

# AWARD AUTHORITY AND BID REQUIREMENTS

City Council Policy #CC-21-024

Adopted December 14, 2021

Resolution No. 6704



## Purpose

To ensure adequate internal controls, avoid conflicts of interests, and achieve maximum efficiency in the administration of City resources, this policy establishes the award authority and bid requirements for the procurement of goods, general services, professional services, and public projects, and the settlement of claims as set forth in the Menlo Park Municipal Code (MPMC) Chapter 2.42. This policy replaces City Council Procedure # CC-92-004: "Award Authority for Purchases and Professional Service" and establishes the city's manager's authority to issue administrative policies necessary to implement this policy.

## Definitions

**Approval authority.** The approval authority is the entity who has authority to approve and sign agreements and settlements on behalf of the City. The approval authority is determined by type and amount of the transaction as established below in this policy.

**City manager's signature authority (CMSA).** This is the maximum authorization for city manager approval of purchases, tort claims, and contracts. CMSA shall be adjusted every July 1<sup>st</sup> based on the year-over-year change in the engineering news record's construction cost index as measured in the month of January. All adjustments are rounded up to the nearest increment of \$1,000. The 2021-22 CMSA is \$79,000 effective July 1, 2021.

**Change order/contract amendment.** A change in the scope of work, amount of compensation, time of completion or other provision of an approved contract or agreement.

**Claims settlement.** Monetary settlement of any claim against the City or City employee seeking money or damages under the Government Claims Act or other applicable law.

**Cooperative purchasing agreements ("Piggyback Agreements").** A form of intergovernmental cooperative purchasing in which an entity will be extended the same pricing and terms of a contract entered by another entity commonly referred to as "piggyback" provisions. Generally, the originating entity will competitively award a contract that will include language allowing for other entities to utilize the contract, which may be to their advantage in terms of pricing, thereby gaining economies of scale that they would otherwise not receive if they competed on their own. Piggyback Agreements apply only to goods, general services, and professional services.

**Force account.** Force account is the budget designation used for work performed on public projects using internal resources, including but not limited to labor, equipment, materials, supplies, and subcontracts of the City.

**Formal bid.** All purchases greater than the stated limits shall be based on competitive sealed written bids. Notices inviting bids no fewer than 14 days prior to the date set for receiving bids. As practicable, bids shall be solicited from a minimum of three bidders. The notices inviting bids shall generally describe the goods and/or services to be purchased or acquired or the public project to be constructed, identify the place where the bid proposal form, specifications and other contract documents may be obtained, and specify the date, time and place when and where bids will be opened. All bids shall be sealed and submitted at the place and at or before the date and time specified in the notice inviting bids. Bids received after the specified date and time shall not be accepted and shall be returned to the bidder unopened unless the opening is necessary for identification purposes. Bids timely received shall be opened in public, at the date, time and place specified in the notice inviting bids, and the aggregate bid of each bidder shall be announced. This guidance supplements Menlo Park Municipal Code Section 2.42.090.

**General service.** General services provide for work, labor or services not requiring specialized experience, knowledge or training with or without the furnishing of goods, materials, supplies or equipment, including maintenance of public buildings, streets, parks and playgrounds and other public improvements; repair, modification and maintenance of equipment or other goods; licensing, installation and maintenance of or relating to information technology property, goods and services, including, without limitation, computer hardware and software, and including the provision of data storage services, unless the information technology services that would require specialized certification, expertise, knowledge, or training are needed and provided; janitorial services, uniform cleaning, tree trimming, street sweeping, and landscape maintenance; leasing or licensing of goods and other personal property for use by the city; and general class instruction, including recreation class instruction services.

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**Goods.** Goods include supplies, materials, or equipment including office supplies, janitorial supplies, furnishings, equipment, machinery, tools, vehicles, computer hardware and software, and other personal property, materials or goods. Goods may be purchased using a blanket purchase order, where a specified quantity of units to be purchased is not established at the time the purchase order or contract is executed. A blanket purchase order or contract must establish a maximum dollar amount of expenditure for the contract and set forth pricing terms for the items to be purchased. Goods purchases may include labor incidental to the purchase of goods, including any set-up, installation, and testing services.

**Informal bid.** Informal bids, proposals, or quotations may be solicited by any reasonable means including mail, telephone, electronic mail, or posting to the City's website. Quotations shall be solicited from a minimum of three bidders or proposers; if quotations from three bidders or proposers cannot be obtained by the exercise of due diligence, quotations may be solicited from less than three bidders or proposers, as practicable. All informal bids must be submitted in writing by the bidder. Informal bidding for public projects shall comply with Menlo Park Municipal Code Section 2.42.170. This guidance supplements Menlo Park Municipal Code Section 2.42.080.

**Negotiated contract.** A contract awarded without bidding for the purchase of goods, general services, or professional services whose total does not exceed the delegated award authority limit. Negotiated contracts shall comply with Menlo Park Municipal Code Section 2.42.060.

**Professional services.** Professional services include services which involve the exercise of professional discretion and independent judgment based on specialized certification, knowledge, expertise or training. These services may include those provided by accountants, actuaries, auditors, appraisers, architects, attorneys, engineers, financial advisors, information technology experts, instructors, and environmental and land use planners.

**Public projects.** A public project includes a contract paid for in whole or in part out of public funds for the construction, alteration, improvement, reconstruction or demolition of any public building, facility, street, sidewalk, utility, park or open space improvement, or other public improvement. A public project does not include "Maintenance Work". For more information on public projects see Menlo Park Municipal Code Section 2.42.020.

**Purchase order.** A purchase order is authorization for the procurement of goods, general services, professional services, and public projects. Purchase order thresholds are established by administrative policy for all purchases under the CMSA. All purchases exceeding the CMSA require a purchase order once approved by the City Council.

**Recycled paper products (RPP).** Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper, "RPP," consists of at least thirty percent (30%), by fiber weight, postconsumer fiber, and shall be eligible to be labeled with an unqualified recyclable label as defined in Title 16 Code of Federal Regulations Section 260.12 (2013). Non-RPP are Paper Products and Printing and Writing Paper that do not meet RPP requirements.

**Uniform Public Construction Cost Accounting Act (UPCCAA).** Award of contracts for public projects shall be in accordance with the Uniform Public Construction Cost Accounting Act, State of California Public Contract Code Sections 22000 et seq., or any successor provision thereto.

### Administrative provisions

These administrative provisions provide direction to City staff in the daily application of the City's procurement system. The City Manager shall establish administrative procedures to ensure the efficient operation of the City's purchasing system.

#### Award authority

The City Manager may approve all purchases, settlement of monetary claims against the City or its employees, and contracts at or below the City Manager Signature Authority (CMSA.) The City Manager may approve change orders and contract amendments that 1) do not affect the compensation and only make minor adjustments to the scope of work or term, or 2) change orders/contract amendments increasing compensation up to ten percent of the original contract amount approved by the City Council, or increasing compensation in amount not to exceed the CMSA for contracts not approved by the City Council, or 3) upon special circumstances as delegated by City Council resolution.

- The City Council shall review and authorize all purchases, settlements of claims against the City or its employees, and contracts in excess of the CMSA with the following exceptions: Multi-year goods and services

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agreements. For the procurement of goods, general services, and professional services, the City Manager may execute a multi-year agreement not to exceed three fiscal years and three times the CMSA in force upon execution provided that no single year in the three-year term exceeds the CMSA in effect on date of execution.

- On-call services master agreements. For on-call contract and professional services, the City Manager may execute a multi-year master agreement, not to exceed three years, with an annual amount not-to-exceed the CMSA in force on date of contract execution.

**Piggyback agreements.** The city manager may waive bidding requirements if the city is eligible to exercise a "Piggyback Agreement" for goods, general services, or professional services.

### **Recycled Paper Products (RPP) procurement requirements**

If fitness and quality are equal, City shall purchase RPP whenever RPP is available at a cost of no more than one hundred fifteen percent (115%) of the cost for non-recycled items, consistent with the requirements of the Public Contracts Code, Sections 22150 through 22154 and Sections 12200 and 12209, as amended. In procurement of RPP, the City shall require the vendor to certify the minimum percentage of postconsumer material, unless the information can be verified by a product label, catalog, invoice, or website information, and shall require certification that the product is eligible to be labeled with an unqualified recyclable label as defined in 16 CFR Section 260.12.

- **Examples of goods subject to the RPP requirement:**

- *Office supplies:* file folders, hanging file folders, white envelopes, manila envelopes, index cards, wrapping, packaging, and corrugated boxes;
- *Writing and printing paper:* copy, xerographic, watermark, cotton fiber, offset, note pads, computer printout paper, and other uncoated writing paper;
- *Printed materials:* calendars, brochures, reports, magazines, publications, posters, newsprint, book paper, and forms; and
- *Paper janitorial supplies:* toilet paper, toweling, facial tissues, and toilet seat covers.

- **Records maintenance**

**The City Manager shall issue administrative procedures to ensure compliance with all applicable reporting requirements under any SB 1383 regulations promulgated by CalRecycle, including 14 Cal. Code Regulations section 18993.4.**

### **Digital signatures**

The City Council authorizes acceptance of electronic signatures for all City contracts and delegates the creation of any administrative procedures on the use and acceptance of digital signatures as defined in Government Code 16.5 to the City Manager.

### **Emergency procurement**

The City Council may suspend the procurement requirements set forth in this policy when adopting or ratifying a declaration of emergency, and in doing so may empower the City Manager to directly procure goods and services consistent with any purchasing requirements established by the Federal Emergency Management Agency (FEMA) and applicable federal and state regulations.

During a declared emergency, the CMSA shall be increased to \$250,000 during the period of the declared emergency (the "Emergency CMSA"), which amount shall be adjusted every July 1st based on the year-over-year change in the Engineering News-Record's construction cost index as measured in the month of January. All adjustments shall be rounded up to the nearest increment of \$10,000. The increased purchasing authority provided under the Emergency CMSA shall only apply to goods or services necessary to protect against an immediate and present threat to life, safety, public health, or improved property. When expenditures are equal to or more than CMSA, the city manager shall report to the City Council.

### **Award authority and bid requirements**

**Approval authority and limits.** The following table establishes thresholds for contract approval and bid requirements. The approving authority as outlined in this policy is responsible for ensuring compliance with the City's purchasing system as established by Chapter 2.42 of the Menlo Park Municipal Code and any applicable City Council or Administrative policy.

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Category	Amount	Approving authority	Requirement
<b>Goods, general services, and professional services</b>	Up to 50% of CMSA	City Manager	Negotiated contract or informal bid
	CMSA		Informal bid
	CMSA to UPCCAA informal bid limit	City Council	Informal bid
	Greater than UPCCAA informal bid limit		Formal bid
<b>Public projects</b>	Up to the CMSA	City Manager	Informal bid if over the force account/negotiated contract limit in Public Contract Code section 22032(a).
	CMSA to UPCCAA informal bid limit	City Council	Informal bid
	Greater than UPCCAA informal bid limit		Formal bid
<b>Claims settlement</b>	Less than or equal to the CMSA	City Manager	N/A
	Greater than the CMSA	City Council	
CMSA – City manager’s signature authority UPCCAA – Uniform Public Construction Cost Accounting Act			
<b>Procedure history</b>			
<b>Resolution</b>	<b>Date</b>	<b>Notes</b>	
No. 4354	March 17, 1992	Established Procedure # CC-92-004	
No. 5832	October 21, 2008	Amended CC-92-004 to add contract approval; established annual inflation adjustments to CM’s authority	

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No. 6479	February 12, 2019	Adopted Procedure # CC-19-001
No. 6704	December 14, 2021	Rescind Resolution Nos. 4354, 5832, and 6479 adopts Procedure # CC-21-024
<b>Procedure maintenance</b>		
As part of their annual review of procedures establishing internal controls, the administrative services department shall prepare a memo every July informing the organization of the City Manager's signature authority (CMSA) and applicable limits in the Uniform Public Construction Cost Accounting Act (UPCCAA).		