess of \$150,000, Contractor and each Subcontractor must comply with the requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401-7671q), which are fully incorporated into the Contract Documents by this reference, including requirements for reporting violations to the awarding agency and the applicable Regional Office for the Environmental Protection Agency. Contractor and subcontractors must insert this requirement into subcontracts of any tier in excess of \$150,000.

7. Federal Water Pollution Control Act. If the Contract is for an amount in excess of \$150,000, the requirements of the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387) apply to this Contract and are fully incorporated into the Contract Documents by this reference, including requirements for reporting violations to the awarding agency and the applicable Regional Office for the Environmental Protection Agency requirements for reporting violations. Contractor and subcontractors must insert this requirement into subcontracts of any tier in excess of \$150,000.

8. Suspension and Debarment. Contractor is required to verify that neither it, nor its principals, as defined at 2 C.F.R section 180.995, or its affiliates, as defined at 2 CFR section 180.905, are excluded or disqualified, as defined at 2 C.F.R sections 180.935 and 180.940. Contractor must comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C, and must include a provision requiring compliance with these regulations in any subcontract of any tier. If it is later determined that the Contractor did not comply with the applicable subparts, the Federal Government may pursue available remedies, including, but not

limited to, suspension and/or debarment. By submitting a bid and entering into this Contract, Contractor agrees to comply with these requirements.

9. Byrd Anti-Lobbying Amendment. If the Contract is for an amount in excess of \$100,000, Contractor must comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352) and file the certification provided at 44 CFR Part 18, Appendix A, and any disclosures, with the applicable federal agency. Each tier certifies to the tier above that it will not and has not used federal-appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier will also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures will be forwarded from tier to tier up to the recipient.

10. Procurement of Recovered Materials. The requirements of section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962, apply to this Contract and are fully incorporated into the Contract Documents by this reference. For individual purchases of \$10,000 or more, Contractor will make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired (A) competitively within the Contract schedule, (B) in conformance with Contract performance requirements, or (C) at a reasonable price. Information on this requirement, including a list of EPA-designated items, is available at the EPA's Comprehensive Procurement Guidelines website: <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

11. Small and Minority Businesses. Contractor will take all necessary affirmative steps, including those identified in 2 CFR § 200.321(b), to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible for the Project. Contractors must take all necessary affirmative steps pursuant to 2 CFR § 200.321(b), when procuring subcontractors, to ensure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. These affirmative steps for subcontractor procurement must include:

- (A) Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
- (B) Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources.
- (C) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises.
- (D) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
- (E) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

<The above provision on Small and Minority Businesses should be copied and pasted into the invitation to bid or RFP documents, as applicable, and re-numbered, as appropriate.>