



# City of Gilroy Purchasing Policy

March 2020

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## Section 1 – Purchasing Policy Overview

### **1.1 Purchasing Policy Overview**

The purpose of this manual is to provide basic information for procuring goods and services consistent with adopted policies and procedures, and best practices. This manual is intended to provide sufficient information and reference detail to enable City employees to be fully aware of, and comply with, City purchasing policies, and to effectively participate in the purchasing program.

This section of the purchasing policies and procedures manual establishes the legal requirements of the procurement function within the City organization and establishes procurement expectations to safeguard fairness, system integrity and ethical practices.

1. **Legal Requirements.** The legal bases for the purchasing system are established below.
  - Several sections of the [City Charter](#) enumerate authorities relative to purchasing-related functions:
    - **Section 703.** Establishes that the City Administrator:
      - Can enter into contracts on behalf of the city involving Council-appropriated expenditures and bid or proposals approved by Council.
      - Will implement a citywide purchasing system.
    - **Section 800.** Requires in paragraph 4 that purchasing rules and regulations be included in the administrative code which shall be amended by ordinance as necessary.
    - **Section 1104.** Specifies in paragraph 3 that during any fiscal year city employees cannot spend or incur any obligations to spend money for any purpose without a budgeted appropriation.
    - **Section 1109.** Contains requirements for bidding public works construction projects.
    - **Section 1110.** Contains certain requirements that bidders must follow when bidding on city projects.

- The [City Code Section 2.43\(c\)](#) establishes the responsibilities of the purchasing function.

## **2. Expectations of Fair and Open Procurement.**

- Secure goods and services at the lowest possible cost commensurate with the quality needed.
- Endeavor to obtain the most open competition possible for all purchases.
- Encourage competitive pricing from responsive and responsible business providers that are qualified, capable and willing to meet the city's requirements.
- Fulfill the requirements of Charter and City Code in the procurement of goods and services.
- Safeguard the city's reputation for fairness, integrity and ethical practices.

## Section 2 – Code of Conduct and Ethics

### **2.1 Code of Conduct Overview**

All employees are responsible for impartially assuring fair competitive access to city procurement opportunities by responsible suppliers and contractors. In addition, all employees shall conduct themselves in a manner that avoids any impropriety, or appearance of impropriety, and that fosters the highest level of public confidence in the integrity of Gilroy's purchasing system.

### **2.2 Conflict of Interest**

No employee shall participate in a city procurement when the employee knows that:

1. The employee or the employee's spouse, domestic partner, child, stepchild, parent or stepparent will benefit financially from the procurement; and/or
2. The employee or the employee's spouse, domestic partner, child, stepchild, parent or stepparent is negotiating or has an employment arrangement contingent on or will be affected by the procurement.

Upon discovery of an actual or potential conflict of interest, an employee shall immediately withdraw from further participation in the procurement.

### **2.3 No Gratuities**

No city employee shall solicit, demand, accept or agree to accept a gift of goods or services, payment, loan, advance, deposit of money, or employment offer presented, promised in return for, or in anticipation of favorable consideration in a city procurement.

### **2.4 Conduct with Vendors**

Conduct with vendors who provide goods or services to the city shall be fair, open and transparent. City employees shall:

1. Refrain from showing favoritism to vendors or being unduly influenced.
2. Safeguard confidentiality when required to do so.
3. Select vendors on the basis of meeting appropriate and fair criteria.

## ***2.5 Disciplinary Actions for Policy Violations***

City employees shall abide by and be accountable for the codes of conduct established in this section. Policy violations may result in disciplinary actions in accordance with the city's established procedures, consistent with state law.

### **Governing Law(s) and Reference Documents**

1. [Section 809 of the City Charter](#)

## Section 3 – Purchasing System Authorities and Responsibilities

### **3.1 Decentralized Purchasing System Overview**

The city has adopted a decentralized purchasing system. This means that for most purchases, requesting departments can directly solicit bids or proposals and place orders with suppliers, subject to the limitations established in policy and subject to the approval of the appropriate award authority. Nothing precludes staff from seeking procurement assistance from the finance director or purchasing coordinator, especially to clarify policies, processes and procedures.

In a decentralized purchasing system, it is very important that all employees understand and abide by the city's procurement rules/policies and ensure their fair and consistent application.

### **3.2 General Categories of Purchases**

City purchase categories generally consist of the following categories, for which different procurement methods may apply (see Section 4, Procurement Methods, page 11):

1. **Goods.** The purchase of goods consists of materials, equipment and supplies needed by any department.
2. **Services.** City staff may require contracts for services, which fall into two categories:
  - a. **General Services.** Services rendered such as custodial services, building/equipment maintenance, and machinery/equipment rental, excluding contracts for public works projects or professional services.
  - b. **Professional Services.** Services provided by a person or firm engaged in a profession based on highly specialized and/or technical knowledge or skill, such as the professions of accountant, attorney, artist, architect, landscape architect, construction manager, engineer, environmental consultant, dentist, physician, training or educational consultant, or land surveyor, and whose services are considered distinct and unique to such a degree that bidding of such services may not be feasible, if appropriately justified and documented (see Subsection 4.9, Exemptions from Competitive Bidding, page 20).
3. **Public Works Projects.** Public works pertain to the construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind, including demolitions, and the construction and installation of drainage systems, lighting and signaling systems, sewer and water systems, and park and

recreational facilities. Maintenance required to preserve a public improvement is not considered a public work.

### **3.3 Authority to Award Contracts**

The following section outlines the various contract award authorities established under the decentralized Purchasing System.

1. **Award Authority.** Contract award authority is established by dollar threshold for each of the following entities:
  - a. **City Council.** Purchases or contracts for goods and services of \$100,000 or more, and public works contracts exceeding \$35,000, must be awarded by the City Council.
  - b. **City Administrator.** Purchases or contracts up to \$99,999 may be awarded by the City Administrator, with the exception of public works contracts exceeding \$35,000.
  - c. **Department Heads.** As authorized by the City Administrator, department heads may make purchases and enter into contracts for goods and services up to \$49,999, and for public works construction contracts up to \$34,999.
  - d. **Staff.** Purchases up to \$2,999 may be made at the staff level as designated by department directors.
2. **Authority to Legally Bind City.** *Unless specifically authorized as established in this section or elsewhere in City policy, staff other than the City Administrator and department heads cannot enter into contractual arrangements to purchase goods or services or otherwise legally bind the City for such purchases.*
3. **Award Authority Determined by One Transaction.** For the purpose of determining the appropriate award authority, contract amounts are defined by what constitutes a single or one transaction. This rule also applies to competitive bidding (the estimate of dollar value of the transaction dictates the level of bidding required).
  - a. **One-time Purchases.** Each discrete, one-time purchase is a single transaction.
  - b. **Blanket Purchase Orders.** The contract term of a blanket purchase order is generally considered a single transaction, subject to total contract length requirements established in a competitive bidding process. See also Subsection 3.7.6.b on page 9.

**Examples:** A blanket order in the amount of \$10,000 that is issued for vehicle parts for a one-year period is a single transaction. Subsequent annual renewals of the blanket order are considered separate, single transactions.

A five-year blanket order for on-call maintenance work in the amount of \$25,000 each year (for a total of \$125,000) requires Council approval.

- c. **Contract Amendments.** Dollar increases to existing contracts require the sum of the original contract to be added to the amount of the amendment to determine the single transaction value.

**Example:** The City Administrator awards a contract for \$75,000 and a \$30,000 amendment is required. The resulting transaction is \$105,000, now requiring Council approval.

### ***3.4 Responsibilities of Purchasing Division***

1. **Purchasing Function.** As established in [Section 2.43\(c\) of the City Code](#), the purchasing division is responsible for:
  - a. Purchasing materials, supplies, and equipment (goods) and services for use by all departments when appropriate.
  - b. Preparing standard specifications for goods and services wherever possible.
  - c. Maintaining a purchase order system and issuing purchase orders as required.
  - d. Verifying that all bids and proposals are in accordance with policy requirements.
  - e. Establishing and operating a system of stores for the bulk purchase of commonly used items.
  - f. Selling surplus personal property of the City, subject to the determinations and approval of department heads, the City Administrator and the City Council.

### ***3.5 Responsibilities of City Staff***

1. **Responsibilities of all employees.** As keepers of the public trust, all City employees are required to discharge their duties fairly, impartially and with the highest degree of integrity. In support of these concepts as they apply to the purchase of goods and services, City staff shall:
  - a. Clearly identify procurement needs and the availability of funding.
  - b. Work with the purchasing coordinator to develop suitable competitive specifications.
  - c. Participate in the evaluation of bids and proposals as required.
  - d. Inspect goods delivered and services performed to determine conformity with established requirements and contractual obligations.
  - e. Authorize payment for conforming goods and services.
  - f. Notify the purchasing coordinator of non-conforming goods or services.
  - g. Document tangible or intangible value to the city when requisitioning goods or services without competition.
  - h. Recognize that fair and open competition results in better value to the city.
  - i. Understand and be accountable for the policies and procedures established for purchasing goods and services.

2. **Purchasing Requisition Required.** Goods and services purchases that will require a contract, purchase order, or blanket purchase order, including public works construction, must be initiated with a properly documented and approved purchase requisition which includes:
  - a. Concise description of the purchase which adequately communicates need.
  - b. Actual or estimated dollar amount.
  - c. Valid charge/project and object number.
  - d. Verification of available funding or identification that funding is needed.
  - e. Price quotes with recommended vendor selection and appropriate award justification.
  - f. Bid exemption documentation as required.

### ***3.6 Authorized and Unauthorized Purchases***

This section defines authorized and unauthorized purchases and how they are memorialized and establishes that employees can be held responsible for unauthorized purchases that are not ratified by the appropriate award authority.

1. **Authorized Purchases.** Purchases are authorized only when the appropriate award authority has approved the purchase. Only the City Council, City Administrator, and department heads, or authorized designee in writing from the City Administrator, may legally bind the city to a contract.
2. **Unauthorized Purchases.** Purchases approved by anyone other than the designated award authorities are unauthorized. It is the responsibility of every employee to understand the policy requirements and avoid unauthorized purchases to the greatest extent possible.
3. **Ratification Process Required.** Unauthorized purchases are required to be ratified by the appropriate award authority. For unauthorized purchases to be considered for ratification, the following steps must occur:
  - a. The employee making the unauthorized purchase must provide a written explanation of why the purchase was made.
  - b. The written explanation must be reviewed and approved by the appropriate award authority.
4. **Restitution.** In the event that a vendor has been paid and the unauthorized purchase is not subsequently ratified, the employee may be held responsible for reimbursing the city.

### ***3.7 Contracting Requirements***

The following section explains the various contracting requirements associated with making purchases with City funds.

1. **Contract Award.** A contract is not considered to be awarded until it is approved by the appropriate award authority, i.e., the City Council, City Administrator or authorized department head as described in Section 3.6 above.
2. **Standard Contract Terms and Conditions.** Use of the city’s standard contracts (or terms and conditions for purchase orders) provided by the City Attorney are preferable to using vendor-provided contracts. If presented with a vendor-provided agreement, staff should attempt to replace it with the city’s standard agreement or standard terms and conditions for purchase orders. The purchasing coordinator can assist with the negotiation process as necessary.
3. **Written Contract Requirement.** Written contracts on city templates provided by the City Attorney are required for *services* with a value of \$10,000 or more. Services with a value of less than \$10,000 should be put on purchase orders with standard terms and conditions, unless compelling factors such as liability or risk dictate the use of a written agreement.
4. **City-provided Scope of Work Requirement.** Contracts should include well-defined scopes of work provided by city staff and the use of consultant or vendor-provided work scopes should be minimized to the greatest extent possible.
5. **No Contract Splitting.** Under no circumstances can *any* contract be split or separated into smaller components to determine the appropriate award authority or for any other purpose.
6. **Contract Types.** The city utilizes several different types of contracts depending on the nature of the purchase and requirements of the City Attorney’s Office.
  - a. **Purchase Orders.** Purchase orders are used to make discrete, non-recurring purchases of goods and/or services. Depending on the cost and complexity of the purchase, a written agreement may be required. Purchase orders are required for most city transactions.
  - b. **Blanket Purchase Orders.** Blanket purchase orders are term contracts, usually established for one-year periods for routine, recurring or as-needed purchases of goods and/or services. Blanket purchase orders can be renewed annually according to the terms established through competitive bidding or negotiation, or as approved by the appropriate award authority. Blanket purchase orders may also be established for multi-year periods and/or as master goods/services agreements.

Blanket purchase orders may be established for as-needed small construction or maintenance projects and/or for urgent or emergency repairs where time is of the essence. These types of arrangements are referred to as **Job Order Contracts (JOCs)** and are bid on a unit cost basis with contracts awarded based on not-to-exceed amounts approved by the appropriate award authority.

- c. **Service Agreements.** Depending on the cost and complexity, agreements may be required for general or professional services. These are referred to as General Services Agreements (GSAs), Professional Services Agreements (PSAs), Master Service Agreements (MSAs) or Master Professional Service Agreements (MPSA).
  - d. **Confirming Orders.** Confirming orders are written purchase orders that confirm previously placed verbal orders. This form of contract may be utilized for urgent or emergency purchases but requesting departments must use prudent judgment.
7. **Key Contracting Prerequisites.** Contractors or vendors conducting business in the city or working on city property or in city rights-of-way must be properly licensed, insured, and otherwise comply with all lawful requirements such as obtaining a business license as required by the Finance Department and having appropriate insurance coverage as required by the risk manager. The contractor or vendor must include the City of Gilroy as an “additional insured” on their insurance policy and provide up-to-date insurance certificates with required policy endorsements. *These requirements must be met before any work can commence.*

### **Governing Law(s) and Reference Documents**

1. [Section 2.43\(c\) of the City Code](#)

## Section 4 – Procurement Methods

### **4.1 Procurement Methods Overview**

This section outlines the various methods of procurement to be used by employees who have authority and/or responsibility for procurement processes and procedures.

Below are guiding principles by which staff participating in procurement processes must abide:

- Purchases shall be based on competitive bidding processes whenever possible, unless otherwise exempt in accordance with Subsection 4.9, Purchases Exempt from Competitive Bidding on page 20.
- The complexity of the bidding process, and the applicable requirements, increase with the dollar value of the procurement.
- Under no circumstances shall purchases be artificially split to use a more simplified process.
- In situations where goods and/or services can be defined with a high degree of specificity, then a contract will be awarded to the lowest responsive and responsible bidder through a bid process.
- If the purchase is solution-based and cannot be exactly defined, then a best-value process may be used where the city can pay a higher price for a good and/or service if the overall value can be justified.
- Measured use of cooperative purchasing programs and piggyback agreements, which leverage volume purchases, secure value pricing and reduce administrative overhead, is encouraged.
- Staff must take into account the city's special policies and procedures for many procurements. These include environmental procurement, application of the 3% local purchasing preference (except for public works construction and professional services), disadvantaged business enterprises and purchases using federal grant funds (see Section 7, Special Policies and Programs, page 27).

### **4.2 Selecting the Appropriate Procurement Method**

To select an appropriate procurement method, employees should know the category of purchase (type of goods, services or public works project) and have an estimated cost in mind.

For goods and services purchases, competitive bidding and approval thresholds are determined by each transaction.

- 1. Goods and services transactions \$2,999 or less.** Goods and services \$2,999 or less may be made without a competitive process. This amount is consistent with the threshold established for purchases utilizing federal funding (see Subsection 7.5, Policies and Procedures for Purchases Utilizing Federal Grant Funding, page 29). However, nothing should preclude employees from “value shopping” to help ensure that the best possible value is being obtained in exchange for public funds.
- 2. Goods and services transactions between \$3,000 and \$99,999.** Goods and services with an estimated value between \$3,000 and \$99,999 in a single transaction must be procured using the methods established in the Informal Procurement Procedures in Subsection 4.4 below.
- 3. Goods and services purchases \$100,000 or more.** Goods and services purchases with an estimated value of \$100,000 or more in a single transaction must be procured using formal bidding or proposal procedures established in Subsection 4.5, Formal Bidding Procedures on page 13.
- 4. Public works projects.** In accordance with Section 1109 of the [City Charter](#), Public works projects anticipated to exceed \$35,000 must be conducted through sealed bidding and awarded by Council, in further accordance with the bidding procedures established in Subsection 4.5, Formal Bidding Procedures, page 13.

### ***4.3 Purchasing Card Program***

As an alternative, efficient method of making small dollar purchases, a purchasing card program has been established for use by employees based on operational need. In many instances, purchasing cards can be used to buy needed materials and supplies, rather than using purchase orders.

Purchasing cards are approved by department heads and issued by the purchasing coordinator, to be used in strict accordance with the Purchasing Card Policy.

### ***4.4 Informal Procurement Procedures***

Informal procurement procedures apply to purchases of goods and services anticipated to be less than \$100,000, and for public works project less than \$35,000. Such purchases may be made by staff in accordance with this section.

- 1. Purchases \$2,999 or less.** Purchases of goods and services less than \$3,000 may be made by staff without obtaining price quotes. However, staff are encouraged to price shop whenever possible to ensure the city is receiving the best value in exchange for public funds.
- 2. Purchases between \$3,000 and \$24,999.** Purchases in this estimated price range may be made by staff with department director approval and based, to the best extent possible, on at least three written price quotes. Contracts are typically awarded to the lowest responsive

and responsible provider, but best value determinations can be made on factors in addition to pricing if the justification is properly documented and in the best interest of the City.

3. **Purchases between \$25,000 and \$99,999.** Purchases of goods and services in this estimated price range (and public works projects less than \$35,000) may be made using informal bid and/or request for proposal documents, as follows:
  - a. **Invitation to Quote.** Use this template for goods and/or services with an estimated cost at or below \$49,999 (or for a lower threshold amount if required by a department head or the purchasing coordinator). If a contract is not being awarded to the lowest responsive and responsible bidder, the purchasing requisition must contain a concise explanation to justify the selection, including evaluation factors if appropriate or requested by the purchasing coordinator.
  - b. **Informal Request for Proposals (RFP).** Use this template for services (or in some cases specialized goods or a mix of goods and services) between \$50,000 and \$99,999 that are procured through a **best value**, rather than low bid, process. Informal RFPs may also be required for professional services less than \$50,000 as required by department heads.

Best value procurements are awarded based on factors in addition to price (e.g., the city may pay more for a solution if the overall value can be justified), and are conducted through an evaluation process similar to but less formal than that required for formal competitive proposals (see Subsection 4.6, Request for Proposals, on page 16).

4. **Prevailing Wage Requirements.** The payment of prevailing wages is required for maintenance contracts over \$15,000 and construction contracts over \$25,000. Additionally, such contracts must follow [California Department of Industrial Relations \(DIR\)](#) contractor registration requirements for contractors and their subcontractors (see also Subsection 4.5.3.h on page 15).

### **4.5 Formal Bidding Procedures**

Formal sealed bidding using an Invitation for Bids (IFB) is required for purchases anticipated to be more than \$100,000, including materials and equipment (goods), certain services, and public works construction projects greater than \$35,000. Contracts associated with formal bids are awarded to the lowest responsive and responsible bidder. The requirements detailed below apply.

1. **Coordination with Purchasing.** These actions must be coordinated with Purchasing before conducting a formal bid process:
  - a. **Obtain a Bid Number.** The purchasing coordinator will assign a bid number that will be used to track the project throughout its life cycle.
  - b. **Request Bid Opening Date.** The purchasing coordinator will determine availability of Council chambers to conduct the public bid opening.





- d. **Determining Bidder’s Responsiveness and/or Responsibility.** Bids determined to be non-responsive at the bid opening shall not be accepted. Subsequent determinations of bid responsiveness and bidder responsibility during the due diligence period must be carefully considered, with the latter requiring a much higher level of due process for contractors.
- e. **Bid Protest Procedures.** In the event of a protest by a contractor who has submitted a timely bid, the protesting party must be afforded the opportunity to voice their concerns through the formal process outlined in Section 8, Purchasing-related Instructions and Procedures on page 30.
- f. **Contract Execution.** Upon Council approval, designated staff will prepare and send a contract package, including performance and payment bonds and identification of any other requirements such as insurance, business license, etc., to the awarded contractor.

If the contractor fails to enter into the contract, their bid bond will be forfeited and deposited in the general fund. If a bid bond was not required (in the case of goods or services purchases), then the contractor who fails to execute the contract will be liable for the difference between its bid and the next lowest bid, plus administrative expenses and any required legal costs.

- 9. **Prevailing Wage Requirements.** Maintenance contracts exceeding \$15,000 and construction contracts exceeding \$25,000 can only be awarded to contractors who are registered with the DIR (including any subcontractors) for the purpose of determining prevailing wage compliance. Awarded contracts must be registered with the DIR by designated staff within 30 days of award. Awarding a contract to a contractor who is not registered with the DIR can result in penalties to the City.
- 10. **Return of Bid Securities.** Once a contract has been executed, the security accompanying the accepted bids, and the unsuccessful bids, must be returned.
- 11. **Submit Purchasing Requisition.** Following contract approval by Council, a requisition must be submitted to the purchasing coordinator so a purchase order can be generated.

#### **4.6 Request for Proposals**

Competitive sealed proposals using a Request for Proposals (RFP) process are used when contracting for services estimated to be more than \$100,000, or for solutions where procurement needs cannot be determined with a high degree of specificity, unless otherwise exempt from competition as described in Subsection 4.9, Purchases Exempt from Competitive Bidding on page 20. Such procurements are conducted by **competitive negotiation** processes, rather than awarding a contract to the lowest responsive and responsible bidder, as follows:

- 1. **Coordination with Purchasing.** These actions must be coordinated with the purchasing coordinator before conducting a formal proposal process:

- a. **Obtain an RFP Number.** The purchasing coordinator will assign an RFP number that will be used to track the project throughout its life cycle.
  - b. **Creation of an RFP File.** All proposal documents created in conjunction with each RFP must be sent to the purchasing coordinator so that a file constituting the city’s official record can be kept in strict accordance with records retention policies.
2. **Request for Proposals.** An RFP using the city’s standard template(s) must be prepared and advertised.
3. **Best Value.** RFPs are awarded based on the best overall value to the city, as opposed to lowest responsive and responsible bid, and include evaluation of qualitative and/or quantitative factors in addition to price.
4. **Advertising the RFP Opportunity.** RFPs will be publicly noticed by the purchasing coordinator at least 14 calendar days prior to the date and time set for receiving proposals, either in a local newspaper (if required) or on the city’s website, unless a shorter timeframe is warranted.
5. **RFP Document Contents.** The RFP document shall include, at minimum, a Notice Inviting Proposals; instructions to proposers, including protest procedures if warranted; evaluation factors and their relative importance; specifications, requirements or scope(s) of work describing the required goods and/or services; proposal forms and schedules; any required bond forms; insurance requirements; and contract terms and conditions.
6. **Evaluation Program.** Once RFP responses are received, the proposals will be confidentially evaluated and scored in accordance with criteria and procedures established by the user department with input of the purchasing coordinator as necessary. Interviews, presentations, site visits, etc., may be conducted depending on the nature of the procurement.

Once a top-rated proposer is identified, good faith negotiations will commence. If an agreement cannot be reached in consideration of cost and/or scope, the next highest-rated proposer will be engaged, and so on, until a mutually acceptable agreement is reached.

7. **Qualifications-Based Selection Procedures.** RFPs for certain professional or specialized services may, by law, require Qualifications-Based Selection (QBS) procedures where consultants or consulting firms are evaluated on their demonstrated competence and professional qualifications before pricing can be considered. The QBS selection process is typically associated with architectural, engineering, environmental, land surveying and construction management firms in accordance with [Section 4525 et. seq. of the California Government Code](#) or its federal counterpart, the [Brooks Act](#). However, nothing shall preclude staff from utilizing a QBS process for other types of RFPs if in the best interest of the city.

Once a top-rated proposer is identified, then scope and fee negotiations commence. If an acceptable contract cannot be finalized in consideration of scope and/or cost, then the purchasing coordinator may commence scope and fee discussions with the next highest-rated proposer, and so on, until a mutually acceptable agreement is reached. This type of process is also referred to as a Request for Qualifications (RFQL) or Request for Statements of Qualifications (RSQ).

8. **Process Integrity.** To protect the identity of the proposers and safeguard the integrity of the evaluation process, all City employees participating in the evaluation of competitively sealed proposals shall maintain strict confidentiality as well as disclose any real or perceived conflicts of interest that may arise.

The Finance Director and/or City Attorney will review any disclosed potential conflicts of interest and make a determination about the evaluator's continued participation in the procurement.

9. **One Response Received.** If only one RFP response is received and staff wishes to proceed with the procurement (rather than rejecting the proposal), the purchasing coordinator will document the effort used to generate proposal responses prior contract negotiations.
10. **Rejection of proposals.** The finance director will issue any notice of rejection of any and all proposals, or any non-responsive proposals, and the RFP would then be re-advertised at the City's discretion. If a proposer provides more than one RFP response for the same work, those responses must be rejected (Section 1110 of the City Charter).
11. **Late Proposals Refused.** RFP responses received after the designated closing date and time cannot be accepted and must be returned unopened unless opening is required for identification purposes.

12. **Awarding a Contract.** The contract award process includes the following steps:

- a. **Council Report.** Following the technical evaluation and competitive negotiation processes, the user department will prepare a report to Council recommending contract award to the firm whose solution provides the best value to the city.
- b. **Determining Proposer Responsiveness and/or Responsibility.** Determinations of proposer responsiveness and responsibility must be carefully considered, with the latter requiring a much higher level of due process for contractors.
- c. **Proposal Protest Procedures.** In the event of a protest by a proposer who has submitted a timely RFP response, the protesting party must be afforded the opportunity to voice their concerns through the formal process outlined in Section 8, Purchasing-related Instructions and Procedures on page 30.

- d. **Contract Execution.** Prior to Council approval, staff can begin the contract execution process by obtaining signature(s) from the awardee. Upon Council approval, the contract execution process can be completed.

13. **Submit Purchasing Requisition.** Following contract approval by Council, a requisition must be submitted to the purchasing coordinator so that a purchase order can be generated.

#### **4.7 Two-step Competitive Bidding Processes**

For some procurements, it may be advantageous to conduct a two-step competitive process where the first step is used to “shortlist” or prequalify interested firms. This type of procurement begins with a Request for Qualifications (RFQ or RFQL) process, followed by either an Invitation for Bids (IFB) or a Request for Proposals (RFP) process, depending on the situation.

The **RFQ/IFB process (RFQ/B)** can be utilized to contract for important construction projects or maintenance service contracts for which detailed specifications can be articulated. At the outset, the prequalification process utilizes minimum threshold requirements that prospective bidders must meet (determined by an evaluation process) to provide a sealed bid, to be awarded to the lowest responsive and responsible bidder.

The **RFQ/RFP process (RFQ/P)** can be an effective way to contract for services or system solutions where professional or technical expertise or complex functional requirements, are critical and overriding considerations. In this type of procurement, submitting firms are evaluated based on their qualifications (which can include minimum threshold requirements), followed by a competitive negotiation.

#### **Governing Law(s) and Reference Documents**

1. [City Charter](#)
2. [City Code](#)
3. [California Department of Industrial Relations \(DIR\) Contractor Registration Information](#)
4. [California Qualifications Based Selection \(QBS\) Requirements](#)
5. [Federal Brooks Act](#)

#### **4.8 Emergency Procurement**

This section establishes the fundamental elements required for emergency procurements.

1. **Emergency Procurements Defined.** Emergency procurements are those purchases defined as immediately necessary for the preservation of life, health or property, or for the continued operation of a department. Emergency procurements required as the result full or partial activations of the Emergency Organization shall be conducted in conjunction with [Chapter 9 of the City Code \(Emergency Organization and Functions\)](#).
2. **Authority and Responsibility.** The City Administrator or their designee may make or authorize others to make emergency procurements, regardless of cost.

3. **Competitive Bidding.** Emergency procurements shall be made with such competition as is practical under the circumstances, or that is required for reimbursement funding, and shall be limited to those goods and services necessary to satisfy the emergency need.
4. **Written Report and Ratification Required.** In such circumstances where emergency procurements are required, the department head or designee shall provide a written report of the procurement to the appropriate award authority, including a description of the emergency and the basis for selection of the contractor. A copy of this report shall be included in the procurement records maintained by the purchasing coordinator.

#### ***4.9 Purchases Exempt from Competitive Bidding***

This section describes the types of purchases that may be exempted from competitive bidding requirements, subject to the appropriate approvals.

1. **Enumerated Bid Exemptions.** The following may be appropriately justified as exemptions to the competitive bidding requirement:
  - a. Emergency procurements as defined herein.
  - b. Situations where solicitations of bids or proposals would for any reason be unavailing or impossible.
  - c. Professional or specialized services as defined in Subsection 3.2, General Categories of Purchases on page 5.
  - d. Public library collection materials.
  - e. Insurance, bonds or financial services.
  - f. Single or sole source goods or services as defined herein.
  - g. Highly specialized equipment developed or designed for a special activity or function or whose purpose is in the best interests of the City due to compatibility with existing equipment or training of personnel.
  - h. Procurements funded by grants, donations or gifts when any special conditions require the purchase of particular materials and/or services.
  - i. Purchase of surplus property owned by another public entity, or payment to other public entities or utilities.
  - j. Membership dues, conventions, training, travel arrangements, or advertisements in magazines, newspapers, or other media.
  - k. Works of art, entertainment or performance.
  - l. Goods procured for resale to the public.
  - m. Where competitive bids or proposals have been solicited and no bid or proposal has been received. In such situations the City Administrator may proceed to have the goods procured or services performed without further competitive bidding.
  - n. Computer software license or subscription renewals.

- o. Human Resources investigation, legal services, and medical services, including but not limited to, fitness for duty evaluations, expert witnesses, and other employment related medical services.
  - p. Regulatory permits.
  - q. Subscriptions.
  - r. Reimbursements and/or refunds of payments made to the City.
  - s. In other cases when specifically authorized by the Council (if over \$100,000) after a finding and determination that it is in the best interests of the city.
2. **Negotiations.** The purchasing coordinator or designated staff can conduct negotiations, if/as appropriate, as to price, delivery and terms and may require the submission of cost or price data in connection with the award of a contract that does not require competitive bidding.
3. **Competitive Bidding When Possible.** Nothing in this section shall preclude the solicitations of competitive bids or proposals, when possible.
4. **Documentation and Approval Required.** Goods or services proposed to be exempt from a competitive bidding process must be appropriately documented and approved before a transaction can be conducted, as follows:
- a. Purchases greater than \$50,000 require City Administrator approval that must accompany a purchase requisition before a purchase is made.
  - b. Purchases between \$3,000 and \$49,999 require approval by the Finance Director or designee that must accompany a purchase requisition before a purchase is made.

## **Governing Law(s) and Reference Documents**

1. [Chapter 9 of the City Code](#)

### **4.10 Cooperative Purchases**

This section discusses fundamental elements of cooperative purchasing programs. Use of purchasing cooperatives is encouraged as a way of obtaining goods and services by aggregating volume, securing value pricing, and reducing administrative overhead. Measured use of purchasing cooperatives can significantly reduce the time and resources needed to competitively bid goods and services contracts.

1. **Authority to Use Cooperative Purchasing Programs.** The purchase of goods and/or services made under cooperative purchase programs, leveraging purchasing agreements maintained or utilized by the state, county or other public or quasi-public agencies, is authorized under [Section 703 of the City Charter](#), Powers and Duties of the City Administrator. Cooperative purchasing contracts must be approved by the appropriate award authority.

2. **Competitive Bidding.** Cooperative purchasing programs should be based on competitively awarded contracts whenever possible, and documentation as to the advantage of the cooperative purchase will be retained by the purchasing coordinator in conjunction with the value analysis requirements listed below.
3. **Purchasing Cooperatives.** There are numerous purchasing cooperatives the staff can evaluate for use. Some leading cooperatives include state contracts such as [California Multiple Award Schedules \(CMAS\)](#) of the Department of General Services (DGS); [U.S. Communities Cooperative Purchasing](#); [National Joint Powers Alliance \(NJPA\)](#); [NASPO ValuePoint](#) (formerly WSCA-NASPO, or the Western States Contracting Alliance-National Association of State Procurement Officials); and federal General Services Administration (GSA) procurements ([GSA Advantage for State and Local Governments](#)).
4. **Value Analysis.** The determination to make a purchase using a purchasing cooperative agreement requires an analysis to determine whether the procurement represents the best value to the city. Purchases using any given cooperative need not be based on the absolute lowest pricing and may consider factors in addition to price such as the time and/or resources needed to competitively bid the good or service. The analysis will be performed and documented by user departments, with assistance provided by the purchasing coordinator.
5. **Piggyback Contracting.** Subject to the appropriate approval authority, authorized staff may enter into contracts for goods and services purchases, the pricing and terms of which have been previously established by another public agency. The following requirements apply to piggyback contracts, and must be verified by the purchasing coordinator prior to contract award:
  - a. The parties to the original contract agree to the piggyback.
  - b. The contract is for identical or nearly identical goods and/or services.
  - c. The original contract resulted from competitive bidding or proposal procedures similar to those required by the city.
  - d. The original contract was awarded within two years of the city's purchase, or written justification is provided to support the use of an older solicitation.
  - e. The price of the purchase is comparable to that estimated by the requesting department.

Provided that the above conditions are met and the purchase is approved by the appropriate award authority, the purchasing coordinator will issue a purchase order and/or execute (or cause to be executed) a separate contract with the vendor selected by the originating agency which incorporates by reference the original solicitation, terms, conditions and prices.

## **Governing Law(s) and Reference Documents**

1. [Section 703 of the City Charter](#)

## Section 5 – Specification Development

### **5.1 Specifications for Competitive Bidding – Overview**

Specifications define precise requirements for the solicitation of goods and/or services. Writing specifications is a collaborative process between user departments and the purchasing coordinator to translate specific needs into detailed requirements.

1. **Definition.** A specification is a precise description of the physical characteristics, quality, or desired outcomes of a commodity to be procured, which a supplier must be able to produce or deliver to be considered for contract award.
2. **Collaborative Process.** Writing bids or proposal specifications is a collaborative process between user department and purchasing to develop specifications with the goal of promoting competition.
3. **Clear Language.** Specifications should use plain language that is relevant to and understood by the bidding community.
4. **Promote Competition.** Good specifications should promote and not unduly restrict competition. Use of restrictive specifications must be properly justified in accordance with the provisions of this section.
5. **Specification Attributes.** There are essentially two types of specifications: design and performance. Specifications typically contain elements of design and performance and may be viewed as a continuum with each element on opposing ends.
  - a. **Design Specifications.** Design specifications establish the characteristics that a commodity must possess, and may include manufacturing details such as engineered plans, drawings or blueprints.
  - b. **Performance Specifications.** Performance specifications describe a commodity's desired outcome.
    - i. **Functional Descriptions or Requirements.** Performance specifications may utilize functional descriptions of defined tasks or desired results. Functional requirements are typically used for solutions such as software systems.
    - ii. **Brand Name Specifications.** In areas where the city has standardized a particular product such as fleet vehicles, staff may use one brand name manufacturer, subject to approval by a department head (see also Section 6, Sourcing and Standardization on page 26). Brand name specifications are restrictive, limit competition, and can result in increased cost. Use of brand name specifications must be carefully evaluated before using them in competitive bid documents.

iii. **Brand Name or Approved Equal.** Specifications that contain “brand name or approved equal” are based on functional equivalency and should be used whenever possible to promote competition and reduce pricing.

6. **Specification Development.** Specification development is a critical part of the competitive bidding process. In many cases specifications can be highly complex and technical and require subject-matter expertise beyond that of city staff. The following steps should be considered when developing specifications.

- a. **Collaborate.** Meet with stakeholders of the procurement to formulate and understand needs, and to internally peer review the specifications.
- b. **Conduct Market Research and Analysis.** Research and analysis help inform product design and/or performance and create understanding of market and supply chain trends.
- c. **Contact Other Public Agencies.** Other public agencies may have conducted a similar procurement and can share information and valuable insight.
- d. **Seek Professional Assistance.** In some instances, contractors or consultants must be engaged to create complex or highly technical specifications.

**Note:** NEVER obtain or accept specifications directly from a potential bidder. This will give the bidder an unfair competitive advantage, require that the bidder be disqualified, and may result in protest actions or legal challenges.

### **Governing Law(s) and Reference Documents**

1. [Best practice document on specifications](#)

## Section 6 – Sourcing and Standardization

### **6.1 Sourcing and Standardization Overview**

It is city policy that purchases be based on competitive bidding whenever possible to maximize the best value in the expenditure of public funds. Competition tends to be limited when goods or services are sourced to one entity or standardized to one particular brand or manufacturer. Careful consideration must be given before a decision is made to standardize products and/or to request single or sole sourced procurements.

### **6.2 Single and Sole Sourcing**

1. **Single Source.** Single source is defined as the selection of a good or service that may be available from two or more sources, but there is compelling reason to select one particular vendor.
2. **Sole Source.** Sole source is defined as the selection of a good or service that can only be obtained from one supplier or manufacturer because of its specialized, proprietary or unique in character.

Single and sole source procurements must be properly documented and approved in accordance with city policies and procedures.

### **6.3 Standardization**

1. **Standardization.** Standardization is an organized process to adopt one product or group of products to be used by the city, such as particular computer hardware or software. Product standardization may be utilized to create efficiencies, enhance safety, increase productivity, promote brand consistency, or to foster interoperability.

Product standardization decisions are made by consensus of the executive team after careful consideration and review of recommendations from staff.

## Section 7 – Special Policies and Programs

### **7.1 Special Programs and Policies Overview**

Depending on the amount and/or type of purchase, there are several policies and programs that must be considered. These include:

- Application of Local Purchasing Preference;
- Minority, Disabled and Woman Owned Business Policy Statement;
- Environmentally Preferable Products; and
- Policies and Procedures for Purchases Utilizing Federal Grant Funds.

Each is described below.

### **7.2 Local Purchasing Preference**

The City Council has established a 5% local purchasing preference to be given to local businesses who respond to bidding opportunities or otherwise contract with the city (excluding public works construction and professional services), under the following guidelines and conditions.

- 1. Definition of Local Business.** A local business is defined as a vendor or contractor who:
  - a. Has a fixed place of business in the city limits and the point of sale occurs within the city limits,
  - b. Is current in the payment of their business license tax, and
  - c. Is in compliance with city laws and does not owe money to the city.
- 2. Applicable Purchasing Methods.** The local preference will be applied to competitive bidding or letting contracts for the purchase of goods and applicable/associated services, whether by formal bid, informal bid, or competitive proposal processes.
- 3. Making the Calculation.** The local preference calculation will be determined as follows:
  - a. The purchasing coordinator will apply a 5% discount to the total bid pricing provided by the local business for the purpose of calculating the lowest responsive and responsible bidder.



### ***7.4 Environmentally Preferable Purchasing Policy***

Purchases for goods and services shall ascribe, wherever and whenever possible, to the Environmentally Preferable Purchasing Policy. The current policy can be found at the below link.

[\\org-srvr\depts\\$\Finance\Purchasing\Policy\Reso 2007-50 Environmental Preferable Purchasing Policy.pdf](\\org-srvr\depts$\Finance\Purchasing\Policy\Reso 2007-50 Environmental Preferable Purchasing Policy.pdf)

### ***7.5 Policies and Procedures for Purchases Utilizing Federal Grant Funding***

When purchasing goods and services under a federal grant award, the city is required to follow the provisions of 2 CFR Part 200 Subpart A §200.318 General Procurement Standards through §200.326 Contract Provisions.

## Section 8 – Purchasing-related Instructions and Procedures

This section contains several purchasing-related instructions and procedures.

### **8.1 Bid/Proposal Protest Procedures**

Contractors who have submitted timely bids or proposals may wish to protest or appeal a contracting decision or procurement made by the appropriate award authority. Protest actions must follow the procedures provided below. Protests of appeals, which are not submitted in accordance with these procedures, will not be considered.

1. **Protesting Party.** Only bidders or proposers who have submitted timely bids or proposals can initiate a protest action or appeal.
2. **Protest Procedures.** The following procedural steps must be followed to consider a protest:
  - a. The protest must be in writing and delivered/sent by registered mail. Once received, it will be date stamped at the Finance Department counter.
  - b. The protest must be filed within five working days after the announced decision to award a contract.
  - c. Copies of the protest and all supporting documentation must be concurrently transmitted to all other parties with a direct financial interest that may be adversely impacted by the outcome of the protest. Such parties shall include all other bidders who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.
  - d. The protesting party must bear all of its own costs and fees in conjunction with protest or appeals processes.
3. **Protest Filing.** The written protest shall:
  - a. Include the name, street address, business phone number and email address of the protestor.
  - b. Identify the project under protest by name, IFB, RFP or quotation number.
  - c. Contain a concise statement of the grounds for protest.
  - d. Include all supporting documentation.

4. **Protest Review Prior to Award.** The purchasing coordinator or designated staff will withhold contract award pending disposition of the protest unless it is determined that an emergency exists. Upon review with the City Attorney, the purchasing coordinator or designee will respond in writing to the material issues raised in the protest no later than ten working days after receipt of the protest.
5. **Right of Appeal.** The protestor may appeal the initial determination to the finance director in writing within five working days after notification of the purchasing coordinator’s decision. The finance director will review the submitted information and render a final decision within ten working days.
6. **Protest Received and Reviewed After Contract Award.** Protests after award will not be considered unless the protest concerns a matter which arises after the award or could not have been discovered or reasonably known prior to award.

## ***8.2 Central Supply Stores***

A central supply storeroom for commonly used supplies has been established in the Finance Department and may be accessed by all employees on a self-serve basis. Departments are not charged for supplies.

Notify the purchasing coordinator if a stock outage is noticed or if any specific supply is getting low, and the item(s) will be restocked. Office supplies not carried in the central storeroom can be evaluated for stock based on need (notify the purchasing coordinator) or obtained through blanket purchase orders or on purchasing cards. The purchasing coordinator can also assist with special orders for items not commonly carried.

## ***8.3 Certificates of Insurance and Coverage Requirements***

To minimize the city’s exposure to loss, all contractors must be appropriately insured and must include the city as an “additional insured” on their insurance policy. Contractors are also responsible for up-to-date insurance certificates with required policy endorsements that provide the city with required insurance coverage and indemnity provisions.

The Human Resources/Risk Management Department maintains current insurance requirements. Please refer to the insurance requirements in effect at the time of procurement.

## ***8.4 Instructions to Bidders***

Clear, concise and consistent instructions to bidders and proposers (hereafter “bidders”) are a key part of the bidding process and help to enhance process clarity and ensure that prospective offerors are informed of all city requirements.

The instructions inform bidders how to prepare and submit bids, establish mandatory requirements, cover the bid addendum process, and how to withdraw or protest bids, among many other items. The instructions for IFBs and RFPs are similar but contain important differences due to the way contracts are awarded (low bid versus best value). The instructions for each type of competitive process are contained in the bidding templates.

In some cases, modifications can be made to the instructions, but this must be done in consultation with the purchasing coordinator and/or City Attorney's Office.

### ***8.5 Lease, Rental and Lease-to-Purchase Procurements***

In some cases it may be beneficial to rent or lease equipment rather than purchasing it due to funding availability, length of time the equipment is needed, etc. Under certain circumstances it may be optimal to purchase the equipment at the end of the lease period. Equipment rentals or leasing may make the best economic sense in these situations:

- Week-to-week or month-to-month **rentals** of short duration (less than one year).
- **Leasing** for short timeframes (more than six months but less than three years).
- **Renting/leasing** to evaluate equipment suitability prior to purchase. In these instances, a "no-cost" purchase order may be a better option if the vendor is willing.
- **Leasing** equipment when a new or improved design is imminent and the leasing charges can be applied to the purchase cost of the new item.
- Securing a **lease to purchase** because the purchase price exceeds the current appropriation.

When considering equipment rental, lease or lease-to-purchase agreements, it is highly recommended that the following provisions be negotiated and included in the agreement:

- **Lease and lease-to-purchase agreements** should include a non-appropriation clause for multi-year financing.
- Agreements under any scenario should include a "cancellation for convenience" clause.
- A percentage of payments should be applied to an eventual purchase.
- **Leasing** agreements must include the annual interest rate, along with a payment schedule that shows each principal and interest payment (to be forwarded to the Accounting Division).
- A **lease-to-purchase** agreement for capital equipment should have a minimum life expectancy of five years.

Equipment leasing must be carefully considered. Leased equipment costs more than purchasing outright, and if the equipment is not purchased, the city cannot take advantage of any residual value.

### ***8.6 Life Cycle Cost Analysis***

Life cycle analysis, or total cost of ownership (TCO), considers the long-term cost of equipment assets and citywide systems such as the financial system. Costs include acquisition, installation, ongoing maintenance and end of life disposal.

## **8.7 Service Provider Evaluation**

When preparing to contract for services, it is important to evaluate service providers to determine whether they are independent contractors or if they are more appropriately characterized as temporary employees.

## **8.8 Surplus Property Disposal**

All city equipment, supplies, and vehicles (“personal property” or “property”) will eventually reach the end of their useful life and must be disposed of, and to the best extent possible, generate revenue through sale or traded-in when new equipment is purchased. The following procedures apply to the disposal of surplus property:

- **Surplus Disposal.** It is the responsibility of department heads to determine when an item is obsolete or excess surplus property. After such determination is made, the surplus property may be transferred to another department or used as a trade-in for new equipment. Surplused items may be donated, sold through a competitive sealed bid process, or sold at public auction to another governmental or non-profit entity. For final disposal, City Council shall approve of items to be surplused.
- **Sale of Surplus Property.** As required by [Section 2.43\(c\)\(6\) of the City Code](#), the sale of surplus property is subject the approval of the City Administrator except that sale of property having a value consistent with those classified as fixed assets by the fixed asset accounting rules in effect at the time of the request must be approved by Council.
- **Property List.** The department surplusing an item shall submit a list of property items, the current value, and the asset number, if applicable, to the purchasing coordinator. The purchasing coordinator will periodically compile a list of excess items and provide it to all departments for review, and will subsequently obtain approval from the City Administrator and/or City Council. Upon approval, the following three options are available to dispose of the items:
  - **Sale to Another Governmental Entity.** Surplus personal property may be sold at *fair market value* to another governmental entity (or non-profit organization). Such entity will have no more than 3 weeks to accept or reject the offer. If accepted, the entity will be invoiced by Accounts Receivable. All applicable sales tax shall be included. **Note:** The receiving entity is responsible for transportation and liability of the item
  - **Auction.** This option provides a convenient and efficient means of disposing surplus. After an item has been declared surplus, the purchasing coordinator will coordinate with the surplusing department to arrange for pickup by the auction company.
  - **Competitive Bids.** The purchasing coordinator may require that sealed bids be obtained for certain surplus equipment, such as vehicles with considerable resale value. Sealed bids shall be advertised in a newspaper of general

circulation 10 days prior to the bid opening. Prospective bidders shall have the opportunity to evaluate the equipment prior to bid opening as prescribed by the purchasing coordinator. Award will be made to the bidder most responsive to the City's needs.

The equipment shall be bid upon in "as-is" condition with no warranty, and a 10% deposit in the form of a money order or cashier's check must be submitted at the time of bid opening, with a balance due within 7 calendar days. Deposits will be returned to unsuccessful bidders within 14 calendar days.

- **Donations of Surplus and Preferred Recipients.** In order of preference, surplus items may be donated to: 1) the Gilroy Unified School District; 2) the Gilroy Chamber of Commerce. Surplus property unlikely to generate significant revenue and that are not transferred to other departments may be donated to other public agencies, to Gilroy's sister cities, or to non-profit organizations.

Any donation of surplus property to a non-profit organization shall be approved by the City Council upon findings that the non-profit is qualified under section 501(c)(3) of the Internal Revenue Code and that the donation will benefit the City and its constituents.

All donations pursuant to this section shall be without warranty, express or implied, and the transferee shall agree to defend, indemnify and hold harmless the City, its officers and employees, from any claim, cause of action, damage, loss or liability arising out of the condition of the property or its use by the organization or subsequent transferee.

- **Specialized Police Department Surplus.** Upon the request of the Gilroy Police Chief and with City Council approval, surplus items of a unique nature, i.e., guns, vests, and other protective equipment may be disposed of in an appropriate manner to suitable recipients. Disposal shall incorporate the Range Master's Policy in regard to the sale of guns to a Gilroy police officer or other law enforcement officer.
- **Stolen Property.** All stolen property shall be held by the police department for a period of 6 months. Periodic lists shall be prepared by the police department and submitted to the purchasing coordinator, to be agendized and declared surplus. Items will be disposed of in the most equitable manner. The only exception is **Bicycles**, which shall only be sold at public auction once declared surplus.
- **Tracking Surplus.** Regardless of the value established in policy, departments shall furnish a memorandum to the purchasing coordinator for tracking low value items. Broken or unrepairable items considered trash need not be listed in the memorandum.
- **Revenue.** The revenue received for the sale of surplus property shall be deposited in the General Fund or other appropriate fund for certain equipment sales.

### **8.9 Used Automobile Purchases**

For efficiency purposes, the Council has waived formal bidding procedures for purchasing used vehicles under the following conditions:

- A budgeted appropriation exists.
- A determination is made by the fleet manager that purchasing a used vehicle is in the city's best interest.
- All Gilroy used-car vendors are notified of the city's intent to purchase.

The following procedures and requirements must be followed to purchase a used vehicle:

- The fleet manager will develop specifications based on the user department's needs.
- The fleet manager will solicit at least three written quotes utilizing informal procurement procedures; two of which must be solicited from Gilroy vendors.
- The used vehicle must have less than 25,000 miles and be less than 2 years old.
- A thorough inspection of each vehicle under consideration will be performed by Fleet Division staff, who will make a recommendation for purchase.
- The fleet manager will submit a purchasing requisition for department head authorization.
- After the issuance of a purchase order, Fleet Division staff will arrange for transportation to the city and ensure vehicle registration. They are also responsible for submitting sale documentation to accounts payable in a timely manner.
- The fleet manager will prepare a report for Council review.

## Section 9 – Glossary of Terms

### **9.1 Definitions**

This section defines relevant purchasing terms and terminology in use by the City of Gilroy.

**Agreement.** A mutual, written understanding between two or more competent parties, whereby one party agrees to perform as defined in the agreement and the other party agrees to compensation for the performance rendered in accordance with the agreement conditions. Agreement and contract may be used synonymously.

**Amendment.** An agreed upon modification to an existing contract.

**Appropriation.** Authorization by the City Council to expend budgeted funding for city operations and infrastructure, or other designated purposes.

**Award.** The acceptance of a bid or proposal; the presentation of a purchase agreement by the award authority to a bidder or offeror.

**Award Authority.** The governing body or staff person authorized to approve the purchase of goods and services on behalf of the city; the staff person(s) authorized to approve or execute procurement contracts and otherwise legally bind the city.

**Best Value Procurement.** A procurement that is awarded based on factors in addition to price. Best value procurements are mainly conducted through the competitive proposal process.

**Bid Addendum.** A bid addendum is a document issued to all known participants (“planholders”) in a competitive bid process that makes a change to the bid documents/project (i.e., changes to specifications), or process (like a bid due date extension).

**Bid Opening.** The process in which sealed bids are publicly opened, in the presence of at least one witness, at the time and place specified in the invitation for bids.

**Blanket Purchase Order (BPO).** A limited-term contract for goods and/or services based on unit pricing, typically for one-year renewable periods. BPOs may be established with indefinite quantities, allowing end users flexibility to order products when needed, or for on-call services.

**Change Order.** A contract modification consisting of additions or reductions in work or materials approved by the City Council or purchasing coordinator.

**Commodity.** Goods consisting of supplies, materials and equipment.

**Competitive Bidding.** The process of soliciting and obtaining formal and informal bids, including price quotations, from competing sources, by which an award is made to the lowest responsive and responsible bidder.

**Competitive Proposals.** The process of soliciting and obtaining formal and informal proposals from competing sources, by which an award is made to the proposer whose solution provides the best value to the city. The award may be made based on factors in addition to price, e.g., a higher price can be paid for goods and/or services if the value can be justified.

**Conflict of Interest.** A conflict of interest in conjunction with a city purchase is a situation where an employee or a member of the employee's family stands to benefit financially from the procurement.

**Contract.** See Agreement.

**Cooperative Procurements.** A variety of arrangements whereby two or more public entities purchase goods and/or services from the same supplier or multiple suppliers using a single competitive bid or proposal; the combining of the requirements of two or more public entities to leverage the benefits of volume purchases, including administrative savings and other demonstrable advantages.

**Encumbrance.** An accounting entry that commits an appropriated dollar amount to be spent.

**Formal Sealed Bid.** A procurement method for goods and/or services anticipated to be greater than \$100,000 whereby sealed Invitations for Bids (IFBs) are submitted and publicly opened, with a contract awarded to the lowest responsive and responsible bidder.

**Formal Sealed Proposal.** A procurement method for goods and/or services anticipated to be greater than \$100,000 whereby sealed Requests for Proposals (RFPs) or similar proposal documents are submitted and reviewed by an evaluation committee based on established criteria, with a contract awarded to the responsive and responsible proposer whose solution provides the best overall value to the city.

**General Services.** Work performed or services rendered by independent contractors such as custodial services, building and equipment maintenance, machinery and equipment rental, and utility services, excluding contracts for public works.

**Goods.** Supplies, materials and equipment to be furnished or used by any department of the city, including items purchased by the city and furnished to contractors for use in public works projects.

**Informal Bid or Proposal.** Competitive bids or proposals anticipated to be \$100,000 or less conducted under informal procurement procedures.

**Invitation for Bids (IFB).** The type of bid document typically used in a competitive (formal) sealed bidding process. Components include but may not be limited to a bid invitation, instructions to bidders, bid schedule(s), terms and conditions and technical specifications.

**Job Order Contract.** As-needed contracts for small construction or maintenance projects and/or for urgent or emergency repairs where time is of the essence. These types of contracts are bid on a unit

cost basis and awarded based on not-to-exceed amounts approved by the appropriate award authority. Job Order Contracts may be established as Master Agreements.

**Local Purchasing Preference.** A 3% bid preference granted to local bidders whose principal place of business is located within city limits, subject to policy limitations.

**Lowest Responsive and Responsible Bidder.** The bidder to be awarded a contract who fully complies with all material bid requirements, whose past performance and financial capacity is determined to be acceptable and has offered the lowest price.

**Master Agreement.** A contract that is awarded to multiple qualified providers pursuant to a primary agreement with a standard set of terms and conditions, typically created under a competitive proposal process. Once established, services are distributed among providers with discrete project work negotiated through task orders; also referred to as Master Service Agreements (MSA) or Master Professional Service Agreements (MPSA).

**Piggybacking.** A form of intergovernmental cooperative purchasing whereby the city utilizes the contract pricing and terms of another government agency.

**Prevailing Wages.** The wage rates, including fringe benefits, paid to a majority of workers in a geographic area for the same type of work on similar projects as established by the California Department of Industrial Relations.

**Professional Services.** Services provided by a person or firm engaged in a profession based on highly specialized and/or technical knowledge or skill; services considered distinct and unique to such a degree that bidding may not be feasible, if appropriately justified and documented. Some examples include accountants, attorneys, artists, architects, engineers and physicians.

**Public Works.** The construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind, including demolitions, and the construction and installation of drainage systems, lighting and signaling systems, sewer and water systems, and park and recreational facilities.

**Purchase Order.** A legally binding contract issued by purchasing staff to a vendor which includes the terms and conditions of a transaction.

**Purchase Requisition.** The document required to be submitted through the financial system to begin the procurement process. Purchase requisitions must be properly documented and approved for the procurement process to proceed.

**Ratification.** The process by which an unauthorized purchase is approved or ratified by the appropriate award authority after-the-fact.

**Request for Proposals (RFP).** The solicitation document used to solicit proposals for goods and/or services from potential providers.

**Request for Qualifications (RFQL).** Also referred to as Requests for Statements of Qualifications (RSQ), this type of solicitation seeks to establish qualified applicants or pools of applicants for as-

needed services, sometimes under Master Professional Service Agreements (MPSA); most commonly used for architectural and engineering services or other highly specialized consultants.

**Request for Quotations (RFQ).** The type of bid document used for obtaining competitive quotes through the informal procurement procedures.

**Responsible Bidder.** A bidder is considered responsible if they possess the demonstrated ability, capacity, experience and skill to provide the goods and/or services in accordance with the city's requirements; has a record of satisfactory or better performance under prior contracts with the city and other entities; and has complied with laws, regulations and guidelines governing prior or existing contracts.

**Responsive Bidder.** A person or entity who has submitted a bid which conforms in all material respects to a bid or proposal solicitation.

**Single Source.** A good or service that may be available from more than one source, but a compelling justification can be made to obtain the good or service from one particular vendor.

**Sole Source.** A situation where a good or service can only be obtained from one source due to its proprietary or specialized nature.

**Specification.** A precise description of the physical characteristics, quality, or desired outcomes of a commodity to be procured, which a supplier must be able to produce or deliver to be considered for award of a contract. There are two types of specifications: design and performance.

**Standardization.** The process to adopt one product or group of products to be used by the city, such as particular computer hardware or software.

**Surplus Property.** Supplies, materials, and equipment that is no longer used or has become obsolete, to be sold, exchanged or donated by the purchasing coordinator in accordance with policy provisions covering surplus property donations.